DRAFT
of the
BYLAWS
of the
TOWN OF
CHARLTON
(Version #3)

May 2014

PART I: ADMINISTRATIVE LEGISLATION

Chapter 1

GENERAL PROVISIONS

[HISTORY: Adopted by the Town Meeting of the Town of Charlton as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Amendment of Bylaws
[Adopted as Art. XLVII of the 2005 Bylaws]

§ 1-1.Amendments.

These Town of Charlton General Bylaws may be altered, amended or annulled at an Annual or Special Town Meeting, by a majority of the popular vote present and voting.

ARTICLE II
Interpretation

§ 1-2.Gender-neutrality of terms.

All male or female pronouns and other references herein which are gender-specific are intended, and shall be deemed, to refer to both female and male genders, except where the context clearly indicates that the term refers to a specific gender. By way of example, the term "his" and "hers" shall be deemed to mean "his/hers"; the term "he" or "she" shall be deemed to mean "he/she," etc.

Chapter 5

FINANCES

[HISTORY: Adopted by the Town Meeting of the Town of Charlton as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Fiscal Year
[Adopted as Art. XI of the 2005 Bylaws]

§ 5-1.Fiscal year.

The fiscal year shall begin with the first (1st) day of July and end with the last day of June of each year.

ARTICLE II
Audit
[Adopted as Art. XII of the 2005 Bylaws]

§ 5-2.Process.

The Town shall hire or contract with an independent certified public accountant or accounting firm to conduct an annual audit, with the written report due not more than nine (9) months after the close of the fiscal year. Such audit will be in accordance with the Massachusetts General Laws and generally accepted accounting practices. This document shall become public upon its voted acceptance by the Board of Selectmen.

ARTICLE III
Tax Increment Financing
[Adopted as Art. XLII of the 2005 Bylaws]

§ 5-3.Authority to enter into agreements.

The Board of Selectmen is authorized to negotiate and execute tax increment financing ("TIF") agreements and subsequent modifications thereto on behalf of the Town, pursuant to MGL c. 23A, §§ 3A through 3H, MGL c. 40, § 59, and MGL c. 59, § 5, their successors, and the regulations promulgated thereunder.

ARTICLE IV
Payment of Fees
[Adopted as Art. XLV of the 2005 Bylaws]

§ 5-4.Payment into treasury; reporting.

All Town officers shall pay all fees received by them by virtue of their office into the Town treasury, and shall report the amount thereof from time to time to the Selectmen, who shall publish the same in the Annual Town Report.

Chapter 10

PENALTIES

[HISTORY: Adopted by the Town Meeting of the Town of Charlton as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Noncriminal Disposition
[Adopted as Art. XLIV of the 2005 Bylaws]

§ 10-1. Noncriminal disposition procedure.

A. Any person designated below as the enforcing person for a particular bylaw, rule or regulation, or portion thereof, taking cognizance of a violation of same which he/she is empowered to enforce, hereinafter referred to as the "enforcing person," as an alternative to initiating criminal proceedings may give to the offender a written notice to appear before the Clerk of the Dudley District Court or such other court, if any, having jurisdiction thereof at any time during office hours, not later than twenty-one (21) days after the date of such notice. Such notice shall be in triplicate and shall contain the name and address, if known, of the offender, the specific offense charged, and the time and place for his, her or its required appearance. Such notice shall be signed by the enforcing person, and shall be signed by the offender whenever practicable in acknowledgment that such notice has been received. The enforcing person shall, if possible, deliver to the offender a copy of said notice at the time and place of the violation. If it is not possible to deliver a copy of said notice to the offender at the time and place of the violation, said copy shall be mailed or delivered by the enforcing person, or by his/her commanding officer or the head of his/her department or by any person authorized by such commanding officer, department or head, to the offender's last known address, within fifteen (15) days after said violation. Such notice as so mailed shall be deemed a sufficient notice, and a certificate of the person so mailing such notice that it has been mailed in accordance with this section shall be prima facie evidence thereof.

B. At or before the completion of each tour of duty, or at the beginning of the first subsequent tour of duty, the enforcing person shall give to his/her commanding officer or department head those copies of each notice of such a violation he/she has taken cognizance of during such tour which have not already been delivered or mailed by him/her as aforesaid. Said commanding officer or department head shall retain and safely preserve one copy and shall, at a time not later than the next court day after such delivery or mailing, deliver the other copy to the Clerk of the Court before which the offender has been notified to appear.

C. As provided in MGL c. 40, § 21D (hereinafter "the statute"), any person notified to appear before the Clerk of a District Court as hereinbefore provided may so appear and confess the offense charged, either personally or through a duly authorized agent or by mailing to the Charlton Town Clerk together with the notice such specific sum of money not exceeding three hundred dollars ($300) as the Town shall fix as penalty for violation of the bylaw, rule or regulation. Such payment shall, if mailed, be made only by postal note, money order or check.

D. Upon receipt of such notice, the Town Clerk shall forthwith notify the District Court Clerk of such payment and the receipt by the District Court Clerk of such notification shall operate as a final disposition of the case. An appearance under the statute or this subsection shall not be deemed to be a criminal proceeding. No person so notified to appear before the Clerk of a District Court shall be

required to report to any probation officer, and no record of the case shall be entered in any probation records.

E. If any person so notified to appear desires to contest the violation alleged in the notice to appear and also to avail himself/herself of the procedure established pursuant to the statute and this section, he/she may, within twenty-one (21) days after the date of the notice, request a hearing in writing. Such hearing shall be held before a District Court Judge, Clerk, or Assistant Clerk, as the Court shall direct, and if the Judge, Clerk, or Assistant Clerk shall, after hearing, find that the violation occurred and that it was committed by the person so notified to appear, the person so notified shall be permitted to dispose of the case by paying the specific sum of money fixed as a penalty as aforesaid, or such lesser amount as the Judge, Clerk or Assistant Clerk shall order, which payment shall operate as a final disposition of the case. If the Judge, Clerk, or Assistant Clerk shall, after hearing, find that violation alleged did not occur or was not committed by the person notified to appear, that finding shall be entered in the docket, which shall operate as a final disposition of the case. Proceedings held pursuant to the statute or this subsection shall not be deemed to be criminal proceedings. No person disposing of a case by payment of such a penalty shall be required to report to any probation office as a result of such violation, nor shall any record of the case be entered in the probation records.

F. If any person so notified to appear before the Clerk of a District Court fails to pay the fine provided hereunder within the time specified or, having appeared, does not confess the offense before the Clerk or pay the sum of money fixed as a penalty after a hearing and finding as provided in the preceding subsection, the Clerk, in accordance with the statute, shall notify the enforcing person who issued the original notice, who shall determine whether to apply for the issuance of a complaint for the violation of the appropriate bylaw, rule or regulation.

G. As used in the statute and this section, the term "District Court" shall include, within the limits of their jurisdiction, the Municipal Court of the City of Boston and the divisions of the Housing Court Department of the Trial Court.

H. The notice to appear provided for herein shall be printed in such form as the Chief Justice of the District Courts shall prescribe for the District Courts. Any fines imposed under the provisions of this section shall enure to the Town for such use as the Town may direct. This procedure shall not be used for the enforcement of municipal traffic rules and regulations. Chapter 90C shall be the exclusive method of enforcement of municipal traffic rules and regulations.

§ 10-2. Enforcing persons and fine schedule.

The enforcing person and fine schedule as to each bylaw, rule or regulation hereby made enforceable hereunder are as follows, such fines to take effect on the tenth (10th) day following receipt by the violator of written notice of such violation from the enforcing person, and each day that such violation continues after said ten-day period shall constitute a separate offense:

Violation	Enforcing Person	Fine Schedule
Storage of unregistered Motor Vehicles Zoning Bylaw adopted under Article 15 of the warrant for the Annual Town Meeting held April 21, 1984, which is presently § 200-5.3 et seq. of the Charlton Zoning Bylaw	Zoning Enforcement Officer or Assistant ZEO or the Alternate ZEO appointed by the Selectmen where the ZEO is absent or unable to act due to a conflict of interest	$50 for each offense, or such other fine as may be provided by said bylaw as same may be amended from time to time.
Any other violation of the Charlton Zoning Bylaw or of any	Zoning Enforcement Officer or Assistant ZEO or the Alternate ZEO	$50 for each offense as presently provided by § 200-7.1G(3) of the

Violation	Enforcing Person	Fine Schedule
rule, regulation, restriction, condition or order duly adopted or issued by any board or official thereunder	appointed by the Selectmen where the ZEO is absent or unable to act due to a conflict of interest	Charlton Zoning Bylaw, or such other fine as may be provided by said bylaw as same may be amended from time to time
Chapter 100, Alarm Systems, of the Town of Charlton General Bylaws	Alarm Administrator as defined in said bylaw	First and second offense: warning
		Third offense: $50
		Fourth offense: $75
		Fifth and any subsequent offenses: $100
		$25 per system alarm dispatch without permit per § 100-14B of said bylaw; or such other fines as may be provided by said bylaw as same may be amended from time to time
Chapter 105, Alcoholic Beverages of the Town of Charlton General Bylaws	Police officer(s)	$100 or such other fine as may be provided by said bylaw as same may be amended from time to time
Chapter 110, Animal Control, of the Town of Charlton General Bylaws [Amended 5-20-2013 ATM by Art. 19]	Animal Control Officer(s), such Officer's designee, the Police Chief and/or Charlton police officer	The specific penalties set forth in various sections of said Animal Control Bylaw as same may be amended from time to time, and any such as may be established by applicable Massachusetts General Laws
Chapter 120, Cemeteries, of the Town of Charlton General Bylaws, or any rule, regulation or order duly adopted or issued thereunder	Board of Cemetery Commissioners or its designee	$25 for each offense continuing 10 days after violator's receipt of written notice of the first offense, as provided in § 120-2 of such bylaw, or such other fine as may be provided by said bylaw as same may be amended from time to time
Chapter 130, Earth Removal, of the Town of Charlton General Bylaws, or any rule, regulation, permit provision or order duly adopted or issued by the Board of Selectmen thereunder	Board of Selectmen or its designee, including but not limited to any constable or police officer of the Town	First offense: $50
		Second offense: $100
		Third and each subsequent offense: $200 as provided in § 130-10 of said bylaw, or such other fine as may be provided by said bylaw as same may be amended from time to time in accordance with applicable law
Chapter 145, Hazardous Waste, of the Town of Charlton General Bylaws	Hazardous Waste Coordinator or his/her designee	$200 for each offense, as provided in § 145-3 of such bylaw, or such other fine as may be provided by said bylaw as

Violation	Enforcing Person	Fine Schedule
		same may be amended from time to time
Chapter 150, Junk, Old Metal and Secondhand Articles and Pawn Shops, of the Town of Charlton General Bylaws, or any rule, regulation, order or restriction duly adopted or issued by the Selectmen thereunder [Amended 5-20-2013 ATM by Art. 20]	Board of Selectmen or its designee; Police Chief and/or any Charlton police officer	The fines specified in the Junk, Old Metal, Secondhand Articles and Pawn Shops Bylaw as same may be amended from time to time
Chapter 160, Peddling and Soliciting, of the Town of Charlton General Bylaws	Chief of Police or his/her designee	$50 for each offense, as provided in § 160-7 of such bylaw, or such other fine as may be provided by said bylaw as same may be amended from time to time
Chapter 165, Sewer Use, of the Town of Charlton General Bylaws, as amended by vote under Article 7 of the warrant for the Special Town Meeting held December 18, 1995, and as same may have been or may be amended from time to time thereafter, or any rule or regulation or order duly adopted or issued thereunder or under any applicable statutory authority with respect to public sewers	Sewer Superintendent or Commissioners or their successors or designee	$300 for each offense as provided in Article VII of said bylaw; any fine or penalty in excess thereof for any separate offense to be enforced through means other than the noncriminal disposition procedure as required by the $300 limit set forth in the statute, the intent of this bylaw being to make said procedure available as a means of enforcement to the maximum extent allowable by law
Chapter 170, Article II, Solid Waste: Collection and Disposal, of the Town of Charlton General Bylaws, or any rule, regulation or order duly adopted or issued by the Board of Health thereunder	Board of Health or Health Agent or its, his or her designee	$100 for each offense, as provided in § 170-10 of such bylaw, or such other fine as may be provided by said bylaw as same may be amended from time to time
Chapter 180, Article III, Removal of Snow and Ice from Sidewalks, of the Town of Charlton General Bylaws	Superintendent of the Highway Department or person performing duties of the Superintendent or his/her designee	$50 for each offense continuing 24 hours after violator's receipt of written notice of the first offense, as provided in § 180-8 of such bylaw, or such other fine as may be provided by said bylaw as same may be amended from time to time
Chapter 190, Water Use, of the General Town Bylaws, adopted under Article 24 of the warrant for the March 1, 1999 Special Town Meeting, and as same may have been or may be amended from time to time thereafter, or any rule or regulation or order duly adopted or issued thereunder, or referenced therein, or under any applicable statutory authority with respect to public water	Sewer, or Water and Sewer, Superintendent or Commissioners or their successors or designee	$50 for the first offense and $100 for each subsequent offense as provided in § 190-12 of said bylaw, or such greater fine as may be enacted or adopted from time to time, each day any violation continues to constitute a separate offense as provided in said section

Violation	Enforcing Person	Fine Schedule
All provisions of the Town of Charlton General Bylaws not otherwise specified above and any rule, regulation, condition or order of the Board of Selectmen duly adopted or issued thereunder	Board of Selectmen or its designee	$20 as provided in Article II, General Penalty, of this chapter, or such other fine as may be provided by said bylaw as same may be amended from time to time in accordance with applicable law

§ 10-3. Severability.

If any portion of any provision of the within bylaw is held invalid by a court of competent jurisdiction or by the Attorney General, the remainder of such provision and of such bylaw shall take effect to the maximum extent permitted by applicable ruling.

ARTICLE II
General Penalty
[Adopted as Art. XLVI of the 2005 Bylaws]

§ 10-4. Penalties and enforcement.

Except as otherwise provided by law or by this bylaw, whoever violates any provision of the General Bylaws of the Town or refuses or neglects to obey any order of the Board of Selectmen or its designee issued hereunder and directed to and properly served upon said violator shall, in cases not otherwise specifically provided for hereunder, forfeit and pay for each offense a fine of twenty dollars ($20), each day such violation continues following such service to constitute a separate offense, which fine may be recovered by indictment or on complaint before a District Court prosecuted by any constable or police officer of the Town or by the Board of Selectmen or its designee, or, at the election of the Board of Selectmen or its designee, through the noncriminal disposition procedure provided by MGL c. 40, § 21D, the proceeds of any such fine(s) to enure to the Town or to such uses as it may direct.

Chapter 15

TOWN MEETINGS

[HISTORY: Adopted by the Town Meeting of the Town of Charlton as Art. I of the 2005 Bylaws. Amendments noted where applicable.]

§ 15-1.Dates and times of meetings.

The Annual Election of Town officers shall be held on the first (1st) Saturday in May; polls will be open from 8:00 a.m. to 8:00 p.m. The Annual Town Meeting for the transaction of other business shall be held on the third (3rd) Monday in May, commencing at 7:00 p.m. and adjournment shall be at 11:00 p.m. unless voted otherwise by the registered voters present.

§ 15-2.Posting of notice.

Notice of Town Meetings shall be given by posting attested copies of the warrant calling the meeting at each of the Post Offices, in the Charlton Municipal Offices/George C. McKinstry Building, and in Dexter Memorial Hall in the Town, at least seven (7) days before an Annual Town Meeting and at least 14 days before a Special Town Meeting.

§ 15-3.Warrant; calling of Special Town Meetings.

The Selectmen shall insert in the warrant for the Annual Meeting all subjects the insertion of which shall be requested of them in writing by ten (10) or more registered voters of the Town and in the warrant for every Special Town Meeting all subjects the insertion of which shall be requested of them in writing by one hundred (100) registered voters of the Town. The Selectmen shall call a Special Town Meeting upon request in writing, upon a form approved by the State Secretary, of two hundred (200) registered voters of the Town; such meeting to be held not later than forty-five (45) days after the receipt of such request, and shall insert in the warrant therefor all subjects the insertion of which shall be requested by said petition. No action shall be valid unless the subject matter thereof is contained in the warrant. Two (2) or more distinct Town Meetings for distinct purposes may be called by the same warrant.

§ 15-4.Conduct.

In Town Meetings, all persons present shall, as far as practicable, be seated.

§ 15-5.Written motions and amendments.

All motions and amendments shall be in writing when requested by the Moderator or Town Clerk.

§ 15-6.Speaking from floor.

A. When one is recognized by the Moderator, he/she shall rise, if able, and be given the floor to speak.

B. A person who is neither a registered voter of the Town, nor the Town Administrator, Town Counsel, a Town department head, or the superintendent of a regional school district of which the Town is a member, or such superintendent's designee, may not address the Town Meeting unless so authorized by majority vote of the registered voters present and voting at such meeting. [Amended 5-17-2010 ATM by Art. 26]

§ 15-7.Moderator; methods of voting.

The duties of the Moderator, or in his/her absence the person authorized by MGL c. 39, § 14, not specifically provided for by law, shall be determined by rules of parliamentary law contained in *Town Meeting Time, A Handbook of Parliamentary Law*, so far as they are adapted to Town Meeting. The Moderator shall preside and regulate the proceedings, make public declaration of all votes, and may administer in open meeting the oath of office to any Town officer chosen thereat. If a vote so declared is immediately questioned by seven (7) or more voters, he/she shall verify it by polling the voters or by dividing the meeting unless the Town has by previous order or bylaw provided another method. If a two-thirds (2/3), four-fifths (4/5) or nine-tenths (9/10) vote of a Town Meeting is required by statute, the count shall be taken, and the vote shall be recorded in the records by the Clerk; provided, however, that where a two-thirds (2/3) vote is required by statute, notwithstanding the foregoing, a counted vote need neither be taken nor recorded unless questioned in the manner specified in the immediately preceding sentence or unless the Moderator is in doubt with respect to whether a motion has passed by the required two-thirds (2/3) vote; but if any vote is unanimous, a count need not be taken, and the Clerk shall record the vote as unanimous.

§ 15-8.Accommodation of all voters.

Whenever the Moderator determines that voters are being excluded from the Town Meeting because there is no room for them in the places provided or that voters in attendance are being deprived of the opportunity to participate for any reason, he/she shall either, on his/her own motion, recess the meeting for any period during the day of the meeting or, after consultation with the members of the Board of Selectmen then present, adjourn the same to another date, not later than fourteen (14) days following the date of said meeting, when places and facilities sufficient to accommodate all voters attending and to enable them to participate in shall be available.

Chapter 20

CONTRACTS AND PURCHASING

[HISTORY: Adopted by the Town Meeting of the Town of Charlton as Art. X of the 2005 Bylaws. Amendments noted where applicable.]

§ 20-1.Conflicts of interest.

No board or officers of the Town of Charlton, elected or appointed, nor any committee or member thereof nor any agent or employee of such member, shall directly or indirectly be interested in any contract with the Town for the employment of labor, expenditure of public money, the purchase of material or supplies, the construction, alteration, or repair of any public works or other property belonging to the Town, nor the care, custody, and management thereof if said board, committee or member is in any way entrusted or charged with any duty or authority in connection therewith.

§ 20-2.Compliance with state law.

Prior to the making of any contract for the furnishing of labor, materials or supplies, or any or all of them, for or on behalf of the Town, the Board of Selectmen, the Chief Procurement Officer or other appropriate officials shall comply with all applicable provisions of the Massachusetts General Laws.

Chapter 25

RECORDS

[HISTORY: Adopted by the Town Meeting of the Town of Charlton as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Inventory
[Adopted 5-15-2006 ATM by Art. 33 (Art. XLVIII of the 2005 Bylaws)]

§ 25-1.Required information.

Effective July 1, 2006, each Town officer, department head and committee shall maintain an inventory of all text books and other substantial reference or resource materials in book form, tools, equipment and furniture which are under his, her or its jurisdiction. This requirement shall not include expendable property such as photocopy or typing paper, paper clips, etc. This list shall include the brand name, type of equipment, serial number and color. Whenever possession of such property is transferred from one Town office or department to another, the person responsible for maintaining the inventory in the receiving office or department shall check the condition of and sign for the property, and both that person and the person responsible for the inventory in the office or department from which the property is being transferred shall note such transfer on their respective inventories.

§ 25-2.Filing with Clerk.

A signed copy of the inventory will be kept on file with the Town Clerk and updated on July 1 of each year.

PART II: OFFICIALS, BOARDS, COMMITTEES AND COUNCILS

Chapter 50

OFFICIALS, ELECTED AND APPOINTED

[HISTORY: Adopted by the Town Meeting of the Town of Charlton as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Town Officials
[Adopted as Art. II, §§ 1 and 5, of the 2005 Bylaws]

§ 50-1.Elected officials.

A. Annual elections.

(1) Every year at its Annual Meeting the Town of Charlton shall choose by ballot from its registered voters the following Town officials for the designated term of office of any incumbent whose term has expired; all terms are for three (3) years unless otherwise specified. All officials who hold office at the time of adoption of this bylaw shall continue to serve their term of office:

(a) Five (5) Selectmen.

(b) One (1) Town Clerk.

(c) One (1) Moderator.

(d) One (1) Tree Warden.

(2) All of these offices shall be compensated in such manner and amount as the Town Meeting shall determine.

B. Other elected officials are as follows:

Official	**Number/Members**
Assessors	Three (3) members
Board of Health	Three (3) members
Cemetery Commissioners	Three (3) members
Charlton Housing Authority	Five (5) members
Constables	Two (2)
Dudley Charlton Regional School Committee	Four (4) members
Planning Board	Five (5) members, five-year term
Recreation Commission	Three (3) members
Southern Worcester County Regional Vocational School District	Two (2) members
Trustees of the Free Public Library	Six (6) members
Water and Sewer Commissioners	Five (5) members

C. Each elected official shall have all powers and duties conferred upon him/her by statutes and by these bylaws.

§ 50-2.Appointed officials. [Amended 5-15-2005 ATM by Art. 30; 10-16-2007 STM by Art. 11]

A. All other Town officials shall be appointed by the Board of Selectman, and each such official's term of appointment by the Board of Selectmen shall be from July 1 to June 30. Appointed officials include the following:

Bylaw Advisory Committee
Cable TV Advisory Committee
Central Massachusetts Regional Planning Commission
Conservation Commission
Council on Aging
Cultural Council
Dam Monitors
Dog Officer
Economic Development Commission
Emergency Management Director
Emergency Medical Services Coordinator
Fire Chief
Forest Warden
Gas Inspector
Historical Commission
Insect and Pest Control Superintendent
Inspector of Buildings/Zoning Enforcement Officer
Lakes and Ponds Task Force
Local Inspector/Fence Viewer
Memorial Day Committee
Northside Historic District Commission
Old Home Day Committee
Personnel Board
Plumbing Inspector
Police Chief
Police Department
Procurement Officer
Registrars of Voters
Sealer of Weights and Measures
Surveyors of Wood and Lumber
Town Accountant/Financial Services Coordinator
Town Counsel
Veterans Agent
Veteran's Grave Marker
Wiring Inspector
Zoning Board of Appeals

B. Other appointed officials within the Town of Charlton include the following positions and appointing authority:

Position	Appointed By
Animal Inspector	Board of Health
Member of Fire Department	Fire Chief[2]
Finance Committee	Moderator
Health Agent	Board of Health
Town Collector	Town Administrator[1]
Treasurer	Town Administrator[1]

NOTES:

[1] Or Board of Selectmen in the absence of the Town Administrator.

[2] Fire Chief (who shall be the head of the Fire Department, which shall include personnel of and services previously performed by the Ambulance Department).

§ 50-3.Vacancies.

Any elected or appointed office which becomes vacant due to recall vote, death or resignation may be filled as per procedure listed in MGL c. 41, §§ 10 and 11.

ARTICLE II
Moderator
[Adopted as Art. II, § 2, of the 2005 Bylaws]

§ 50-4.Election; compensation; powers and duties.

A Moderator shall be elected for a three-year term. He/She shall be compensated in such manner and amount as the Town Meeting shall determine. The Moderator shall have all powers and duties conferred upon by him/her by statute and by these bylaws. He/She shall designate the personnel required for proper conduct of Town Meetings, and shall appoint the members of the Finance Committee. He/She shall utilize *Town Meeting Time, a Handbook of Parliamentary Law* for all Town Meetings.

ARTICLE III
Selectmen
[Adopted as Art. III of the 2005 Bylaws]

§ 50-5.Membership and terms.

There shall be a Board of Selectmen, consisting of five (5) members elected by the voters for three-year terms, so arranged that the term of office of at least one (1) member, but not more than two (2) members, shall expire each year. As the terms of office of the incumbent members of the Selectmen thereafter expire, candidates shall run for the office of Selectman by the number assigned to a specific "seat." No person may be a candidate for more than one (1) numbered "seat" at any one (1) election. A Selectman may not hold any other elective or compensated office under government of the Town of Charlton during the term for which he/she is elected, nor any compensated appointive Town office or employment for one (1) year thereafter.

§ 50-6.Powers and duties.

The Selectmen shall have all powers and duties conferred upon them by the Constitution and General Laws of the Commonwealth and by this bylaw. The Board of Selectmen shall exercise a general supervision over all matters affecting the interests or welfare of the Town, which are not otherwise provided for. It shall have full authority as agent of the Town to institute and prosecute suits in the name of the Town, to appear and defend suits brought against the Town, and to appear on behalf of the Town in

proceedings before any committee or tribunal, unless it is otherwise specifically ordered by vote of the Town or provided by law.

§ 50-7.Organization.

The Selectmen, within seven (7) days after each Annual Election, shall meet, elect a Chairperson and otherwise organize, and fix the time and place of their regular meetings. They shall adopt their own rules of procedure.

§ 50-8.Quorum.

Three (3) members of the Board shall constitute a quorum, but no resolution or vote except a vote to adjourn or to fix the time and place of the next meeting shall be adopted by less than two (2) affirmative votes.

§ 50-9.Authority over Town property; reports.

The Selectmen shall have the general care and custody, direction and management of all the property of the Town in all matters not otherwise provided for. They shall cause their annual reports, together with the reports of all other Town officers or boards of officers that are required to make annual reports, to be printed and distributed at least three (3) days before the time for the Annual Meeting.

§ 50-10.Bond notes and records.

At least a majority of the Board of Selectmen shall sign all Town notes given by the Treasurer for money borrowed for the Town. They shall endorse their written approval and acceptance on the bond of the Town Treasurer and on the bond of the Town Collector before said bonds are delivered to the Town Clerk, for his/her custody, preservation and safekeeping. They shall keep all books, documents, and valuable papers belonging to the Town, relating to their department in a fireproof safe.

§ 50-11.Warrant.

The Board of Selectmen shall limit their orders upon the Town Treasurer to the amount of the respective appropriations for each attachment, and shall draw no order for the payment of a bill which has not been previously audited by the Town Accountant/Financial Services Coordinator.

ARTICLE IV
Town Administrator
[Adopted as Art. II, § 3, of the 2005 Bylaws]

§ 50-12.Appointment, term and compensation.

The Board of Selectmen shall appoint a Town Administrator for a term of one (1) year or three (3) years and fix his/her compensation within the amount appropriated by the Town Meeting.

§ 50-13.Residency.

He/She need not be a resident of the Town or of the Commonwealth of Massachusetts, but shall become a resident of the Town within one (1) year of his/her appointment if the Board of Selectmen deems it is in the best interest of the Town.

§ 50-14.Qualifications.

He/She shall be a person especially fitted by education, training and/or previous experience in management or administration to perform the duties of the office, and shall meet such other requirements as the Board of Selectmen may specify.

§ 50-15.Termination, suspension or removal.

A. The Board of Selectmen may, by affirmative vote of four (4) members of the five-member Board, or if the Board were to be reduced to three (3) members, by affirmative vote of two (2) members, terminate and remove or suspend the Town Administrator from his/her office.

B. Before the Town Administrator may be removed, if he/she so demands, he/she shall be given a written statement of the reasons alleged for his/her removal and shall have a right to be heard publicly thereon at a meeting of the Board of Selectmen prior to a final vote on his/her removal, but pending and during such hearing and vote the Board of Selectmen may suspend him/her from his/her office.

C. The action of the Board of Selectmen in suspending or removing the Town Administrator from office shall be final, it being the intention of this provision to vest all authority and to fix all responsibility for such suspension or removal solely in the Board of Selectmen.

D. The Town Administrator shall continue to receive his/her salary until the effective date of a final vote of removal unless the Board of Selectmen, in a manner consistent with MGL c. 268A, § 25, and/or other applicable law, makes a preliminary determination, after informing the Town Administrator of the cause for consideration of possible termination and removal or suspension and after hearing any preliminary response or information which the Town Administrator wishes to provide as to such cause, determines that it would be in the public interest to suspend the Town Administrator without pay pending such final vote, on condition that the Town Administrator shall be restored to his/her position and made whole for any loss of compensation in the event that the final vote is not to terminate and remove or suspend the Town Administrator from office.

§ 50-16.Duties.

A. It shall be the duty of the Town Administrator to see that the orders and policies of the Board of Selectmen are carried out.

B. The Town Administrator shall act by and for the Board of Selectmen in any matter which they may assign to the Town Administrator relating to the administration of the affairs of the Town or of any Town office or department under the Board of Selectmen's supervision and control, or, with the approval of the Board of Selectmen, may perform such duties as may be requested of the Town Administrator by any other Town officer, board, committee or commission.

C. The Town Administrator, to the extent consistent with the duties as mentioned immediately above in Subsection B, and with other applicable law, shall act as the agent of the Board of Selectmen in supervising and directing other boards, committees, department heads and commissions of the Town. His/Her responsibilities in this regard shall include, but not be limited to, establishing and maintaining the efficient organization and operation of the Board of Selectmen's office and coordination of effective communication between and among such office and those of other boards, commissions, committees, officers and department heads of the Town.

D. The Town Administrator shall oversee the general operations of the Board of Selectmen's office, shall directly supervise those employees, department heads, officials, boards commissions and committees who are subject to the direct supervision of the Board of Selectmen, shall serve as the intermediate administrative authority between the Board of Selectmen and the department heads and the other boards, committees and commissions of the Town referenced in Subsection C, immediately above, with respect to all matters, including those involving Town employees, to the extent not inconsistent with applicable collective bargaining agreements and the Town's Personnel Bylaw, and shall serve as an advisor to all such department heads, boards, committees and commissions as to employment, and other, matters.

E. The Town Administrator shall make investigations, reports and recommendations on such matters as the Board of Selectmen may require, and shall initiate, coordinate, supervise and bear primary responsibility for the preparation of an Annual Town Report.

F. The Town Administrator shall receive, investigate and answer complaints directed to the Board of Selectmen or refer them to the proper department or departments for attention and, to the extent appropriate as determined by the Board of Selectmen, shall keep the Board apprised of such complaints and of the action which the Town Administrator has taken with respect to same.

G. The Town Administrator shall participate in the preparation of the Town's annual budget with the assistance of department heads for those departments, boards, committees or commissions and any Town office under the Board of Selectmen's supervision and control. He/She shall recommend the Town's annual budget to the Board of Selectmen, and with its approval present such proposed budget to the Finance Committee. He/She shall also be responsible for the development and annual updating of the capital improvement program.

H. The Town Administrator, on behalf of the Board of Selectmen, as the employer under Massachusetts General Laws, Chapter 150E, and subject to the Board's ratification, shall negotiate all collective bargaining agreements with the exclusive representatives (i.e., unions) of all organized employee bargaining units in the Town. The Town Administrator shall seek and shall receive direction from the Board of Selectmen prior to the commencement of any such negotiations, and shall provide advice to the Board with respect to any and all issues relating to the negotiations which in his/her opinion are important to protect the best interests of the Town. The Town Administrator shall also keep the Board advised in timely fashion with respect to all issues discussed in the negotiations in timely fashion, which obligation shall include, but shall not be limited to, the provision of reports to the Board after the conclusion of each bargaining session and prior to the next such session. No agreement shall bind the Town until and unless ratified by majority vote of the Board of Selectmen, and no agreement as to any cost item of same shall bind the Town until and unless a Town Meeting has approved a request for an appropriation necessary to fund the cost items of the contract, if any, all in accordance with MGL c. 150E, § 7, and other applicable law.

I. The Town Administrator may make recommendations to the Board of Selectmen, and subject to confirmation by the Board of Selectmen as to whom should be appointed to each of the appointive positions listed in Article I of this chapter. Subject to confirmation by vote of the Board of Selectmen, he/she shall have the power to rescind for cause, including excessive and unexcused absenteeism, any appointment made by the Board of Selectmen upon his/her recommendation to any board, commission, committee or position under authority of this bylaw, provided that the appointee shall first have been served with a written notice of the Town administrator's intention, specifying the reasons for the proposed removal, and informing the appointee of his/her right to be heard, if requested in writing, at a public meeting of the Board of Selectmen.

J. The Town Administrator shall recommend to the Board of Selectmen, after securing information from and the opinion of the department head, as well as that of the Personnel Board, the compensation of all Town officers and employees appointed by the Board of Selectmen within the limits established by existing appropriations and Town bylaws.

K. The Town Administrator shall attend all regular meetings of the Board of Selectmen unless excused, and shall have a voice but no vote in all of its deliberations.

L. The Town Administrator shall keep full and complete records of the office of the Town Administrator and shall render, as often as may be required by the Board of Selectmen, a full report of all operations.

M. The Town Administrator shall keep the Board of Selectmen fully advised as to the needs of the Town and shall recommend to the Board of Selectmen for adoption such measures requiring action by them or by Town Meeting as he/she may deem necessary or expedient.

N. The Town Administrator shall see that the provisions of the General Laws, the bylaws, votes of the Town Meeting and votes of the Board of Selectmen which require enforcement by him/her or officers subject to his/her direction and supervision are faithfully carried out.

O. The Town Administrator may at any time inquire into the conduct of any officer or employee or department, board or commission under his/her jurisdiction.

P. The Town Administrator shall attend all Special and Annual Town Meetings unless excused from doing so by the Board of Selectmen and shall answer all questions directed to him/her by the voters of the Town which relate to his/her office or to any subject matter encompassed by, arising out of or connected with his/her duties.

Q. The Town Administrator shall also perform any and all other duties and services required by the bylaws or assigned by the Board of Selectmen.

ARTICLE V
Assessors
[Adopted as Art. IV of the 2005 Bylaws]

§ 50-17.Annual tax list.

The Assessors of Taxes shall commit the annual tax list with their warrant to the Collector of Taxes and they shall commit such list to the Collector on or before the first day of September in each year, but not until said Collector, and also the Town Treasurer, shall each have delivered his/her bond required by law to the Town Clerk, for their custody and safekeeping with the Selectmen's written approval and acceptance of said bonds endorsed thereon.

§ 50-18.Certificates of abatement.

Every certificate of abatement of a tax shall be signed by at least a majority of the Assessors.

§ 50-19.Annual audit.

It shall be their duty to audit the accounts of the Collector at the close of each fiscal year, and file their certificate to that effect with the Selectmen in time to be published in the Selectmen's annual report. Said certificates shall state the amount of taxes collected and the amount paid into the treasury on taxes overdue. This inspection of the accounts of the Collector shall not be considered as taking the place of such exhibits of his/her accounts as are now required of him/her by law.

ARTICLE VI
Town Collector
[Adopted as Art. V of the 2005 Bylaws]

§ 50-20.Bond and powers.

The Town Collector shall give a bond to the Town in such sum as the Selectmen may require, with sureties to their satisfaction, as shown by their written approval and acceptance on said bond, signed by at least a majority of the Board of Selectmen. The Town Collector shall have all the powers vested in Town Collectors by the Massachusetts General Laws (see, e.g., MGL c. 41, § 38). (As to appointment of the Town Collector in the Town of Charlton, see Chapter 153 of the Acts of 2003.)

§ 50-21.Collection of taxes.

The Collector, when he/she shall receive each year from the Assessors of Taxes the tax list, showing the amount assessed on each person liable to taxation on his/her property, shall proceed to collect the same as follows: He/She shall immediately proceed to collect such taxes as are designated in said warrant as then due or payable. All real estate and personal property taxes shall be due and payable in accordance with MGL c. 59, § 57C, as same may be amended from time to time.

ARTICLE VII
Treasurer
[Adopted as Art. VI of the 2005 Bylaws]

§ 50-22.Bond and powers.

The Town Treasurer shall give bond to the Town in such sum as the Selectmen may require, with sureties to their satisfaction, as shown by their written approval and acceptance on said bond signed by at least a majority of the Board of Selectmen. Said bond shall be upon condition that said Treasurer shall faithfully discharge the duties of his/her said office during any and every period of his/her incumbency therefor. The Selectmen may require from the Town Treasurer a new bond with like sureties after each appointment to said office.

§ 50-23.Use of funds.

The Town Treasurer shall not use any money or funds belonging to the Town in the payment of any of his/her own or any other person's private bills or obligations, nor for any purposes, except for paying Town notes, interest on Town notes, state and military aid, and the state and county taxes, except on orders signed by at least a majority of the Board of Selectmen, or in matters where they are authorized by law in the premises, the orders of the School Committee, or a majority of them, or other officers having lawful authority to draw such orders. He/She shall give no Town notes except the same are approved and countersigned by at least a majority of the Selectmen. He/She shall prepare and deliver to the Board of Selectmen, in time for publication in the Town Report of each year, a full statement in detail of all receipts and payment of money by him/her as Town Treasurer, showing the balance of his/her account on the first day of January of each year. He/She shall place his/her bond within ten (10) days after his/her appointment in the hands of the Town Clerk for custody and safekeeping.

ARTICLE VIII
Town Accountant
[Adopted as Art. IX of the 2005 Bylaws]

§ 50-24.Powers and duties.

It shall be the duty of the Town Accountant to examine all original bills and vouchers in which money may be paid prior to the issuance of an order by the Selectmen, the Library Trustees, or such other officers as are authorized and empowered by law to draw such orders on the Treasurer therefor for payment of the same; and he/she shall keep an accurate record of such bills or vouchers audited by him/her. He/She shall have unrestricted access to all books and accounts of all officers and committees entrusted with the receipt, custody and expenditure of money as often as once a month, and may make examination thereof.

ARTICLE IX
Town Clerk
[Adopted as Art. XIII of the 2005 Bylaws]

§ 50-25.Custody of bonds.

The Town Clerk shall not permit anyone to take from his/her care and custody the Tax Collector's bond, nor the Town Treasurer's bond; but he/she shall furnish a certified copy of the bond of the Tax Collector or of the Town Treasurer, or both, with a full copy of the Selectmen's written approval and acceptance, and a copy of the oath thereon, to the Selectmen, or to the Assessors whenever requested so to do in writing by any member of the Board of Selectmen or Assessors.

§ 50-26.Custody of records.

He/She shall keep the Town records and all deeds and other valuable documents and papers properly in his/her charge in the Town's fireproof safe, but always subject to inspection and examination by the Selectmen.

ARTICLE X
Building Inspector and Zoning Enforcement Officer
[Adopted as Art. XXIX of the 2005 Bylaws]

§ 50-27.Enforcement of State Building Code.

The Inspector of Buildings/Zoning Enforcement Officer may enforce the rules and regulations adopted by the provisions of the Massachusetts Building Code.

ARTICLE XI
Gas Inspector
[Adopted as Art. XXVII of the 2005 Bylaws]

§ 50-28.Duties.

The Gas Inspector shall enforce the rules and regulations adopted by the Gas Regulatory Board established under MGL c. 25, § 12H, and as later amended.[1]

ARTICLE XII
Plumbing Inspector
[Adopted as Art. XXVIII of the 2005 Bylaws]

§ 50-29.Duties.

The Plumbing Inspector shall enforce the rules and regulations adopted by MGL and as later amended.

1.**Editor's Note: Former MGL c. 25, § 12H, related to the creation of the Gas Fitting Board, was repealed 12-23-1977 by St. 1977, c. 843, § 2.**

Chapter 55

COMMITTEES AND COUNCILS

[HISTORY: Adopted by the Town Meeting of the Town of Charlton as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Finance Committee
[Adopted as Art. VIII of the 2005 Bylaws]

§ 55-1.Membership and terms.

There shall be a Finance Committee consisting of seven (7) registered voters of the Town appointed by the Moderator at the Annual Town Meeting. The term of office of each member shall be for three (3) years, and the terms of office of the members shall be so arranged that as nearly an equal number of terms as is possible shall expire each year. Whenever a vacancy occurs on the Committee, the Moderator shall fill the vacancy for the unexpired term. No member shall hold any other elective or appointive Town office or be employed by the Town.

§ 55-2.Rules and regulations; minutes.

The Finance Committee shall meet, choose its own officers, and adopt such rules and orders affecting its government as may from time to time be necessary. Minutes of all meetings shall be kept and retained for public inspection.

§ 55-3.Duties.

The Finance Committee shall consider matters relating to the appropriation and expenditure of money by the Town, its indebtedness, the administration of its various departments, other municipal affairs of the Town and make reports and recommendations to the Town; and shall submit a budget at each Annual Town Meeting.

ARTICLE II
Council on Aging
[Adopted as Art. XV of the 2005 Bylaws]

§ 55-4.Composition.

There shall be a Council on Aging consisting of seven (7) registered voters of the Town, at least five (5) of whom shall be sixty (60) years of age or older, appointed by the Selectmen for the following terms: three (3) of the terms of three (3) years, two (2) for the term of two (2) years, and two (2) for the term of one (1) year, and upon the expiration of said initial terms, subsequent appointments to be for a term of three (3) years. The term of office for any member shall expire on the day of the Annual Town Meeting in the last year of his/her term. The Selectmen shall fill any vacancies that may occur.

§ 55-5.Powers and duties.

The Council shall have all the powers and duties conferred and imposed upon councils on aging by MGL c. 40, § 8B, and any amendments thereof now or hereafter enacted.

§ 55-6.Quorum.

The quorum for the transaction of business shall be a majority of the Council, but a number less than the majority may adjourn.

Chapter 60

LIBRARY TRUSTEES

[HISTORY: Adopted by the Town Meeting of the Town of Charlton as Art. XIV of the 2005 Bylaws. Amendments noted where applicable.]

§ 60-1.Powers and duties.

The Board of Trustees of the Public Library shall have charge of the library and all matters pertaining thereto. They are authorized to obtain and pay for out of the money appropriated by the Town for the purpose of the library, the services of a library staff, and make such rules and regulations for the proper management and government of the library and the use of the books and materials therein as they may deem best for the public good. They shall have the entire custody and management of the library and reading room, and all money raised or appropriated by the Town for its support and maintenance, and may draw orders signed by a majority of the Board of Trustees on the Town Treasurer for such money or any part thereof.

§ 60-2.Annual report.

The Trustees, as provided in Chapter 50 of these Bylaws, shall annually make a report to the Town of all the receipts and expenditures and of all property in their care and custody, including a statement of any unexpended balance of money, with such recommendations, if any, as they may deem necessary.

PART III: GENERAL LEGISLATION

Chapter 100

ALARM SYSTEMS

[HISTORY: Adopted by the Town Meeting of the Town of Charlton as Art. XXXIV of the 2005 Bylaws. Amendments noted where applicable.]

§ 100-1.Title and purpose.

A. This bylaw shall be known as the "Alarm System Bylaw" and shall regulate alarms which cause a message to be transmitted to the Charlton Police or Fire Departments.

B. The purpose of this bylaw is to encourage alarm users to maintain the operational reliability of their alarm systems, to reduce or eliminate false alarm dispatch requests, to establish a system of regulations and fees with respect to alarm systems, and to provide for penalties for violations of this bylaw.

§ 100-2.Permit requirements.

A. No alarm user shall operate, or cause to be operated, an alarm system or device without a valid permit issued in accordance with this bylaw. A separate permit is required for each alarm site. No alarm permit shall be required for any motor vehicle equipped with an alarm system or device.

B. Each alarm user shall register his/her alarm system or device with the Chief of Police prior to use.

C. Alarm system applications shall be available at the Charlton Police Department or via the Charlton Police Department's web site.

D. There shall be no fees implemented or charged in the registering and/or in obtaining a permit for an alarm system.

§ 100-3.Operation and maintenance.

A. The alarm user shall maintain the alarm site and alarm system in a manner that will minimize or eliminate false alarm dispatches.

B. The alarm user shall make every reasonable effort to respond or cause a representative to respond within thirty (30) minutes, when notified, to deactivate a malfunctioning alarm system or to provide access to the alarm site.

C. The alarm user shall adjust the mechanism or cause the mechanism to be adjusted so that an alarm signal audible on the exterior of an alarm site will sound for no longer than twenty (20) minutes after being activated.

D. The alarm business performing monitoring services shall attempt to verify every alarm signal, except for a duress or hold-up alarm activation, or fire alarm before requesting a police or emergency response to an alarm signal.

E. An alarm system does not include an alarm designed to alert only the inhabitants of a premises and which does not have a sound device which can be heard on the exterior of the alarm site.

F. No alarm system or device designed to transmit emergency messages directly to the Police or Fire Department or that emits an audible signal that would require a response by either police or fire personnel shall be worked on, tested or demonstrated without obtaining permission from the Police Department Communications Section. Permission is not required to test or demonstrate an alarm system or devices that do not transmit emergency messages or signals directly to the Police or Fire Department.

§ 100-4.Fines.

A. An alarm user may be subject to warnings and fines for false alarm dispatches emitted from an alarm system within a three-hundred-sixty-five-day period, based on the following schedule:

Number of False Alarm Dispatches	Action Taken	Fine
1	Warning	None
2	Warning	None
3	3rd offense	$50
4	4th offense	$75
5	5th and subsequent	$100

B. Any alarm user operating an alarm system without a permit as prescribed under § 100-2A of this bylaw shall be subject to an additional fine of twenty-five dollars ($25) for each false alarm dispatch.

C. An alarm dispatch request caused by a criminal offense, a fire or other emergency, or an alarm resulting solely from power outages or extreme weather conditions shall not be counted as a false alarm.

D. All fines resulting from the enforcement of the provisions of this bylaw pertaining to alarms shall be collected in the form of a personal check, money order or registered check, made payable to the Town of Charlton and forwarded to the Charlton Police Department. All funds collected shall be added to the Town's general treasury in accordance with MGL c. 44, § 53.

E. State, federal, county and municipal entities shall be exempt from the provisions of this bylaw.

F. All fines shall be paid within twenty-one (21) days of receipt of a noncriminal violation notice.

§ 100-5.General provisions.

A. Except as otherwise required by law, including the Commonwealth's Public Records Act, the information furnished and secured pursuant to this bylaw shall be confidential in character and shall not be subject to public inspection.

B. This bylaw shall be enforced by the alarm administrator as defined in Subsection C immediately below and the definition of "Town Administrator" in § 100-6 below. Penalties for violations may be enforced by a noncriminal disposition pursuant to MGL c. 40, § 21D, and Chapter 10, Penalties, Article I, of the Charlton General Bylaws. The alarm user may appeal the decision of the alarm administrator to the Town Administrator or designee by filing a written request for a review within twenty (20) days after receipt of a noncriminal violation notice. The Town Administrator or designee shall conduct a hearing and render a written decision within thirty (30) days following receipt of such request for review. The decision of the Town Administrator or designee shall be final. Nothing in the three (3) immediately preceding sentences shall affect the time limits, penalties, procedures or remedies applicable under the aforementioned noncriminal disposition statute and bylaw, the administrative appeal to the Town Administrator being intended to be a

separate, additional process, provided that if the Town Administrator should decide in favor of the alarm user, the Town shall not proceed any further with the noncriminal disposition procedure and no fine shall be enforced hereunder.

C. The Chief of Police or designee shall serve as the alarm administrator to: administer, control and review alarm applications, permits, and alarm dispatch requests, develop a procedure to accept verified cancellation of alarm dispatch requests, promulgate such regulations as may be necessary or required to implement this bylaw and enforce the provisions hereof.

§ 100-6.Definitions.

For the purpose of this bylaw, the following terms, phrases, words and their derivations shall have the following meanings. The word "shall" is always mandatory and not merely directory.

ALARM ADMINISTRATOR — The Chief of Police of the Town of Charlton or his/her designated representative.

ALARM SYSTEM — An assembly of equipment and devices or a single device such as a solid state unit which plugs directly into a 110-volt AC line, arranged to signal the presence of a hazard requiring urgent attention and to which police or fire personnel are expected to respond. In addition, any device which when activated calling for a response by police or fire personnel: (a) transmits a signal to the Charlton Police or Fire Departments; (b) transmits a signal to a person who relays information to the Charlton Police or Fire Departments; or (c) produces an audible or visible signal to which police or fire personnel are expected to respond. Excluded from this definition and the scope of this bylaw are devices which are designed to alert or signal only persons within the premises in which the device is installed.

ALARM USER — Any person on whose premises an alarm system is maintained within the Town. The owner of any premises on which an alarm device is used, provided that an occupant that expressly accepts responsibility for an alarm device by registration pursuant to § 100-2B of this bylaw shall be deemed the alarm user. Excluded from this definition are:

A. State, federal, county and municipal agencies;

B. Persons who use alarm systems to alert or signal persons within the premises in which the alarm system is located of an attempted unauthorized intrusion or holdup attempt. However, if such an alarm system employs an audible signal or flashing light outside the premises, the user of such an alarm system shall be within the definition of "alarm user" and shall be subject to this bylaw.

BOARD OF SELECTMEN — The Selectmen of the Town of Charlton.

CHIEF OF POLICE — The Chief of Police of the Town of Charlton or his/her designated representative.

FALSE ALARM — (a) The activation of an alarm system or device through mechanical failure, malfunction, improper installation or negligence of the user of an alarm system or his/her employees or agents; (b) any signal or oral communication transmitted to the Charlton Police Department requesting, or requiring, or resulting in a response on the part of the Police Department when in fact there has been no unauthorized intrusion or attempted unauthorized intrusion into a premises or no attempted robbery or burglary at a premises; (c) any signal or oral communication transmitted to the Charlton Fire Department requesting, or requiring, or resulting in a response on the part of the Fire Department when in fact there has been no fire, or potential hazardous or life-threatening situation or circumstance at a premises. Excluded from the definition is activation of alarm systems caused solely by criminal offense, a fire, or other emergency, power outages or extreme weather conditions.

FIRE DEPARTMENT — The Town of Charlton Fire Department or any authorized agent thereof.

POLICE or POLICE DEPARTMENT — The Town of Charlton Police Department or any authorized agent thereof.

TOWN — The Town of Charlton.

TOWN ADMINISTRATOR — The Town Administrator of Charlton or his/her designated representative.

§ 100-7.Enforcement.

The Town, upon authorization by the Board of Selectmen, may institute civil proceedings to enforce the provisions of this bylaw. The provision of this bylaw may be enforced with the prior approval of the Board of Selectmen under Massachusetts General Laws and Chapter 10, Penalties, Article I, of the Charlton General Bylaws as provided in § 100-5B above.

§ 100-8.Severability.

The invalidity of any part or parts of this bylaw shall not affect the validity of the remaining parts.

Chapter 105

ALCOHOLIC BEVERAGES

[HISTORY: Adopted by the Town Meeting of the Town of Charlton as Art. XXIV of the 2005 Bylaws. Amendments noted where applicable.]

§ 105-1.Consumption or possession of open container on Town property.

No person shall consume any alcoholic beverage, nor shall he/she possess or have under his/her control any open alcoholic beverage container, on any Town-owned or -controlled place or public way, unless a permit therefor has previously been secured from the Board of Selectmen.

§ 105-2.Violations and penalties.

Any person violating this bylaw may be fined one hundred dollars ($100) for each violation and may be arrested without a warrant by a police officer.

Chapter 110

ANIMAL CONTROL

[HISTORY: Adopted by the Town Meeting of the Town of Charlton 5-20-2013 ATM by Art. 19 (Art. XXIII of the 2005 Bylaws). Amendments noted where applicable.]

§ 110-1.Authority and purpose.

This bylaw is adopted pursuant to the authority of MGL c. 140, §§ 136A to 137A, inclusive, § 173, and any other relevant statutes and regulations promulgated pursuant thereto. The purpose of this bylaw is to establish regulations for the keeping of dogs and cats in the Town of Charlton in a manner consistent with such statutes. All references in this bylaw to any statute shall mean such statute as such may be amended from time to time and any successor statute to same. Nothing in this bylaw is intended to, nor shall, preclude or limit any enforcement officer or agent, nor any Town board or official, from utilizing any procedure or exercising any right provided by any such statute. This bylaw does not purport to set forth or reference all such statutes, and anyone reading the bylaw is also bound by all applicable statutes and should consult same, including but not limited to: MGL c. 140, §§ 136A, 137A through 137D, 138, 139, 139A, 140,[2] 141, 141A and 141B, 145, 145A and 145B, 146, 147, 147A,[3] 148[4] through 151, 151A and 151B, 152, 153, 155, 155A, 156 through 161, 161A, 163 through 169, 171, 173, 173A, 174, 174A and 174B, 174D and 174E and 176; MGL c. 209A, § 11; MGL c. 272, § 77; and MGL c. 129, § 39G.

§ 110-2.Licenses and tags; fees; penalty.

A. The owner or keeper of a dog six (6) months old or over shall purchase a license from the Town Clerk and shall attach the license to a collar or harness of said dog. If any such tag is lost, the owner or keeper of such dog shall secure a substitute tag from the Town Clerk.

B. Any person residing in the Town of Charlton, who at the beginning of the license period (January 1 to December 31) is, or who during the license period becomes, the owner or keeper of a dog six (6) months old or over, shall cause the dog to be licensed within thirty (30) days.

C. Any owner or keeper of a dog who moves into the Town of Charlton and has a valid dog license for his/her dog from another city or town in the Commonwealth shall, within thirty (30) days, obtain a transfer license and a tag for such dog in accordance with MGL c. 140, § 146 for a fee set by the Board of Selectmen upon producing evidence of the previous license.

D. Per MGL c. 140, § 137(a) and § 137A, the above licensing provisions shall not apply to any dog or cat housed in a research institution or kept under a valid kennel license.

E. The annual fee for every dog license, except as otherwise provided for by law, shall be set by the Board of Selectmen.

F. Per MGL c. 140, § 139(c), no fee shall be charged for a license issued for a service animal as defined by the Americans with Disabilities Act or regulations promulgated thereunder.

G. Any person seventy (70) years of age or older, upon proof of age, shall be exempt from the annual

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2.**Editor's Note: MGL c. 140, § 140, relating to dog breeder's licenses, was repealed by St. 1934, c. 320, Sec. 8.**

3.**Editor's Note: MGL c. 140, § 147A, relating to bylaws relative to the regulation of dogs, was repealed by St. 2012, c. 193, Sec. 19.**

4.**Editor's Note: MGL c. 140, § 148, was repealed by St. 1932, c. 289. Sec. 6.**

fee for one (1) dog, per household, per year. The owner of a kennel license, age seventy (70) years of age or older, shall be excluded from this exemption. These exemptions shall take effect upon the Town's acceptance of the provision of MGL c. 140, § 139(c) reading as follows: "No fee shall be charged for a license for a dog owned by a person aged 70 years or over in a city or town that accepts this provision." All other fees and fines as otherwise provided for in the Animal Control Bylaws or Massachusetts General Laws will apply.

H. When applying for a dog license the applicant must show proof, by a licensed veterinarian's certificate, that the dog has been vaccinated against rabies, as required by MGL c. 140, §§ 137 and 145B, or must provide certification per said statutes that such animal is exempt from this requirement.

I. The fee for each kennel license fees shall be set by the Board of Selectmen.

(1) Per MGL c. 140, § 137A(b), to determine the amount of the license fee for a kennel, a dog under the age of six (6) months shall not be counted in the number of dogs kept in a kennel. Per MGL c. 140, § 137A(c), there shall be no kennel fee charged a domestic charitable corporation incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse or for the relief of suffering.

(2) Per MGL c. 140, § 137C, any person maintaining a kennel after the license to maintain a kennel has been so revoked, or while such a license is suspended, shall be punished by a fine of two hundred fifty dollars ($250).

J. Per MGL c. 140, § 139(c), no license fee or any part thereof shall be refunded because of subsequent death, loss, spaying, neutering or removal from the Commonwealth or other disposal of the dog.

K. Any owner or keeper of a dog failing to license it before March 1 shall pay a late fee of ten dollars ($10) per dog. Any person required to obtain a kennel license (or any person eligible and electing to do so in lieu of a dog license or licenses) who falls to obtain same before March 1 shall pay a late fee of fifty dollars ($50).

L. In accordance with MGL c. 140, § 141, any person failing to license a dog as prescribed by this section or otherwise violating MGL c. 140, § 137, 137A, 137B or 138, shall be assessed a penalty of fifty dollars ($50) per dog.

§ 110-3.Definitions.

A. To the extent that MGL c. 140, §§ 136A to 137A, contain definitions of words used herein, all words and terms as used herein shall be as set forth in said statutes.

B. Unless otherwise defined by such statutes, the terms as used in this bylaw shall mean the following unless the context otherwise indicates:

CAT — Any domestic animal of the feline species, both male and female.

DOG — Any domestic animal of the canine species, both male and female.

KENNEL — Is used as that term is defined in MGL c. 140, § 136A. See that statute for definitions of various types of kennels.

NUISANCE DOG — As defined in MGL c. 140, § 136A, shall mean a dog that:

(1) By excessive barking or other disturbance, is a source of annoyance to a sick person residing in the vicinity; or

(2) By excessive barking, causing damage or other interference, a reasonable person would find such behavior disruptive to one's quiet and peaceful enjoyment; or

(3) Has threatened or attacked livestock, a domestic animal or a person, but such threat or attack was not a grossly disproportionate reaction under all the circumstances.

OWNER — Any person or persons, firm, association, or corporation owning, keeping or harboring a dog, as herein defined.

RESTRAINT — The dog will be on a leash or a substantial chain and under the control of a person competent to restrain it so that it shall not be a threat to public safety. The mere muzzling of a dog shall not prevent it from being deemed a nuisance dog.

RUN-AT-LARGE — Any dog which is permitted to wander on private property of others or on public ways without proper restraint.

§ 110-4.Prohibitions.

A. No owner or keeper shall violate any provision of this bylaw, nor permit any dog, whether licensed or unlicensed, to become a "nuisance dog" or to run-at-large within the Town of Charlton any time day or night.

B. No person owning or keeping a dog shall chain or tether a dog to a stationary object, including, but not limited to, a structure, dog house, pole or tree for longer than twenty-four (24) consecutive hours. Owner/Keeper must abide by all other requirements and prohibitions as to restraint, access to clean water and appropriate shelter and other matters addressed in MGL c. 140, § 174E. As specified in Section 174E, any person who violates same shall, for a first offense, be issued a written warning or punished by a fine of not more than fifty dollars ($50), for a second offense, be punished by a fine of not more than one hundred dollars ($100) and for a third or subsequent offense, be punished by a fine of not more than three hundred dollars ($300), and be subject to impoundment of the dog in a local shelter at the owner's or guardian's expense pending compliance with this section, or loss of ownership of the dog.

§ 110-5.Field trials.

No person shall conduct a field trial involving dogs in the Town of Charlton without first procuring a permit therefor from the Animal Control Officer. Any such permit shall contain such limitations as the Animal Control Officer shall deem reasonably necessary to prevent such dogs from being a threat to public safety.

§ 110-6.Violations and penalties.

Any owner or keeper found in violation of this bylaw shall be subject to a fine according to the following schedule, unless the fine for a violation is otherwise established by state law:

First offense	$25
Second offense	$35
Third offense	$50
Fourth offense	$75
Fifth and each subsequent offense (within a calendar year)	$100
Failure to vaccinate for rabies	$25
Failure to obtain dog license	$50 per dog

§ 110-7.Enforcement.

It shall be the duty of the Animal Control Officer to investigate complaints and enforce the provisions of this bylaw and to that end he/she shall have the authority to seek complaints in the District Court for violations thereof. He/She shall also attend to all matters pertaining to stray or nuisance dogs, and to care for dogs that are injured in the Town of Charlton if the owner or keeper is unknown. The Animal Control Officer shall also be responsible for maintaining and keeping accurate records on all complaints and dogs that are apprehended and impounded as prescribed by law. The Animal Control Officer, such Officer's designee, the Police Chief and any Charlton Police Officer shall have authority to enforce the provisions of this bylaw. Any alleged violation of this bylaw may, in the sole discretion of the enforcing agent, be made the subject matter of noncriminal disposition proceedings commenced by such agent in accordance with MGL c. 40, § 21D.

§ 110-8.Procedure following impoundment.

The Animal Control Officer shall immediately notify the owner or keeper of any dog or cat impounded under the provisions of the bylaw if such owner or keeper is known by him/her. If such owner or keeper is not known by him/her, no notice shall be necessary.

§ 110-9.Notice to owner and redemption.

The owner may then reclaim the dog or cat by reimbursing the Animal Control Officer for expenses, fines and fees, and for boarding and care of the impounded dog or cat per MGL c. 140, § 151A(a). The boarding and care cost shall be ten dollars ($10) for each twenty-four-hour period or any part thereof, plus thirty dollars ($30) as an initial pickup fee. However, as required by MGL c. 140, §§ 137 and 145B, each dog six (6) months old or older must have been vaccinated for rabies and licensed and each cat six (6) months old or older must have been vaccinated for rabies before the Animal Control Officer may release it to its owner absent certification per said statutes that such animal is exempt.

§ 110-10.Disposition of unclaimed dogs and cats.

Any dog which has been impounded and has not been redeemed by the owner within seven (7) days shall be disposed of as provided by MGL c. 140, § 151A, and any amendment thereto. Any unclaimed dog or cat adopted from the Charlton Animal Control Officer shall be spayed or neutered and vaccinated for rabies at the owner's expense absent certification per MGL c. 140, §§ 137 and 145B, that such animal is exempt. The adoption fee for all unclaimed dogs or cats, regardless of sex, breed, or age shall be set by the Board of Selectmen.

§ 110-11.Collection of fines and fees.

All fines and fees collected by the Animal Control Officer while enforcing the provisions of this bylaw shall be collected in the form of personal check, money order or registered check made payable to the Town of Charlton. In any event, the Animal Control Officer will not accept cash, unless bonded to do so.

§ 110-12.Disposition of fines and fees.

All fines and fees collected by the Animal Control Officer shall be accounted for and paid over to the Town Treasurer at such time and in such manner as may be designated by the Town Treasurer.

§ 110-13.Nonwaiver of statutory remedies.

The provisions of this bylaw are intended to be in addition to and not in lieu of those contained in MGL c. 140, § 136A et seq., as amended by Chapter 193 of Legislative Acts of 2012, and as such may later be further amended. Nothing contained in this bylaw shall deprive the Town or any enforcement officer from

exercising its or their rights and employing the remedies provided in those sections, including but not limited to disposition of a dog found to be a dangerous dog or nuisance dog, as provided in MGL c. 140, § 157, as so amended.

Chapter 115

BUILDINGS, NUMBERING OF

[HISTORY: Adopted by the Town Meeting of the Town of Charlton as Art. XVIII of the 2005 Bylaws. Amendments noted where applicable.]

§ 115-1.Authority to require; compliance.

The Board of Selectmen, or its designee acting under its authority and its directive, shall have the power to cause numbers of regular series to be affixed to or inscribed on all dwelling houses and other buildings erected or fronting on any street, lane, passageway or public court in the Town, and shall have the power to determine the size of such numbers, and the mode, place, succession and order of affixing them on such structures. The owner of any property required to be numbered as directed by the Board of Selectmen shall not affix to such structure, nor permit to remain thereon for more than one (1) day, any number to the contrary.

§ 115-2.Enforcement.

The provisions of the above bylaw shall be enforceable under the general enforcement and penalty provisions adopted in Chapter 10, Penalties, Article II, of these bylaws.

Chapter 120

CEMETERIES

[HISTORY: Adopted by the Town Meeting of the Town of Charlton as Art. XXXI of the 2005 Bylaws. Amendments noted where applicable.]

§ 120-1.Time limit for erection of markers.

The person in possession, care and control of a burial lot or tomb in a public cemetery in the Town of Charlton, or if there is more than one (1) such person, the person designated or entered of record by the Board of Cemetery Commissioners as being the representative of the lot or tomb in accordance with MGL c. 114, § 29, shall within one (1) year of burial of any person in the lot or tomb erect a durable monument or marker on the lot or tomb sufficient to identify the person(s) buried or entombed therein.

§ 120-2.Enforcement and penalty.

A. The Board of Cemetery Commissioners shall enforce the provisions of this bylaw.

B. Any person who continues to violate any provision of this bylaw, or of any regulation adopted hereunder, after the expiration of ten (10) days following receipt by him/her of a written notice of such violation from the Board or its designee, shall be liable to a penalty not exceeding twenty-five dollars ($25) for each such violation. Each day that such violation continues after said ten-day period shall constitute a separate offense.

Chapter 125

DRIVEWAYS

[HISTORY: Adopted by the Town Meeting of the Town of Charlton as Art. XX of the 2005 Bylaws. Amendments noted where applicable.]

§ 125-1.Definitions.

The following words used in this bylaw shall have the following meanings, unless a contrary intention clearly appears:

PERSON — Includes a corporation, society, association and partnership.

SUPERINTENDENT — The Superintendent of the Highway Department, or authorized agent or employee.

WAY — A public way.

§ 125-2.Permit required.

No person shall construct or reconstruct a driveway which opens on a way unless the owner of the land on which the driveway is to be constructed or reconstructed has first obtained a written permit from the Superintendent, and no person shall construct or reconstruct such a driveway except in accordance with the terms and conditions of such permit and the regulations adopted by the Superintendent pursuant to § 125-5 of this bylaw.

§ 125-3.Applications and fees.

A. Each application for a driveway permit shall be made to the Superintendent by the owner of the land on which the driveway is to be constructed.

B. Each application for a driveway shall include and be accompanied by the following information and supporting documentation:

   (1) The complete name and residential address of the owner of the land.

   (2) The complete street address of the land.

   (3) A plot plan of the land showing, among other features, the proposed driveway on which the driveway opens, and all buildings and other structures located on the land or proposed to be constructed or placed on the land.

   (4) Such other information and documentation as may be required by the Superintendent.

C. Each application shall be accompanied by a permit fee as set by the Board of Selectmen, which the Superintendent shall pay over on receipt to the Town Treasurer.

§ 125-4.Permits.

Each permit issued by the Superintendent shall include the following:

A. Such terms and conditions as the Superintendent deems reasonably necessary to prevent an undue volume of surface water and eroded materials draining and being carried from the land on which

the driveway is to be constructed onto the abutting public way.

B. A description of any surface water drainage and erosion prevention facilities which the Superintendent shall require be installed.

C. A provision that the owner shall give written notice to the Superintendent prior to commencing the construction of the driveway.

D. A provision that the permit shall be found to be abandoned and invalid unless all of the construction authorized by it, including completion with macadam or paving, shall have been completed within forty-five (45) days after its issuance, and the failure to so complete within the ten-day period after receipt of notice shall also be a violation subject to the penalty specified in § 125-6B below.

E. A provision that the contractor who will be doing the driveway construction, before issuance of such permit, shall have posted a five hundred dollar ($500) cash bond or performance bond issued by a surety company authorized to do business in the Commonwealth naming the Town as the obligee, insuring the completion of the construction authorized by the permit within the above forty-five-day period, failing which:

(1) The bond shall become the property of the Town to the extent of the cost to complete; and

(2) The Town may then at its election have the work completed forthwith and the owner of the land shall be liable for any cost not covered by the bond.

§ 125-5.Regulations.

The Superintendent may adopt regulations, subject to the approval of the Selectmen, to carry out the purposes of this bylaw. Such regulations shall take effect upon their being filed in the office of the Town Clerk.

§ 125-6.Enforcement and penalty.

A. The Superintendent shall enforce the provisions of this bylaw.

B. Any person who continues to violate any provision of this bylaw or of any permit issued hereunder or of any regulation adopted hereunder after the expiration of ten (10) days following receipt by him/her of a written notice of such violation from the Superintendent shall be liable to a penalty not exceeding fifty dollars ($50). Each day that such violation continues after said ten-day period shall constitute a separate offense.

§ 125-7.Repeal.

The bylaw adopted under Article 5 of the warrant for the Special Town Meeting of September 5, 1969 is hereby repealed.

Chapter 130

EARTH REMOVAL

[HISTORY: Adopted by the Town Meeting of the Town of Charlton as Art. XLI of the 2005 Bylaws. Amendments noted where applicable.]

§ 130-1.Definitions.

The following words used in this bylaw shall have the following meanings unless a contrary intention clearly appears:

BOARD — The Selectmen of the Town of Charlton.

EARTH — Soil, loam, sand or gravel or any combination thereof.

LOT — A parcel of land held in identical ownership throughout, including all contiguous land held in the same ownership within the Town of Charlton. Any other land held in the same ownership, but not within the Town of Charlton, shall be considered a separate parcel.

PERSON — Includes a corporation, society, association and partnership.

TOWN — The Town of Charlton.

§ 130-2.Prohibition and exemptions.

A. No earth shall be removed from any lot in the Town unless an earth removal permit therefor shall first have been obtained from the Board.

B. The provisions of this section shall not apply to:

(1) The removal of earth in connection with the construction of or other work on a building or other structure or facilities ancillary to a building or other structure under the authority of a permit issued by any department or agency of the Town;

(2) The removal of earth in compliance with the requirements of a subdivision plan approved by the Planning Board;

(3) The removal of earth from land in public use;

(4) The removal of earth for any municipal purpose by or on behalf of the Town or any department or agency thereof;

(5) The removal of not more than a total of five hundred (500) cubic yards of earth from a lot within any period of ten (10) consecutive years;

(6) The removal of earth which is customarily incidental to agriculture, horticulture or floriculture; and

(7) The removal of earth in connection with the construction or improvement of a private way.

§ 130-3.Application for permit; fee.

A. Applications for earth removal permits shall be made to the Board.

B. Each application shall include and be accompanied by the following information and supporting documentation:

(1) The location of the lot from which it is proposed to remove earth;

(2) The complete name and address of the owner of the lot;

(3) The complete name and address of the applicant;

(4) Adequate evidence of the applicant's ownership of the lot or authority from the owner of the lot to remove earth therefrom, as the case may be;

(5) The quantity of earth to be removed;

(6) The form of the bond proposed to be submitted in accordance with § 130-6C;

(7) Such other relevant information as may be required by the Board.

C. Each application shall be accompanied by a permit fee as set by the Board of Selectmen, which the Board shall pay over upon receipt to the Town Treasurer.

§ 130-4.Hearings.

A. Before acting on an application, the Board shall hold a public hearing thereon.

B. Before holding a public hearing, the Board shall, at the expense of the applicant, give notice of the time, place and subject matter of the hearing at least seven (7) days prior thereto by publication in a newspaper of general circulation in the Town.

§ 130-5.Action on application.

A. Applications for permits may be granted or denied, or granted in part and denied in part.

B. The Board shall not grant an application if it appears that the proposed earth removal may:

(1) Endanger the public health or safety;

(2) Be detrimental to the normal use of other land in the area by reason of noise, dust or vibrations; or

(3) Undermine any building or other structure or any public or private way.

§ 130-6.Permit term and conditions; bond; consultants.

A. No permit shall be issued for a period in excess of five (5) years, and the beginning and terminating dates shall be set forth thereon.

B. Each permit shall be subject to the following conditions which shall be set forth thereon:

(1) No earth shall be removed from the lot in such manner or in such quantity as to alter the course or increase the volume of surface or subsurface water draining from the lot.

(2) No slope created by the removal of earth shall be finished at a grade in excess of two (2) (horizontal) to one (1) (vertical) expressly otherwise set forth in the permit.

(3) Upon completion of the removal of earth from the lot, all stones and boulders protruding above the finished grade in those areas from which earth was removed a distance of four (4) inches or more shall be buried beneath the finished grade or removed from the lot.

(4) Upon completion of the removal of earth from the lot, all areas from which earth was removed, except where ledge rock is exposed, shall be brought to the proposed finished grades shown on the plan referred to in § 130-3, covered with not less than four (4) inches of the original topsoil or topsoil of equivalent or greater quality than the original topsoil, and seeded with a suitable cover crop.

(5) Such other conditions consistent with the provisions of this bylaw and any regulations adopted hereunder as may be imposed by the Board.

C. The applicant shall post with the Treasurer of the Town a bond in a form approved by the Town Counsel in such amount and with such sureties as determined by the Board to be sufficient to guaranty compliance with the terms and conditions of the permit.

D. The permit-issuing Board may hire at the applicant's expense engineering consulting services to provide the Board with a plan review and recommendations as deemed necessary.

§ 130-7.Regulations.

A. The Board may adopt regulations to carry out the provisions of this bylaw.

B. Such regulations shall take effect upon their being published in a newspaper of general circulation in the Town and filed with the Town Clerk.

§ 130-8.Effect of zoning bylaws.

No provision of this bylaw shall be deemed to amend, repeal or otherwise change any zoning bylaw of the Town now or hereafter in effect or to derogate from the intent or purposes of any such zoning bylaw.

§ 130-9.When effective; existing operations.

This bylaw shall take effect upon its approval by the Attorney General and its publication and posting as required by MGL c. 40, § 32; provided, however, that any earth removal operations being actively conducted on the effective date of this bylaw may continue unaffected by this bylaw.

§ 130-10.Violations and penalties.

Any person who continues to violate any provision of this bylaw or any permit issued hereunder after the expiration of ten (10) days after written notice of such violation by the Board to such person shall be liable to a penalty of fifty dollars ($50) for the first offense, one hundred dollars ($100) for the second offense and two hundred dollars ($200) for each subsequent offense. Each day that any such violation continues shall constitute a separate offense.

Chapter 135

ELECTRICAL CODE

[HISTORY: Adopted by the Town Meeting of the Town of Charlton as Art. XXVI of the 2005 Bylaws. Amendments noted where applicable.]

§ 135-1.Permit required.

No person or corporation shall do any electrical construction work, whether original work or alterations, without obtaining from the Inspector of Wires a written permit to do such work.

§ 135-2.Enforcement.

The Inspector of Wires is hereby authorized to enforce the rules and regulations as contained and provided in the most recent version of the Massachusetts Electrical Code (527 CMR 12.00) of the Board of Fire Prevention Regulations, modifying the National Electrical Code, and/or any and all other applicable statutory and regulatory provisions which may be enforced pursuant to MGL c. 166, §§ 32 and 33, for the installation of electric wiring and apparatus, and in accordance with the provisions and requirements therein contained.

§ 135-3.Inspector of Wires duties.

The Inspector of Wires shall perform his/her duties as per MGL c. 166, § 32, and as later amended.

Chapter 140

FIRE PREVENTION

[HISTORY: Adopted by the Town Meeting of the Town of Charlton as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Fire Hydrants
[Adopted as Art. XVI of the 2005 Bylaws]

§ 140-1.Color of hydrants fed by municipal water lines.

All fire hydrants within the Town of Charlton that are fed by a municipal water line will be red in color and with the bonnet of said hydrant to be painted to adhere to the National Fire Protection Association (N.F.P.A.) (291 2-1, 2-2) color code marking for water flow.

§ 140-2.Color of hydrants fed by private water lines.

All fire hydrants within the Town of Charlton that are fed by a private water line will be yellow in color and with the bonnet of said hydrant to be painted to adhere to the National Fire Protection Association (N.F.P.A.) (291 2-1, 2-2) color code marking for water flow.

§ 140-3.Color of decorative hydrants.

All decorative fire hydrants within the Town of Charlton will be blue in color.

§ 140-4.Color code marking for water flow.

The N.F.P.A. color code system:

Size (gallons per minute)	Color
1,500 or greater	Light blue
1,000 to 1,499	Green
500 to 999	Orange
Less than 500	Red

Chapter 145

HAZARDOUS WASTE

[HISTORY: Adopted by the Town Meeting of the Town of Charlton as Art. XL of the 2005 Bylaws. Amendments noted where applicable.]

§ 145-1.Definitions.

The following words, as used in this bylaw, unless the text otherwise requires or a different meaning is specifically required, shall have the following meanings:

HAZARDOUS WASTE — Solid waste or a combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or pose a substantial present or potential hazard to human health or the environment when improperly stored, disposed of or otherwise managed.

PERSON — Includes, where applicable, natural persons, corporations, trusts, partnerships, incorporated or unincorporated associations, municipal officers, and other municipal agencies.

SOLID WASTE — Garbage; refuse; sludge from a waste treatment plant, water supply treatment plant or air pollution control facility; or other discarded material, including solid, liquid, semi-solid, or gaseous material resulting from industrial, commercial, mining or agricultural operations, or from community activities.

§ 145-2.Prohibition.

No person shall dispose of or store hazardous waste on property owned, leased or otherwise controlled by the Town of Charlton.

§ 145-3.Violations and penalties.

Any person who violates any provision of this bylaw shall be liable to a penalty not exceeding two hundred dollars ($200) for each violation. Each day that a violation continues shall constitute a separate offense.

Chapter 150

JUNK, OLD METAL AND SECONDHAND ARTICLES, DEALERS IN; PAWN SHOPS

[HISTORY: Adopted by the Town Meeting of the Town of Charlton as Art. XXXV of the 2005 Bylaws. Amendments noted where applicable.]

§ 150-1.Prohibition.

A. No person shall act as a keeper of a shop for the purchase, sale or barter of junk, old metals or secondhand articles without a license issued by the Selectmen.

B. The purchase, sale or barter of books, prints, coins or postage stamps shall not be deemed to be a purchase, sale or barter of secondhand articles within the meaning of this bylaw.

C. A person not regularly engaged in the business of selling secondhand articles who makes casual sales of such articles at a flea market, yard sale, garage sale, barn sale or the like shall be deemed not to be a keeper of a shop for the sale of secondhand articles within the meaning of the bylaw.

§ 150-2.Licenses and fees.

A. Each license shall set forth the following:

(1) The name of the licensee.

(2) The nature of the business to be carried on under the license.

(3) The building or other place in the Town in which such business is to be carried on.

(4) All applicable rules, regulations and restrictions made by the Selectmen under the authority of this bylaw.

B. The Selectmen shall receive for the use of the Town such amount for each license as the Selectmen consider reasonable.

§ 150-3.Rules, regulations and restrictions.

A. The Selectmen may make reasonable rules and regulations of general application to carry out the purposes of this bylaw, which shall take effect upon their being filed in the office of the Town Clerk.

B. The Selectmen may also make reasonable restrictions applicable to a particular license or licenses.

§ 150-4.When effective; existing businesses.

This bylaw shall take effect upon its approval by the Attorney General and its publication and posting as required by MGL c. 40, § 32: provided, however, that any person acting as the keeper of a shop for the purchase, sale or barter of junk, old metals or secondhand articles on the effective date of this bylaw may continue to so act unaffected by this bylaw for a period of six (6) months following its effective date. Licenses with respect to such activities shall be required after the expiration of said six-month period.

§ 150-5.Violations and penalties. [Amended 5-20-2013 ATM by Art. 20]

Whoever violates this bylaw by acting as a keeper of a shop for the purchase, sale or barter of junk, old metals or secondhand articles without a license or a pawn shop, or in any other place or manner than that described in his/her license or after notice to him/her that his/her license had been revoked, or violates any rule, regulation or restriction made by the Selectmen, shall be liable to the following penalties: one hundred dollars ($100) for the first offense; two hundred dollars ($200) for the second offense; and three hundred dollars ($300) for the third and any subsequent offense. Each day that a violation continues shall constitute a separate offense.

§ 150-6.Outside drop boxes. [Added 5-21-2012 ATM by Art. 30]

A. Purpose. The purpose of this section of the bylaw is to promote the maintenance of outdoor "drop boxes" located on or abutting public ways and private ways open to use by the general public and sidewalks abutting such ways in a safe and clean condition.

B. "Drop box" as used in this section shall mean any box, container or device, including any such designed to collect, distribute, or sell any item, which is located, on a temporary or permanent basis, in or adjoining a public way or a private way open to use by the general public, or in or adjoining a sidewalk abutting such a way.

C. Each drop box shall:

   (1) Be properly maintained in a clean and neat condition and in reasonably good repair at all times;

   (2) Be emptied on a regular basis, at least monthly, to prevent overflow;

   (3) Contain clear identification, and the telephone number, of the organization responsible for maintenance of the drop box; and

   (4) Clearly state thereon, for the benefit of prospective donors, the use to which any donation will be made.

D. No person or entity other than those required by §§ 150-1 and 150-2 of this article shall be required to secure or maintain a license for a drop box, but such boxes shall be subject to any drop box rules, regulations and restrictions, if any, as the Selectmen may adopt pursuant to § 150-2 of this article, and the penalties set forth in § 150-5 hereof shall apply to drop boxes.

§ 150-7.Pawnbrokers. [Added 5-20-2013 ATM by Art. 20]

The Board of Selectmen may license suitable persons to carry on the business of pawnbrokers in the Town of Charlton, may condition, deny, revise and revoke such licenses, all as provided by MGL c. 140, §§ 70 to 85, and may make rules and regulations of general application to carry out the purposes of this bylaw. Any such rule or regulation shall take effect upon its being filed with the Office of the Town Clerk. The Board of Selectmen may also impose conditions and restrictions upon a particular license or licenses. The fee for any such license shall be one hundred dollars ($100), or such higher amount as the Board may establish by regulation if MGL c. 140, § 77, is amended to so permit. Any such licensee, as required by said § 77, shall at the time of receiving such license file with the Board of Selectmen a bond to the Town in the sum of three hundred dollars ($300) (or such higher, maximum, allowable amount if said § 77 is amended to require or allow for same), with two (2) sureties approved by the Board or its designee, conditioned upon the faithful performance by the licensee of the duties and obligations pertaining to the business so licensed.

§ 150-8.Enforcement. [Added 5-20-2013 ATM by Art. 20]

Any violation of this Chapter 150 or of any rule or regulation adopted hereunder may be enforced by the Chief of Police or by any police officer of the Town of Charlton by any means available, including without limitation under the provisions of MGL c. 40, § 21, or through the noncriminal disposition procedure under MGL c. 40, § 21D, and Chapter 10, Penalties, Article I, of the Charlton General Bylaws. If any provision of this bylaw is held invalid by any court or other body of competent jurisdiction, such shall not affect the validity or application of the remainder of the article.

Chapter 155

LICENSES AND PERMITS

[HISTORY: Adopted by the Town Meeting of the Town of Charlton as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Revocation or Denial for Failure to Pay Taxes, Fees or Assessments
[Adopted as Art. XXXII of the 2005 Bylaws]

§ 155-1.Definitions.

The following words and phrases used in this bylaw shall have the following meanings, unless a contrary intention clearly appears:

LICENSE AND PERMIT — Includes all licenses and permits, including renewals and transfers, issued by any board, officer, department, commission or division of the Town of Charlton, except the following licenses and permits issued under the following provisions of the General Laws:

A. Open burning permits, MGL c. 48, § 13;

B. Sales of articles for charitable purposes, MGL c. 101, § 33;

C. Children's work permits, MGL c. 149, § 69;

D. Clubs, associations dispensing food or beverages licenses, MGL c. 140, § 21E;

E. Dog licenses, MGL c. 140, § 137;

F. Fishing, hunting, trapping licenses, MGL c. 131, § 12;

G. Marriage licenses, MGL c. 207, § 28; and

H. Theatrical events, public exhibition permits, MGL c. 140, § 181.

LICENSING AUTHORITY — Includes all boards, officers, departments, commissions and divisions of the Town of Charlton that issue licenses or permits.

PERSON — Includes a corporation and a business enterprise.

TOWN COLLECTOR — The Collector of the Town of Charlton.

§ 155-2.List of delinquent taxpayers.

The Collector shall annually furnish to each licensing authority a list of all persons who have neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve-month period, and who have not filed in good faith a pending application for an abatement of such tax or a pending petition before the Appellate Tax Board.

§ 155-3.Revocation, suspension or denial.

The licensing authority may deny, revoke or suspend any license or permit of any person whose name appears on such a list furnished to it by the Collector or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or

exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the Collector; provided, however, that written notice is given to the person and the Collector as required by applicable provisions of law, and the person is given a hearing, to be held not earlier than fourteen (14) days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any person. The Collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the licensing authority receives a certificate issued by the Collector that the person is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the Town as of the date of issuance of said certificate.

§ 155-4.Payment agreements.

Each person whose name appears upon such a list shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations as 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.

§ 155-5.Waiver.

The Board of Selectmen of the Town of Charlton may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his/her immediate family, as defined in MGL c. 268A, § 1, in the business or activity conducted in or on said property.

ARTICLE II
Fingerprinting
[Adopted 5-21-2012 ATM by Art. 20]

§ 155-6.Criminal history check authorization.

The Police Department shall, as authorized by MGL c. 6, § 172B 1/2, conduct state and federal fingerprint-based criminal history checks for individuals applying for the following licenses:

License	Licensing Authority
Hawking and peddling or other door-to-door salespeople	Charlton Police Department
Manager of alcoholic beverage license	Charlton Board of Selectmen
Owner or operator of public conveyance	Charlton Board of Selectmen
Dealer of secondhand articles	Charlton Board of Selectmen
Pawn dealers	Charlton Board of Selectmen
Scrap metal dealers	Charlton Board of Selectmen
Hackney drivers	Charlton Board of Selectmen
Ice cream truck vendors	Charlton Board of Selectmen

§ 155-7.Notification of applicant.

At the time of fingerprinting, the Police Department shall notify the individual fingerprinted that the fingerprints will be used to check the individual's criminal history records.

§ 155-8.Continued compliance.

The Police Chief shall periodically check with the Executive Office of Public Safety and Security ("EOPSS"), which has issued an Informational Bulletin which explains the requirements for Town bylaws and the procedures for obtaining criminal history information, to see if there have been any updates to be sure the Town remains in compliance.

§ 155-9.Procedure.

A. Upon receipt of the fingerprints and the appropriate fee, the Police Department shall transmit the fingerprints it has obtained pursuant to this bylaw to the Identification Section of the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Services (DCJIS), and/or the Federal Bureau of Investigation (FBI) or the successors of such agencies as may be necessary for the purpose of conducting fingerprint-based state and national criminal records background checks of license applicants specified in this bylaw.

B. The Town authorizes the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Systems (DCJIS), and the Federal Bureau of Investigation (FBI), and their successors, as may be applicable, to conduct fingerprint-based state and national criminal record background checks, including of FBI records, consistent with this bylaw.

C. The Town authorizes the Police Department to receive and utilize state and FBI records in connection with such background checks, consistent with this bylaw.

D. The state and FBI criminal history will not be disseminated to unauthorized entities.

E. Upon receipt of a report from the FBI or other appropriate criminal justice agency, a record subject may request and receive a copy of his/her criminal history record from the Police Department. Should the record subject seek to amend or correct his/her record, he/she must take appropriate action to correct said record, which action currently includes contacting the Massachusetts Department of Criminal Justice Information Services (DCJIS) for a state record or the FBI for records from other jurisdictions maintained in its file. An applicant that wants to challenge the accuracy or completeness of the record shall be advised that the procedures to change, correct, or update the record are set forth in Title 28 CFR 16.34. The Police Department shall not utilize and/or transmit the results of the fingerprint-based criminal record background check to any licensing authority pursuant to this bylaw until it has taken the steps detailed in this subsection. Municipal officials should not deny an applicant the license based on information in the record until the applicant has been afforded a reasonable time to correct or complete the information, or has declined to do so.

F. The Police Department shall communicate the results of fingerprint-based criminal record background checks to the appropriate governmental licensing authority within the Town as listed. The Police Department shall indicate whether the applicant has been convicted of, or is awaiting final adjudication for, a crime that bears upon his/her suitability, or any felony or misdemeanor that involved force or threat of force, controlled substances or a sex-related offense.

§ 155-10.Rules and regulations.

The Board of Selectmen is authorized to promulgate regulations for the implementation of the proposed bylaw, but in doing so it is recommended that they consult with the Chief of Police, Town Counsel, and the Massachusetts Executive Office of Public Safety and Security (or its successor agency) to ensure that such regulations are consistent with the statute, the FBI's requirements for access to the national database, and other applicable state laws.

§ 155-11.Use of criminal record by licensing authorities.

A. Licensing authorities of the Town shall utilize the results of fingerprint-based criminal record background checks for the sole purpose of determining the suitability of the subjects of the checks in connection with the license applications specified in this bylaw. A Town licensing authority may deny an application for a license on the basis of the results of a fingerprint-based criminal record background check if it determines that the results of the check render the subject unsuitable for the proposed occupational activity. The licensing authority shall consider all applicable laws, regulations and Town policies bearing on an applicant's suitability in making this determination.

B. The Town or any of its officers, departments, boards, committees or other licensing authorities is hereby authorized to deny any application, including renewals and transfers thereof, by any person who is determined unfit for the license, as determined by the licensing authority, due to information obtained pursuant to this bylaw.

§ 155-12.Fees.

A. The fee charged by the Police Department for the purpose of conducting fingerprint-based criminal record background checks shall be $50. The Town Treasurer shall periodically consult with the Department of Revenue Division of Local Services and/or Town Counsel regarding the proper municipal accounting of those fees.

B. A portion of the fee, as specified in MGL c. 6, § 172B 1/2, shall be deposited into the Firearms Fingerprint Identity Verification Trust Fund, and the remainder of the fee may be retained by the Town for costs associated with the administration of the fingerprinting system.

§ 155-13.When effective.

This bylaw shall take effect upon approval of the Attorney General (whether express or by failure of the AG to seasonably act upon a request for approval) and upon publication, all as provided in MGL c. 40, § 32.

Chapter 160

PEDDLING AND SOLICITING

[HISTORY: Adopted by the Town Meeting of the Town of Charlton as Art. XXXIII of the 2005 Bylaws. Amendments noted where applicable.]

§ 160-1.License required; applicability.

It shall be unlawful for any solicitor or canvasser as defined in this bylaw to engage in such business within the Town of Charlton without first obtaining a license therefor in compliance with the provisions of this bylaw. The provisions of this bylaw shall not apply to any person residing within the Town of Charlton and engaged in the pursuit of soliciting for charitable, benevolent, fraternal, religious or political activities, nor to any person exempted by any other General Law, nor shall this bylaw be constructed to prevent persons having established customers to whom they make periodic deliveries from calling upon such prospective customers to solicit an order for future deliveries.

§ 160-2.Definitions.

As used in this bylaw, the following terms shall have the meanings indicated:

SOLICITOR or CANVASSER — Any person, who, for himself/herself, or for another person, firm or corporation, travels by foot, automobile or any other type of conveyance from place to place, from house to house, taking or attempting to take contributions for any purpose, including, without limiting, the selling, distributing, exposing for sale or soliciting orders for magazines, books, periodicals or other articles of a commercial nature, the contracting of all home improvements, or for services to be performed in the future whether or not such individual has, carries or exposes for retail a sample of the subject of such sale, whether or not he/she is collecting advance payment on such retail sales.

§ 160-3.Application; license terms and requirements.

A. Applicants for a license shall file with the Chief of Police on a form issued by him/her, a written application signed under the penalty of perjury, containing the following information:

(1) Name of applicant.

(2) Address of applicant (local and permanent address).

(3) Applicant's height, eye and hair color.

(4) Applicant's social security number.

(5) The length of time for which the right to do business is desired.

(6) A brief description of the nature of the business and the goods to be sold.

(7) The name and home office address of the applicant's employer. If self-employed, it shall so state.

(8) A photograph of the applicant, which picture shall be submitted by the applicant and be two (2) inches by two (2) inches showing the head and shoulders of the applicant in a clear and distinguishing manner.

(9) A statement as to whether or not the applicant has been convicted of any crime or

misdemeanor within ten (10) years of the date of application, except violations of the motor vehicle law, and the nature of the offense.

(10) If operating a motor vehicle: the year, make, color, model, motor number, registration number, state of registration, vehicle's owner and address.

(11) The applicant's fingerprints.

B. At the time of filing the application, each applicant shall pay a fee to the Town of Charlton as set by the Board of Selectmen. Upon receipt of the application, the Chief of Police shall investigate the applicant's reputation as to morals and integrity. After an investigation of the applicant's morals and integrity, the Chief of Police shall approve or disapprove the application and notify the applicant of his/her decision. In the event that the application is approved, a license shall be issued. Any applicant shall have the right to appeal to the Board of Selectmen. Such license, when issued, shall contain the signature of the issuing officer and shall show the name, address and photograph of said licensee, the state of issuance and the length of time the same shall be operative, as well as the license number. The Chief of Police shall keep a record of all licenses issued for a period of six (6) years. Solicitors and canvassers, when engaged in the business of soliciting or canvassing, are required to display an identifying badge issued by the Chief of Police, by wearing said badge on an outer garment. A deposit as set by the Board of Selectmen will be required for each badge. This deposit will be refunded upon return of the badge to the Chief of Police. Each licensee is required to possess an individual license and badge. The police officers of the Town of Charlton shall enforce this bylaw. The Chief of Police and/or Board of Selectmen is hereby vested with jurisdiction over the revoking of licenses. Each license issued under the provisions of the bylaw shall continue in force for six (6) months from the date of its issue unless sooner revoked or the authorized time period expired. An applicant requesting a renewal of a license must apply in person for such license renewal, and provide such material as required by the Chief of Police.

§ 160-4.Prohibited conduct.

A. It shall be unlawful for any person to peddle or solicit before the hour of 8:00 a.m. of any day or after the hour of 8:00 p.m. of any day except by appointment.

B. It shall be unlawful for any peddler or solicitor or any person pretending to be a peddler or solicitor for the purpose of peddling or soliciting or pretending to peddle or solicit to ring a bell or knock at any building whereon there is painted, affixed or otherwise displayed to public view any sign containing any or all of the following words, to wit: "NO PEDDLERS," "NO SOLICITORS" or "NO AGENTS" or which purports to prohibit peddling or soliciting on the premises.

C. It shall be unlawful for any peddler or solicitor to represent by words, writing or action that he/she is some other peddler or solicitor, that he/she is a partner, employer or agent of any peddler or solicitor when in fact he/she is not the partner, agent or employee of such peddler or solicitor, or that he/she is the employer, representative, agent or partner of any person, when in fact he/she is not the employee, representative, agent or partner of such person.

§ 160-5.Exceptions.

The provisions of the bylaw shall not apply to salespeople or agents for wholesale houses or firms who solicit orders from or sell to retail dealers for resale, or to manufacturers for manufacturing purposes, or to bidders for public works or supplies or local charitable, religious, fraternal, service and civic organizations ("local" meaning origin within the community).

§ 160-6.Revocation of permits.

A. Permits issued pursuant to this bylaw may be revoked by the Chief of Police of the Town of Charlton, after notice and hearing, for any of the following causes:

(1) Fraud, misrepresentation or any false statements made to the Police Department in furnishing the information required in § 160-3 of the bylaw.

(2) Any violation of the bylaw.

(3) Conviction of the permit holder of any felony or crime involving moral turpitude, embezzlement and crimes of this nature.

(4) Conducting the soliciting or peddling in an unlawful manner or in such a manner as to constitute a breach of the peace or to be a menace to the health, safety or general welfare of the people of the Town of Charlton.

B. Notice of the hearing for revocation of a permit shall be given in writing stating the grounds of the complaint and the time and the place of hearing. Such notice shall be mailed, postage prepaid, to the permit holder at the address given on the registration, at least five (5) days prior to the date set for the hearing.

C. Any person aggrieved by the decision of the Chief of Police shall have the right of appeal to the Board of Selectmen of the Town of Charlton. Such appeal shall be taken by filing with the Town Clerk a written statement of the grounds for the appeal within fourteen (14) days after notice of decision by the Chief of Police has been given. The Board of Selectmen shall set the time and place for the hearing such appeal, and notice of such time and place shall be given by the Town Clerk in the manner hereinabove provided for hearing of notice of revocation by the Chief of Police.

§ 160-7.Violations and penalties.

Every person violating any provision of this bylaw is guilty of a misdemeanor and shall be punished by a fine not exceeding fifty dollars ($50). Every violator of any provision of the bylaw shall be guilty of a separate offense for every day such violation shall continue and shall be subject to the penalty imposed by this section for each and every separate offense.

Chapter 165

SEWER USE

[HISTORY: Adopted by the Town Meeting of the Town of Charlton as Art. XXV of the 2005 Bylaws. Amendments noted where applicable.]

ARTICLE I
Definitions

§ 165-1.Terms defined.

Unless the context specifically indicates otherwise, the meaning of terms used in this bylaw shall be as follows:

ACT — The Federal Water Pollution Control Act (P.L. 92-500), also known as the Clean Water Act, as amended (33 U.S.C. 1251 et seq.).

APPLICANT — Any person requesting approval to discharge wastewater into the Town of Charlton wastewater facilities.

APPROVAL — Written approval.

AUTHORITY — The Charlton Board of Water and Sewer Commissioners.

AUTHORIZED REPRESENTATIVE OF INDUSTRIAL USER — Either:

A. Principal executive officer of at least the level of Vice President, if the industrial user is a corporation;

B. A general partner or proprietor if the industrial user is a partnership or proprietorship respectively; or

C. A duly authorized representative of the individual designated above, if such representative is responsible for the overall operation of the facilities from which the discharge of wastewater originates.

BIOCHEMICAL OXYGEN DEMAND (BOD) — The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees Celsius (20° C.), expressed in milligrams per liter.

BOARD — The Charlton Board of Water and Sewer Commissioners or their authorized representative.

BUILDING DRAIN — That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, which begins ten (10) feet [three (3) meters] outside the inner face of the building wall.

BUILDING SEWER OR SERVICE CONNECTION — The extension from the building drain to the public sewer or other place of disposal.

BUSINESS/COMMERCIAL ESTABLISHMENT — The primary use of the property is not defined as "residential" or "industrial."

COMBINED SEWER — A sewer conveying both wastewater and stormwater.

COMMERCIAL ESTABLISHMENT — Any room, group of rooms, building or other structure used or intended for use in the operation of a business enterprise, including retail and nonmanufacturing service establishments. Commercial establishments shall include, but not be limited to, automobile service stations, department stores, self-service laundries, restaurants, shopping centers, and theaters.

CONTROL MANHOLE — A manhole which is installed along a sewer and which provides access for the observation, sampling, and measuring of wastes.

COOLING WATER — The water discharged from any system of condensation, air conditioning, cooling; refrigeration or other sources. Such water shall contain no polluting substances which could produce BOD, SS or toxic pollutants or substances limited in these amended rules and regulations.

DOMESTIC WASTEWATER — The wastewater principally derived and discharged from dwellings and institutions and the like and containing human excrement and liquid waste from the noncommercial preparation, cooking and handling of food.

DRAIN LAYER — A person licensed by the Town of Charlton to lay building sewers from existing public sewers to building drains.

EASEMENT — An acquired legal right for the limited use of land owned by others.

EPA — The United States Environmental Protection Agency.

EXCESSIVE — Quantities and/or concentrations of a constituent of a wastewater which, in the judgment of the Board:

A. Will cause damage to any Charlton facility;

B. Will be harmful to a wastewater treatment process;

C. Cannot be removed in the treatment works to the degree required to meet effluent discharge limitations;

D. Can otherwise endanger life, limb, or public property; and/or can constitute a nuisance.

FACILITIES — Includes structures and conduits for the purpose of collecting, treating, or disposing of domestic, industrial, or other wastewaters (including treatment and disposal works, lateral, interceptor, outfall, and outlet sewers, pumping stations, equipment and furnishings, and other connected appurtenances).

FLOATABLE OIL — Oil, fat, wax, or grease that will separate from wastewater under the force of gravity. A wastewater shall be considered free of floatable oil if it is properly treated and the wastewater does not interfere with the collection system.

FLOW EQUALIZATION FACILITIES — Provide storage of wastewater for release to a sewer system or treatment plant at a controlled rate, thus mitigating variations in flow and composition.

GARBAGE — The food wastes resulting from the handling, preparation, cooking, serving or distributing of food.

HAULER — Any person who contracts for the disposal of septage and has obtained a septage handler permit from the Board of Health.

IMPROVED PROPERTY — Any property upon which there is a structure from which domestic wastewater and/or industrial wastes shall be discharged.

INCOMPATIBLE POLLUTANT — A substance that is not amenable to removal in substantial amounts

by the regional wastewater treatment facilities or which may cause damage to transmission or treatment facilities or impact overall treatment of wastewater. Incompatible pollutants include, but are not limited to, toxic biocumulative organics, toxic metals and persistent organics.

INDUSTRIAL ESTABLISHMENT — Any room, group of rooms, building or other facility used or intended for use in the operation of one (1) business enterprise for manufacturing, processing, cleaning, laundering, assembling or preparing any product, commodity or article from which any process waste, as distinct from domestic wastewater, may be discharged.

INDUSTRIAL USER — A manufacturing, processing, or other nonresidential facility (such as hospitals, commercial laundries, and tank and barrel cleaning operations, etc.) which discharges nonsanitary industrial wastes into a public sewer.

INDUSTRIAL WASTES — Any solid, liquid or gaseous wastes and wastewater, exclusive of sanitary sewage, resulting from an industrial or manufacturing process; or discharged from a commercial, governmental or institutional facility; or from the development, recovery or processing of natural resources and any wastes not listed as conventional pollutants under 40 CFR 401.16.

INTERFERENCE — A discharge which, alone or in conjunction with discharges from other sources:

A. Inhibits or disrupts the treatment facility, its treatment processes or operations, or its sludge processes, or disposal; and

B. Causes a violation of any requirement of the treatment facility NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations): Section 405 of the Clean Waters Act, the Solid Waste Disposal Act (SWDA) [including Title 11, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA], the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

INVERT — The bottom inside of the sewer pipe.

MAJOR CONTRIBUTING INDUSTRY — One that:

A. Has flow of twenty-five thousand (25,000) gallons or more per average work day;

B. Has a flow greater than five percent (5%) of the flow carried by the municipal system receiving the waste;

C. Has in its waste a toxic pollutant in toxic amounts as defined in standards issued under Section 307(a)(1) of P.L. 92-500; or

D. Has a significant impact, either singly or in combination with other contributing industries, on a publicly owned treatment works or on the quality of effluent from that treatment works.

NATIONAL CATEGORICAL PRETREATMENT STANDARD or PRETREATMENT STANDARD — Any regulation containing pollutant discharge limits promulgated by the U.S. Environmental Protection Agency in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1317) which applies to industrial users.

NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT — A permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342).

NATURAL OUTLET — Any outlet into a watercourse, pond, ditch, lake, or other body of surface or

groundwater.

OWNER — Any person or persons vested with ownership, legal or equitable, sole or partial, of any improved property.

PASS THROUGH — A discharge which exits the treatment facility into waters of the United States in quantities or concentrations which, alone or in conjunction with discharges from other sources, is a cause of a violation of any requirement of the treatment facilities NPDES permit (including an increase in the magnitude or duration of a violation).

PERSON — Any individual, firm, company, association, society, corporation, group, or municipality.

pH — The logarithm of the reciprocal of the hydrogen ion concentration, expressed in moles per liter. Neutral water, for example, has a pH value of seven (7) and a hydrogen ion concentration of ten (10) to the negative seven (-7). Any EPA-approved method of measurement may be used for this measurement.

PHOSPHORUS or TOTAL PHOSPHORUS — The total of organic phosphorus and inorganic phosphorus.

PLUMBING INSPECTION PERMIT — A notification to the Plumbing Inspector that work that could affect the sanitary system was to commence and that he/she is authorized by the applicant to review the property to determine if further work would be required. This "inspection permit" shall in no way negate the need for a "plumbing permit" issued by the Plumbing Inspector, but conversely, a "plumbing permit" issued by the Plumbing Inspector shall negate the need for a "plumbing inspection permit" issued by the Water/Sewer Department.

POLLUTANT — Any material or substance that may cause an alteration of the chemical, physical, biological or radiological integrity of a treatment facility or its receiving waters.

PRETREATMENT REQUIREMENTS — Any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard imposed on a user.

PROPERLY SHREDDED GARBAGE — Garbage that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch [one and twenty-seven hundredths (1.27) centimeters] in any dimension.

PUBLICLY OWNED TREATMENT WORKS (POTW) OR TREATMENT FACILITY — Treatment works operated by the Town of Charlton or its agents, including any devices and systems (whether owned by it or under its control) used in the collection, storage, treatment, recycling and reclamation of municipal sewage or industrial wastes, including the wastewater treatment plant or plants and appurtenances, structures, pipes, pumping stations and other devices conveying wastewater to the treatment plant or plants, and sludge processing systems whether operated by the Town or by its agent.

PUBLIC SEWER — A sewer which is controlled by public authority.

RECEIVING WATERS — Any watercourse, river, pond, ditch, lake, aquifer, or other body of surface or groundwater receiving wastewater discharges.

RULES AND REGULATIONS — The provisions of this bylaw or any rule or regulation lawfully prescribed by the Charlton Water and Sewer Commissioners under MGL c. 83, § 10, or under any other enabling legislation or authority.

SANITARY SEWER — A sewer which carries wastewater, and to which storm, surface, and groundwaters are not intentionally admitted.

SEWAGE — See "wastewater."

SEWER — A pipe or conduit which carries wastewater.

SEWERAGE — The complete system of piping, pumps, and appurtenances for the collection and transport of wastewater.

SHALL — Is mandatory; "may" is permissive.

SLUG — Any discharge of water, wastewater, or industrial waste which exceeds for any period of duration longer than fifteen (15) minutes, more than five (5) times the average twenty-four-hour constituent concentration, or flow, during normal operation.

STATE — The Massachusetts Department of Environmental Protection, Division of Water Pollution Control, or any successors.

STORM DRAIN or STORM SEWER — A pipe which carries storm and surface waters, drainage, and unpolluted cooling water, but excludes wastewater and industrial wastes.

SUPERINTENDENT — The duly authorized agent acting for the Board of Water and Sewer Commissioners of the Town of Charlton.

SUSPENDED SOLIDS — Solids that either float on the surface of or are in suspension in water, wastewater, or other liquids, and which are not removable by laboratory filtering. Suspended solids are referred to as nonfilterable residue in the laboratory test prescribed in "*Standard Methods for the Examination of Water and Wastewater*."

SYSTEM'S DEVELOPMENT CHARGE — A fee assessed to property that has not had a "betterment assessment" levied and is now able to connect to the municipal system. System's development fees shall be paid prior to Water/Sewer Department sign-off on the "application for building permit."

WASTES — Substances in liquid, solid or gaseous form that can be carried in water.

WASTEWATER — The spent water of a community and may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and stormwater that may be present.

WASTEWATER TREATMENT WORKS — Any arrangements of devices and structures used for treating wastewater.

WASTEWATER WORKS — All structures, equipment and processes for collecting, pumping, treating, and disposing of wastewater.

WATERCOURSE — A channel in which a flow of water occurs, either continuously or intermittently.

ARTICLE II
Building Sewers and Connections

§ 165-2.Prohibitions and restrictions. [Amended 10-27-2009 STM by Art. 10]

Building sewers shall be constructed by licensed drain layers only. No person may uncover, connect to, open, alter, repair, or disturb a public sewer, or sewage works without a connection permit from the Superintendent. Any person proposing a new discharge from any commercial or industrial use or a new discharge in excess of one thousand (1,000) gallons per day from any residential use, or a substantial change in the volume or character of pollutants in an existing discharge, into the sewage works must notify the Water/Sewer Department at least forty-five (45) days before such proposed discharge or change. No person may break, cut, connect to, or remove any part of the public sewer. Building sewers

shall connect to the existing connection branches unless an alternative manner is approved by the Superintendent.

§ 165-3.Connection permits.

A. There are three (3) classes of connections permits:

(1) Residential connection permits.

(2) Business/Commercial connection permits.

(3) Industrial connection permits.

B. Applications shall be made on a special form furnished by the Charlton Water/Sewer Department. Completed applications shall be forwarded to the Superintendent of the Charlton Water/Sewer Department for approval. All industrial and commercial permits, and all residential permits for average daily flows in excess of one thousand (1,000) gallons per day, require approval from the Board of Water and Sewer Commissioners.

C. Permit and inspection fees for connection permits shall be paid to the Town when an application is filed. The applicant shall also be issued, in the absence of a plumbing permit issued by the Plumbing Inspector or his/her designee and for a fee set by the Water and Sewer Commission after a public hearing, a plumbing inspection permit for the purpose of having the Plumbing Inspector, or his/her designee, review the interior of the property to assure that all sanitary codes have been complied with, when connection to the municipal system is accomplished. If a permit is issued, it shall be valid for no more than sixty (60) calendar days from date of issue.

D. A drain layer may not have more than three (3) connection permits outstanding without written permission from the Superintendent. The permit shall be available for inspection at the site of work. Drain layers may install building sewers only during normal working hours of the Water/Sewer Department. Emergency working hours may be approved on a case-by-case basis by the Superintendent or the Board.

§ 165-4.Installation cost and indemnification.

Costs incidental to the connection of the building sewer to the public sewer and inspection by the Superintendent or his/her designee shall be borne by the property owner or owner of the building. In either case, the owner shall indemnify the Town from any loss or damage that may directly or indirectly be caused by the installation and connection of the building sewer.

§ 165-5.Separate building sewers required.

A separate and independent building sewer shall be provided for every building; unless otherwise approved by the Board. In cases where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered one building sewer, if approved by the Board. The Town will not assume any responsibility for damages caused by any such connection.

§ 165-6.Existing building sewers.

The use of existing building sewers must cease if they are found upon examination and testing by the Board, or its designee, to be in violation of any requirement of this bylaw or of applicable rules or regulations.

§ 165-7.Method of construction.

The size, slope, alignment, and materials of construction of a building sewer, and the methods used in excavating, placing the pipe, jointing, testing, backfilling, and paving of the trench shall conform to all applicable rules and regulations and bylaws of the Commonwealth of Massachusetts and the Town. In the absence of code provisions, or in amplification thereof, the materials of modern sanitary engineering shall apply.

§ 165-8.Connection to building drain.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In buildings in which the building drain is too low to permit gravity flow to the public sewer, wastewater shall be lifted by an approved means and discharged to the building sewer.

§ 165-9.Prohibited connections.

No person shall connect roof downspouts, exterior foundation drains, sump pumps, areaway drains, or other sources of surface runoff or groundwater to a building sewer which discharges to a sanitary sewer. Any business, commercial, or industrial establishment, residence or building found to have any of the above-mentioned connections shall immediately eliminate said connection, regardless of when the connection was made, or will be subject to fines outlined in Article VII.

§ 165-10.Method of pipe laying and backfilling.

The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the Town, or the procedures set forth in current specifications of the ASTM and *WPCF Manual of Practice No. 9.* All such connections shall be made gastight and watertight. Special appurtenances to prevent the backflow of wastewater may be required if deemed necessary by the Superintendent. Any deviation from the prescribed procedures and materials must be approved in writing by the Board or the Superintendent before installation, denoting the grounds for such deviation.

§ 165-11.Notification and inspection of work.

The applicant for the building sewer permit shall notify the Superintendent at least forty-eight (48) hours prior to the start of an approved installation, unless a "Dig-Safe" number has been issued, and a second time when the building sewer is ready for inspection and connection to the public sewer. The applicant shall connect all sanitary sewer discharges to the building sewer and the connection to the public sewer shall be made under the supervision of the Superintendent or an appointed representative. All connections shall be made in the approved manner; no caps and/or plugs are to be removed without explicit orders, and under the direct supervision of the Superintendent or his/her designee, the existing septic tanks must be pumped, crushed and filled then inspected by the Superintendent or his/her designee before any approval can be granted. When leaching fields are encountered, the Health Agent shall be notified. No backfilling of any trench shall be made without the approval of the Superintendent. The interior of the property shall be inspected by the Plumbing Inspector or his/her designee, to assure compliance with all applicable plumbing code requirements.

§ 165-12.Protection of public property.

Excavations for building sewer installations shall be adequately guarded with barricades and lights, or a police detail may be required so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Town. Except in the case of an emergency, when it is necessary to close off a street, the Town's Fire Department and Police Department shall be notified in writing no later than twenty-four (24) hours in

advance. A street opening permit shall be obtained from the Town at least seventy-two (72) hours before opening the street except under emergency conditions as determined by the Superintendent and approved by the Charlton Police Department.

§ 165-13.License for drain layers. [Amended 10-27-2009 STM by Art. 10]

Drain layers must obtain a license from the Board before performing any work. Licenses shall be issued for one (1) calendar year commencing January 1, names to be listed in a policy to be set by the Board. The applicant will supervise and be responsible for all work performed under the license. Any blasting required shall be done by a person licensed to perform blasting in the Commonwealth, and only after receiving a blasting permit from the Charlton Fire Department. The applicant shall submit certificates of insurance to cover general liability, including one hundred thousand dollars ($100,000)/three hundred thousand dollars ($300,000) for bodily injury, and fifty thousand dollars ($50,000) for property damage. A bond, cash deposit or certified check for five thousand dollars ($5,000) and three (3) letters of recommendation must also be submitted. In order to qualify for a drain layer's license, an applicant must be a license holder in good standing from the Town of Charlton; or provide proof of current licenses from three (3) other Massachusetts municipalities; or take and pass a written exam at the Town's sewer plant. No insurance policy may be canceled without thirty (30) days' prior written notice by registered mail to the Water/Sewer Department and the Fire Department. Such insurance shall indemnify the Town against all claims, liabilities, or actions for damages incurred in, or in any connected with, the performance of work by a drain layer and for, or by reason of, any acts of omission of said drain layer in the performance of his/her work. If insurance or bond is canceled or expires, the drain layer's license shall become void.

§ 165-14.Licensee not to allow use of name by another.

A. No person duly licensed to construct building and other private sewers and make connections with public sewers may allow his/her name to be used by any other person for the purpose of obtaining permits or for doing work under his/her license. Licenses are issued to individuals only, not companies. More than one (1) person may be listed on an individual license at the discretion of the Board of Water and Sewer Commissioners.

B. Building sewer installation work may only be performed by drain layers licensed by the Board. Applicants for permits to do such work must be licensed drain layers, or the property owners.

§ 165-15.Annual fee.

The Board of Water and Sewer Commissioners may from time to time establish just and equitable annual charges for the use of public sewers and the wastewater treatment works. This annual fee shall be paid by every person with a connection to the public sewerage system. The money received may be applied to the costs for operation and maintenance of the wastewater works or any debt contracted for sewerage purposes.

ARTICLE III
Extensions of Public Sewers

§ 165-16.Prohibitions.

No person shall extend, uncover, make any connections with, openings into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining written permission from the Board.

§ 165-17.Notification and review; engineering fees.

Any person proposing an extension of the public sewer shall notify the Board at least forty-five (45) days prior to the proposed beginning of construction. Included with this notification shall be two (2) sets of construction plans and specifications in sufficient detail to allow the Board to determine whether or not

the proposed extension complies with the technical provisions of this bylaw, and good sanitary engineering practice. The plans and specifications shall be stamped by a registered professional engineer. It is recommended that any person proposing an extension of the public sewer submit a preliminary conceptual design for tentative approval by the Board. If deemed necessary by the Board, the definitive plans and specifications shall be reviewed by the Board's engineer, at the expense of the owner/contractor/applicant. The cost of engineering services shall be paid in full before review or final approval of plans is given. Engineering review fees will be set by the Water and Sewer Commission after a public hearing, costs not to exceed the actual cost plus administrative fees; business/commercial or industrial to be set by the Board. An additional ten percent (10%) administrative fee shall also be assessed.

§ 165-18.Costs for installation and connections.

All costs incident to the installation and connection of the public sewer shall be borne by the owner/contractor/applicant. The owner/contractor/applicant shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the installation of the public sewer.

§ 165-19.Building sewers (service connections).

A separate and independent house service connection shall be provided between the sewer main and the property line for each separate piece of property which the public sewer abuts, unless otherwise approved by the Superintendent.

§ 165-20.Construction and material specifications.

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing codes, and other applicable rules and regulations of the Town. In the absence of code provisions, or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society of Testing and Materials (ASTM) and in Water Pollution Control Federation (WPCF) *Manual of Practice No. 9* shall apply.

§ 165-21.Resident inspection.

During construction there must be a full-time qualified inspector, approved by the Board, unless otherwise waived by the Board, to inspect the work for conformance with this bylaw, with the approved plans and specifications, and with good sanitary engineering practice. All costs related to the engineering inspection plus a ten percent (10%) administrative fee shall be borne by the owner/contractor/applicant, an estimated amount will be set by the Board and will be payable prior to the issuance of the permit.

§ 165-22.Record drawings.

Within thirty (30) days of the completion of construction, the owner/contractor/applicant must submit to the Board one (1) set of reproducible as-built record drawings. The drawings shall show the actual in-place plan and profile of the public sewer, as well as house service connections. Ties shall be provided for all manholes and house services. Depths of house service shall also be provided.

§ 165-23.Public safety.

All excavations for sewer installation shall be adequately guarded by the owner/contractor/applicant with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Superintendent of Streets and/or the Sewer Superintendent. When deemed necessary by the Police Chief, a Sewer Commissioner, or the Superintendent, uniformed police officers shall be on-site for safety purposes at the expense of the owner.

§ 165-24.Qualifications of contractor.

A. Whenever public sewers are to be constructed the Board may make such investigations as it deems necessary to determine the ability of the contractor to perform the work, and the contractor shall furnish to the Board all such information the Board may request, including but not limited to bonding capability, proof of insurance, references, and a list of equipment to be used. The Board reserves the right to reject the contractor if the evidence submitted fails to satisfy the Board that he/she is properly qualified to complete the work as proposed. As a minimum, the contractor shall have been engaged in the mainline public sewer construction business for at least three (3) years; shall have good references; shall have adequate equipment to complete the work; shall have personnel experienced in mainline sewer construction; and shall be bondable for the full amount of the estimated construction cost.

B. The contractor's qualifications shall be approved by the Board prior to beginning work.

ARTICLE IV
Use of Public Sewers

§ 165-25.Unlawful discharges.

It is unlawful to deposit, discharge, or otherwise dispose of domestic wastewater, industrial wastes, or other wastes in the Charlton sewer system, except in accordance with this bylaw, applicable rules or regulations and other applicable law.

§ 165-26.Board approval of discharges.

It shall be unlawful to discharge any domestic wastewater, industrial wastes, or other wastes to a natural outlet without first obtaining any necessary federal, state, and local discharge permits and performing proper treatment subject to the approval of the Board.

§ 165-27.Required connection to public sewer.

Owners of houses, buildings, or properties abutting on a street, alley, easement, or right-of-way in which a public sewer is located, or may in the future be located, may be ordered by the Town's Board of Health (acting under Title 5, 310 CMR 15.02) to connect to such public sewer for disposal of domestic wastewater with the approval of the Board of Water and Sewer Commissioners.

§ 165-28.Disposal of unpolluted waters.

No person shall discharge or cause to be discharged any unpolluted waters such as stormwater, surface water, sump pump discharge, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

§ 165-29.Industrial wastewater.

Persons, including industries, who desire to discharge industrial wastewaters into Town facilities shall make their requests in writing to the Board. The Board may require the applicant to furnish analyses of the proposed wastewater discharge to determine its acceptability for discharge into the Charlton sewer system. Costs for additional treatment, or for repairing damages to municipal facilities, due to violations of the Board's rules and regulations, shall be reimbursed to the Town by the violating person or industrial user.

§ 165-30.Prohibited wastes.

No person shall discharge, or shall cause or allow to be discharged into any sewer under the control of the Board, any substances, water or wastes that the Town and/or the community in which the wastes are

treated has identified as likely, either singly or by interaction with other substances:

A. To harm either the sewerage system or the wastewater treatment process;

B. To pass through, or cause interference, or be otherwise incompatible with the treatment process, including sludge disposal;

C. To cause a violation of any federal or state permits issued to the wastewater treatment facilities;

D. To affect adversely receiving waters or violate water quality criteria;

E. To endanger life, limb or public property; or

F. To constitute a nuisance.

§ 165-31.National pretreatment standards.

All users of the Town sewerage system shall comply with the most stringent of current National Pretreatment Standards as set by the EPA, state or local requirements or the limits contained in 360 CMR 10.024. Upon the promulgation of national pretreatment standards for the particular industrial category, it will be the responsibility of the user to comply with all applicable requirements under the Act and under Subtitles C and D of the Resource Conservation and Recovery Act. Users within those industrial categories shall submit to the Town all reports required by 40 CFR 403.12.

§ 165-32.Specific prohibitions.

A. The following discharges are specifically prohibited:

(1) Ground, storm and surface waters, roof and surface runoff, and subsurface drainage.

(2) Non-contact cooling water and non-contact industrial process waters or uncontaminated contact cooling water and uncontaminated industrial process water.

(3) Fuel oils, crude oils, lubricating oils or any other oils, or greases of hydrocarbon or petroleum origin, in excess of fifteen (15) milligrams per liter.

(4) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the sewerage system or receiving waters. At no time shall a reading on an explosion hazard meter at the point of discharge to the sewer or at any point therein exceed ten percent (10%) of the lower explosive limit of the substance. Substances regulated hereby include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohol, ketones, aldehydes, peroxides and methyl ethyl ketone and any other substances which the Board, DEP, or EPA has notified the user is a fire hazard or a hazard to the sewerage system or receiving waters.

(5) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or are sufficient to prevent entry into the sewers for maintenance and repair.

(6) Waters or wastes having a pH lower than 5.5 or higher than 9.0 or having other corrosive or injurious properties capable of causing damage or hazard to structures, equipment, sewerage systems and personnel. If national pretreatment standards promulgated by the EPA impose more stringent standards, affected users within the category must comply with the more stringent limitations.

(7) Waters and wastes which adversely affect the ability to dispose of wastewater residuals in an

environmentally sound and economic manner in accordance with applicable state and federal requirements.

(8) Solids or viscous substances in quantities or of such size as to be capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewerage system, such as, but not limited to, sand, mud, metal, glass, wood, plastic, improperly shredded garbage, rubber, latex, lime or other slurries, grease, animal guts or tissues, bones, hair, hides or fleshings, whole blood, entrails, feathers, ashes, cinders, stone or marble dust, straw, shavings, grass clippings, rags, spent grains, spent hops, tar, asphalt residues, residues from refining or processing of fuel or lubrication oil, or glass grinding or polishing wastes.

(9) Liquids or vapors having a temperature higher than eighty-two degrees Celsius (82° C.) or one hundred eighty degrees Fahrenheit (180° F.) unless the Board approves alternative temperature limits, but in no case heat in such quantities that it may cause the temperature at the wastewater treatment facilities to exceed forty degrees Celsius (40° C.) or one hundred four degrees Fahrenheit (104° F.).

(10) Waters or wastes containing fats, wax, grease or oils, not specifically prohibited elsewhere in this bylaw, in excess of one hundred (100) mg/l or containing other substances which may solidify or become viscous at temperatures between thirty-two degrees Fahrenheit (32° F.) or zero degrees Celsius (0° C.), and one hundred eighty degrees Fahrenheit (180° F.) or eighty-two degrees Celsius (82° C.). Waters or wastes containing such substances, excluding normal household waste, shall exclude all visible floating oils, fats and greases. The use of chemical or physical means to bypass or release fats, oils, and greases into any sewer is prohibited.

(11) Waters or wastes containing amounts of toxic or objectionable metals or non-metals in excess of the limits contained herein or as designated by the Board or in the sewer use discharge permits.

(12) Radioactive wastes or isotopes of such half-life or concentrations as may exceed limits established by federal or state regulations.

(13) Wastewater treatment facility sludge.

(14) Substances exerting or causing turbidity or discoloration in such quantities as to change noticeably the color of the wastewater at the sewage treatment facilities, including, but not limited to, dye waters and vegetable tanning solutions.

(15) Slugs as defined herein.

(16) Hazardous waste or wastewater resulting from treatment of hazardous or toxic wastes, as designated under state and federal law, and discharged to the sewage system by dedicated pipe, truck or rail.

(17) Discharges containing pathogenic organisms in such quantities as determined by appropriate local, federal and/or state officials to be a hazard to public health.

(18) Filter backwash from industrial pretreatment processes or wastewater treatment plants unless specifically authorized by the Board.

(19) Any substance which will violate any NPDES and/or state permit, or the receiving water quality standards, or otherwise violates any federal or state law, regulation, administrative rule.

(20) Septage originating from outside the Town unless approved in writing by the Board.

B. In no case shall a substance discharged to the system cause the Board, or any receiving facility, to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Clean Water Act; any criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, or state criteria applicable to the sludge management method being used. In no case shall a substance discharged to the sewer system cause the Board, or any receiving facility, to incur additional expense for the handling, treatment, or disposal of wastewaters of sludge because of the nature or characteristics of the discharged substance.

C. Upon the promulgation of the National Categorical Pretreatment Standards for a particular industrial subcategory, the National Standard, if more stringent than the limitations imposed under these regulations for sources in the subcategory, shall immediately supersede the limitations imposed hereunder. The user shall be responsible for all applicable reporting requirements of this section. State requirement and limitations on discharges shall apply in any case where they are more stringent than national requirements and limitations or those set forth in these regulations.

§ 165-33.Industrial sewer discharge permits.

A. All industrial users shall obtain an industrial sewer discharge permit. All new facilities or facilities under new ownership shall obtain an industrial sewer discharge permit before connection to the public wastewater collection system or before transfer to new ownership. Industrial users required to obtain an industrial sewer discharge permit shall complete and file with the Town an application in the form prescribed by the Town.

B. Existing industrial users shall apply for a sewer discharge permit within thirty (30) days after the effective date of these regulations, and proposed new users shall apply at least ninety (90) days prior to connecting to or contributing to the sewer system. Permits shall be issued for a specific time period, approved by the receiving municipality, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. An industrial user shall apply for permit reissuance a minimum of ninety (90) days prior to the expiration of the applicant's existing permit. The terms and conditions of the permit may be subject to modification by the Board during the terms of the permit as discharge standards or requirements are modified or other just cause exists. The industrial user shall be informed of any proposed changes in his permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance. Industrial sewer discharge permits are issued to a specific user for a specific operation. An industrial sewer discharge permit shall not be reassigned or transferred to a new owner, a new user, different premises, or a new operation without the approval of the Board.

§ 165-34.Disposal of prohibited wastes.

A. If any wastewaters or wastes are discharged, or are proposed to be discharged to the public sewers, which contain characteristics as outlined in this section, the Board may:

(1) Reject the wastewaters or wastes;

(2) Require pretreatment of wastewaters or wastes to modify them to an acceptable condition for discharge to the public sewer system;

(3) Require control over the quantities and rates of discharge of the wastewaters or wastes; and/or

(4) Require payment to cover the added cost of handling and treating the wastewaters or wastes not covered by existing taxes or sewer fees.

B. If the Board permits the pretreatment or equalization of wastewater or waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Board and subject to the requirements of all applicable codes, bylaws and laws and the rules and regulations of the Board. Any costs involved with such reviews shall be paid by the person requesting the permit. The applicant shall maintain and operate pretreatment and equalization facilities at his/her own expense.

§ 165-35.Pretreatment requirements.

A. All categories of users subject to categorical pretreatment standards and requirements are required to submit to the Board records and reports as required and defined by 40 CFR 403.12 and state regulations and to any other reasonable requests for information from the Board. All industrial users are required to submit the information listed below. All reports submitted to the Town must be signed by a responsible corporate officer of a corporation, a general partner of a partnership, the sole proprietor of a sole proprietorship, or a duly authorized representative of an individual. Such reports are to include, but are not limited to:

(1) Baseline report (including compliance schedule) due within one hundred eighty (180) days after the effective date of an applicable categorical pretreatment standard, or one hundred eighty (180) days after the final administrative decision made upon a category determination submission under 40 CFR 403.6(a)(4), whichever is later.

(2) Report on compliance with categorical pretreatment standard deadline is due within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new user following commencement of introduction of wastewater into the POTW.

(3) Periodic reports on continued compliance are due during the months of June and December, unless required more frequently by the Board or in the categorical pretreatment standard.

(4) Notice of slug loading or any other potential problem or condition of violation. The industrial user must submit the following information within two (2) hours of becoming aware of the violation [if this information is provided orally, a written submission must be provided within five (5) days]:

(a) A description of the discharge and cause of the violation;

(b) The period of the violation, including exact dates and times, if not corrected, the anticipated time the violation is expected to continue;

(c) Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the violation.

(5) Continuous pH measurement records, if user stores, uses or discharges any materials with a potential to alter the pH of the sewer discharge to a degree of violation. Users that have a potential discharge waste with a pH lower than 5.5 or in excess of 9.0 or having any other corrosive properties will be required to install a holding tank, at their own expense, so that representative sampling of the effluent may be taken by the Town or its agent, for analysis. A primary flow of measurement device must be installed in such a manner that it is the final collection point for waste before joining sanitary discharge points entering the Town's sewerage system.

(6) Records pertaining to changes in the level or nature of business activity, production capacity, staffing or other activity which significantly alters the amount of wastewater produced, or the characteristics of the discharge.

(7) Records of on-site storage (inventories) for all toxic or hazardous substances present at the facility, including the type and maximum quantity for each material located on the premises.

(8) Records of generation rates and disposal shipments for all special and hazardous wastes, including residual substances produced or concentrated by any wastewater pretreatment systems or processes.

(9) Training records and other documentation of qualifications for all personnel involved in the handling of hazardous wastes, special wastes and pretreatment systems or processes.

(10) Purchasing records and logs for certain materials which have a bearing on the proper operation and maintenance of any wastewater pretreatment system. Such materials may include purchased acids, bases, polymers, filtration aids, media replacement cartridges, etc. The Town may also request the documentation of material throughout for any compounds or substances determined to be of particular concern because of interference, inhibition, pass-through, toxicity or safety to the public treatment works, the workers or the environment.

(11) Water consumption records, such as meter readings, log books, line drawings and process schematics which describe the water using processes, the sources and final discharge points for water, including an itemization of water used in sanitary processes, cooling or product uses.

(12) Water treatment additive dosage calculations and records, particularly any toxic additives such as biocides and anti-fouling agents.

(13) Wastewater collection and treatment operation and maintenance records.

(14) Records of any related permits, such as direct discharge permits for cooling water disposal or hazardous waste permits.

(15) Laboratory analysis records of effluent discharged into the POTW and any materials hauled off site for resource recovery or disposal.

(16) Records of any and all enforcement actions, notices of violation, compliance schedules or pretreatment system approval letters.

(17) Documentation of design flows, capacities, rated efficiencies and settings for all pollution control devices and systems, including, but not limited to, the wastewater pretreatment system components such as pumps, tanks, mixers, clarifiers, filter presses, centrifuges, and pH meters, recorders, flow meters and primary flow measurement devices.

B. Any industrial user subject to the reporting requirements established in this section shall be required to maintain for a minimum of three (3) years all records of monitoring activities and results and shall make such records of monitoring activities available for inspection and copying by the EPA and the Board. The period of retention shall be extended during the course of any unresolved litigation in which the industrial user is involved.

C. Information and data obtained from reports and other information supplied by any category of users shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate that the release of such information would divulge trade secrets or secret processes. Any user or industrial user able to make that demonstration is

entitled to have those portions of reports and other requests for information, which would reveal trade secrets and secret processes, withheld from the public but other governmental entities may receive such information upon written request. Wastewater constituents and characteristics will not be recognized as confidential information under any circumstances.

§ 165-36.Grease, oil, and/or sand interceptors.

A. Grease, oil, and/or sand interceptors shall be provided in all floor drains from garages, filling stations, restaurants, cleaning establishments and when, in the opinion of the Board, they are necessary for the proper handling of liquid wastes containing floatable oil in excessive amounts, or any flammable wastes, sand, or harmful ingredients; except that such interceptors shall not be required for private living quarters of dwelling units. All interceptors shall be of a type and capacity approved by the Board, and shall be located so as to be readily and easily accessible for cleaning and inspection. The installation and material cost of such grease, oil, and/or sand interceptors shall be the responsibility of the property owner producing the waste discharge.

B. Grease interceptors shall be constructed in accordance with Title 5, the State Sanitary Code, and oil interceptors shall be constructed and installed in accordance with Massachusetts Plumbing Code. Both shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. Grease traps shall have a minimum of one thousand (1,000) gallons' capacity. All traps shall be of substantial construction, watertight, and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight. Deviations from the above descriptions shall require written approval from the Board.

C. Grease interceptors shall be cleaned at least every three (3) months, unless otherwise approved by the Superintendent. Evidence of cleaning shall be submitted with the user's quarterly user charge payment. Failure to submit cleaning documentation may result in a fine. (See Article VII.)

§ 165-37.Compliance requirements.

The Board may require a user of the sewerage system to provide information needed to determine compliance with this bylaw. These requirements may include, but not be limited to:

A. Wastewater peak discharge rate and volume over a specified time period.

B. Chemical analyses of wastewaters.

C. Information on raw materials, processes, and products affecting wastewater volume and quality.

D. Quantity and disposition of specific liquid, sludge, oil, solvent, or other materials important to sewer use control.

E. A plot plan of sewers of the user's property showing sewer and pretreatment facility locations.

F. Details of wastewater pretreatment facilities.

G. Details of systems to prevent and control the losses of materials through spills to the municipal sewer.

H. When preliminary treatment or flow equalizing facilities are provided for any wastewaters or wastes, they shall be maintained continuously and satisfactory in effective operation by the owner at his/her expense.

§ 165-38.Control structures for industrial discharges.

When required by the Board, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control structure together with such necessary meters, and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastewater or wastes. Such structure, when required, shall be constructed in accordance with plans approved by the Board. The structure shall be installed by the owner at his/her expense, and shall be maintained by him/her so as to be safe and accessible at all times to the Town personnel.

§ 165-39.Sampling and analyses.

A. All measurements, tests, and analyses of the characteristics of wastewaters to which reference is made in this bylaw shall be determined in accordance with the latest edition of "*Standard Methods for the Examination of Water and Wastewater*" published by the American Public Health Association, and EPA test methods listed in 40 CFR 136 or suitable procedures adopted by the EPA, and shall be determined at the control structure provided, or from suitable samples taken at said control structure. In the event that no special structure has been required by the Board, samples shall be taken at suitable locations within the establishment from which the wastewaters are being discharged. Sampling shall be carried out by accepted methods specifically designed to obtain representative samples of the total wastewater discharge and of slugs if any occur. (The particular analyses involved will determine whether a twenty-four-hour composite of all outfalls from an individual discharger is appropriate or whether a separate sample or samples should be taken.) Frequency of sampling shall be established by the Board on an individual basis.

B. All industries discharging into a public sewer shall perform such monitoring of their discharges as the Board and/or other duly authorized employee of the Town may reasonably require, including installation, use and maintenance of monitoring equipment, keeping records and reporting the results of such monitoring to the Board. Such records shall be made available upon request by the Board to other agencies having jurisdiction over the discharges to the receiving waters.

C. Any costs involved in examination and tests shall be paid by the individual industrial user. The Board may check these tests as necessary.

§ 165-40.Alternative requirements.

If any wastewaters contain the substances or possess the characteristics enumerated in Article IV of these regulations, the Board may:

A. Modify the industrial sewer discharge permit;

B. Require pretreatment to an acceptable condition for discharge to the public sewers;

C. Require control over the quantities and rates of discharge;

D. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Article IV; and/or

E. Require the development of a compliance schedule by each industrial user for the installation of technology required to meet applicable pretreatment standards and requirements.

§ 165-41.Dilution.

It shall be illegal to meet the requirements of this bylaw by diluting wastes in lieu of proper treatment.

§ 165-42.Sewer user fees.

A. The annual cost to be paid to the Town shall be based on both a charge for fixed costs and a charge for fixed and variable costs related to flows and waste strength. The annual cost to be paid to the Town by users may also include a betterment fee intended for capital debt repayment.

B. The annual cost to industrial and commercial establishments in addition to a minimum fee not less than the residential rate may include charges imposed by the municipality by which the waste is to be treated.

C. Minimum annual fee will be determined based on a sewerage fee schedule established by the Board, and subject to periodic review and revision.

§ 165-43.Commercial sewer discharge permit.

A. All commercial users shall obtain a commercial sewer discharge permit. All new facilities or facilities under new ownership shall obtain a commercial sewer discharge permit before connection to the public wastewater collection system. Commercial users required to obtain a commercial sewer discharge permit shall complete and file with the Town an application in the form prescribed by the Town. [Amended 10-27-2009 STM by Art. 10]

B. Existing commercial users shall apply for a sewer discharge permit within thirty (30) days after the effective date of these regulations and proposed new users shall apply at least ninety (90) days prior to connecting to or contributing to the sewer system. Permits shall be issued for a specific time period, approved by the receiving municipality, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. A commercial user shall apply for permit reissuance a minimum of ninety (90) days prior to the expiration of the applicant's existing permit. The terms and conditions of the permit may be subject to modification by the Board during the terms of the permit as discharge standards or requirements are modified or other just cause exists. The commercial user shall be informed of any proposed changes in his permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance. Commercial sewer discharge permits are issued to a specific user for a specific facility. A commercial sewer discharge permit shall not be reassigned or transferred to a new owner, different premises, or a new facility without approval of the Board.

ARTICLE V
Protection from Damage

§ 165-44.Vandalism.

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, or tamper with, any structure, appurtenance, or equipment which is part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct and a fine not to exceed three hundred dollars ($300) for each incident.

§ 165-45.Trespass.

No unauthorized person may enter or remain in or upon any land or structure of the sewerage works. Any person violating this provision shall be subject to charges of trespass.

§ 165-46.Floodplain construction.

The Board of Water and Sewer Commissioners, in reviewing all proposed municipal sewer facilities to be located in the Flood Plain Wetlands Protection Zone established under the Charlton Zoning Bylaw and in

areas identified by the Federal Insurance Administration as having special flood hazards by Zones A, A1, A2 and A5 on the Charlton Flood Insurance Rate Map, shall require:

A. New and replacement municipal sanitary sewerage systems to be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

ARTICLE VI
Powers and Authority of Inspectors

§ 165-47.Permission for inspection.

The Board, and other duly authorized representatives of the Board, bearing proper credentials and identification, shall be permitted to enter, at reasonable times (without prior notification), all residential/business/commercial and industrial properties for the purposes of inspection, observation, measurement, repair, maintenance, sampling, and testing in accordance with this bylaw or applicable rules and regulations. The Board or their representatives may inquire into metallurgical, chemical, oil, refining, ceramic, paper, or other industrial activity bearing on the kind and source of discharge to the public sewers, natural outlets, or sewage works.

§ 165-48.Entry on easements.

The Board, and other authorized agents of the Town, bearing proper credentials and identification, shall be permitted to enter upon all private properties through which the Town holds an easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, maintenance, and testing of any portion of the sewage works lying within said easement. All entries and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the easement.

§ 165-49.Failure or refusal to allow entry.

Any person or entity failing to arrange for, or refusing, entry or inspection under the provisions of the bylaw or any applicable rules and regulations shall be in violation of the bylaw and shall be subject to the fines and other penalties and enforcement action set forth in Article VII.

ARTICLE VII
Penalties

§ 165-50.Written notice.

Any person found to be violating any provision of this bylaw shall be served by the Town with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations. The Superintendent, at his/her discretion, can order an immediate cease and desist of discharge to the public sewers.

§ 165-51.Fines.

A. The Board or its designees may assess any person who continues any violation beyond the time limit provided for above, whether intentionally or not, a fine not exceeding five thousand dollars ($5,000) per day or such other fine as the Board may authorize by rule or regulation. Each day in which any such violation shall continue shall be deemed a separate violation.

B. Failure to clean grease interceptors on a quarterly basis may result in a fine of three hundred dollars ($300) per violation. Exceeding daily pretreatment standards shall be deemed a separate violation as each effluent characteristics listed in Article IV of these regulations or regulations by federal or state categorical pretreatment standards.

§ 165-52.Drain layers.

Any licensed drain layer who violates any rules and regulations specified in the Charlton Sewer Use Bylaw, or who does not perform in a satisfactory manner, as determined by the Board, shall be subject to penalties. The degree of penalties shall depend on the severity of the violation as determined by the Board, and shall range from an oral warning to revocation of license. In addition, fines shall be assessed in an amount determined by the Board, based upon the severity of the incident.

§ 165-53.Liability.

Any person violating any of the provisions of this bylaw shall become liable to the Town for any expense, loss, or damage occasioned the Town by reason of such violation.

§ 165-54.Suspension of treatment service.

A. The Board may suspend the wastewater treatment service, or an industrial sewer discharge permit, in order to stop an actual or threatened discharge which may endanger the health or welfare of persons, the environment, cause interference to the POTW, cause the Town/City treating the waters to violate any condition of its NPDES permit, any federal or state law, regulation, or administrative rule or order.

B. Any person notified of a suspension of the wastewater treatment service or the industrial sewer discharge permit shall immediately cease discharge. Failure to comply with the suspension order may be cause for immediate severance of the sewer connection, to prevent damage to the POTW system or endangerment to any individuals. The Board shall reinstate the industrial sewer discharge permit or the wastewater treatment service upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the Board within fifteen (15) days of the date of occurrence.

§ 165-55.Cause to revoke permit.

Any user who violates the following conditions of these regulations or applicable state and federal regulations is subject to having its permit revoked, after a hearing before the Board:

A. Failure of an industrial user to report the constituents and characteristics of its discharge;

B. Failure of the industrial user to report the significant changes in operations, or wastewater constituents and characteristics;

C. Refusal of reasonable access to the industrial user's premises for the purpose of inspection or monitoring;

D. Violation of conditions of the permit; or

E. Flagrant violation of this Sewer Use Bylaw.

§ 165-56.Legal action.

At any time the Board may take legal action in order to halt a discharge in violation of this bylaw or any applicable rules and regulations, the POTW's NPDES permit, or any federal or state law, regulation, or any administrative order of the Town or other governmental authority, or to enforce any provision of this bylaw or such rule, regulation, permit, law, or order, and any violator shall be liable to the Town for any and all damage and expenses, including attorney's fees, incurred by the Board or the Town in connection with or as a result of such action.

§ 165-57.Liens.

The Board, pursuant to filing a certificate of acceptance of conditions for the issuance of a sewer discharge lien with the Worcester County Registry of Deeds, may place a lien upon the property or premises for which sewer user charges, service charges, fees or penalties are more than sixty (60) days overdue. Notwithstanding such lien, any overdue sewer use charges or service charges may be collected through any legal means.

§ 165-58.Fraud.

Any person who knowingly makes false statements, representations or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to these regulations, or permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this bylaw, shall be penalized according to the established enforcement and penalty provision of this bylaw or any rule or regulations prescribed hereunder.

§ 165-59.Publication of violators.

The Board will publish, at least once a year, a list of industrial users which, during the previous twelve (12) months, were significantly violating pretreatment requirements. A significant violation is a violation which remains uncorrected for forty-five (45) days after notification of noncompliance; which is part of a pattern of noncompliance over a twelve-month period; which involves a failure to report noncompliance; or which resulted in the Board exercising its emergency authority under Article IV of these regulations.

ARTICLE VIII
Administration

§ 165-60.Validity.

A. Conflicting bylaws. All bylaws or part of bylaws in conflict herewith are hereby repealed.

B. Severability. The invalidity of any section, clause, sentence or provision of this bylaw shall not affect the validity of any other part of this bylaw which can be given effect without such invalid part or parts.

§ 165-61.Bylaw in force.

A. This Bylaw shall be in full force and effect from and after its passage, approval, recording and publication as provided by law.

B. Any rules and regulations consistent with this bylaw may be adopted and/or amended by the Board in conformance with MGL c. 83, § 10.

§ 165-62.Due dates for sewer charges and bills; interest on unpaid balances. [Added 11-2004 STM]

All municipal charges and bills payable under this bylaw, with the exception of fees and charges as to which the bylaw requires immediate payment (by way of examples only, filing, inspection and connection fees), shall be due on the thirtieth (30th) day following the date of mailing of the bill or statement reflecting same, unless otherwise specifically provided by statute or other bylaw of the Town or by duly adopted rule or regulation of the Town's Water and Sewer Commissioners. Interest shall accrue and be payable on all amounts remaining unpaid after such due date at the maximum rate then in effect for unpaid assessments, rates and charges pursuant to MGL c. 59, § 57, as same may be amended from time to time, said rate as of the date of the initial adoption of the within section of this bylaw being fourteen percent (14%) per annum. (For the statutory authority for this section of the bylaw, see MGL c. 40, § 21E.)

Chapter 167

SEX OFFENDERS

[HISTORY: Adopted by the Town Meeting of the Town of Charlton 11-25-2008 STM by Art. 3. Amendments noted where applicable.]

§ 167-1.Definitions.

As used in this bylaw, the following terms shall have the meanings indicated:

CAMP — Any facility or operation falling within the definition of "recreational camp for children" set forth in 105 CMR 430.020, including but not limited to any such which promotes or advertises itself as a camp, and, without limiting the foregoing, shall also include real estate used by or for, or advertised as, so-called Nature's Classroom (including the Hill Top Conference Center and the Prindle Pond Conference Center), Joslin Diabetes Camp, Bement Camp and Conference Center, Camp Foskett of the YMCA, presently on Daniels Road, the Capen Hill Nature Sanctuary located off Route 20, and the Holy Virgin Mary Spiritual Vineyard, presently located at 74 Gould Road, all in Charlton, regardless of whether operated seasonally or year-round. [Added 5-2-2009 ATM by Art. 25]

DAY-CARE CENTER — An establishment, whether public or private, which provides care for children and is registered with and licensed pursuant to the laws of the Commonwealth of Massachusetts by the Department of Early Education and Care.

ELDERLY HOUSING FACILITY — A building or buildings on the same lot containing four (4) or more dwelling units restricted to occupancy by households having one (1) or more members fifty-five (55) years of age or older.

ESTABLISHING A RESIDENCE — To set up or bring into being a dwelling place or an abode where a person sleeps, which may include more than one (1) location, and may be mobile or transitory, or the establishment of a such a dwelling place or abode by means of purchasing real property or entering into a lease or rental or occupancy agreement for real property. [Amended 5-2-2009 ATM by Art. 25]

PARK — Public land designated for active or passive recreational or athletic use by the Town of Charlton, the Commonwealth of Massachusetts or other governmental subdivision, and located within the Town of Charlton.

PERMANENT RESIDENCE — A place where a person lives, abides, lodges, or resides for five (5) or more consecutive days or fourteen (14) or more days in the aggregate during any calendar year.

PRIVATELY OWNED PARK/TRUST — Any park or trust land that is not publicly owned and is designated for passive or active recreation use. (Listing available at the Town Clerk's office or the Police Station.) [Added 5-2-2009 ATM by Art. 25]

PUBLIC LIBRARY — The Charlton public library, including any branch thereof. [Added 5-2-2009 ATM by Art. 25]

SCHOOL — Any public or private educational facility that provides services to children in grades kindergarten through 12, or any one (1) or more of such grades.

SEX OFFENDER — A person who resides in, works in, or attends an institution of higher learning located in the commonwealth and who has been convicted of a sex offense or who has been adjudicated

as a youthful offender or as a delinquent juvenile by reason of a sex offense, or a person released from incarceration or parole or probation supervision or custody with the Department of Youth Services for such a conviction or adjudication, or a person who has been adjudicated a sexually dangerous person under MGL c. 123A, § 14, as in force at the time of adjudication, or a person released from civil commitment pursuant to MGL c. 123A, § 9, whichever last occurs, on or after August 1, 1981.

SEX OFFENDER REGISTRY — The collected information and data that is received by the Criminal History Systems Board pursuant to MGL c. 6, §§ 178C to 178P, inclusive, as such information and data is modified or amended by the Sex Offender Registry Board or a court of competent jurisdiction pursuant to said MGL c. 6, §§ 178C to 178P, inclusive.

§ 167-2.Residency restrictions.

It is unlawful for any sex offender who is finally classified as a Level 2 or 3 offender pursuant to the guidelines of the Massachusetts Sex Offender Registry Board, so long as so classified, to establish a permanent residence within one thousand (1,000) feet of any school, day-care center, park, camp, privately owned park/trust, elderly housing facility or public library. For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent residence to the nearest outer property line of a school, day-care center, park, camp, privately owned park/trust, elderly housing facility or public library.

§ 167-3.Notice to move. [Amended 5-2-2009 ATM by Art. 25]

Any Level 2 or level 3 sex offender finally classified as such by the Sex Offender Registry Board, so long as so classified, who establishes a permanent residence within one thousand (1,000) feet of any school, day-care center, park, camp, privately owned park/trust, elderly housing facility or public library shall be in violation of this bylaw and shall, within thirty (30) days of receipt of written notice of the sex offender's noncompliance with this bylaw, move from said location to a new location, but said location may not be within one thousand (1,000) feet of any school, day-care center, park, camp, privately owned park/trust, elderly housing facility or public library. It shall constitute a separate violation for each day beyond the thirty (30) days the sex offender continues to reside within one thousand (1,000) feet of any school, day-care center, park, camp, privately owned park/trust, elderly housing facility or public library. Furthermore, it shall be a separate violation each day that a sex offender shall move from one (1) location in the Town of Charlton to another that is within one thousand (1,000) feet of any school, day-care center, park, camp, privately owned park/trust, elderly housing facility or public library.

§ 167-4.Violations and penalties.

Violation of this bylaw may be enforced through any lawful means in law or in equity by the Board of Selectmen, the Town Administrator, or their duly authorized agents, or any police officer of the Town of Charlton, including, but not limited to, enforcement by noncriminal disposition pursuant to MGL c. 40, § 21D. Each day a violation exists shall constitute a separate violation. The penalties shall be as follows:

A. First offense: notification to offender that he/she has thirty (30) days to move.

B. Subsequent offense: noncriminal fine of three hundred dollars ($300) and notification to the offender's landlord, parole officer and/or probation officer and the Commonwealth's Sex Offender Registry Board that the person has violated a municipal bylaw.

§ 167-5.Exceptions. [Amended 5-2-2009 ATM by Art. 25]

A person residing within one thousand (1,000) feet of any school, day-care center, park, camp, privately owned park/trust, elderly housing facility or public library does not commit a violation of this bylaw if any of the following apply:

A. The person established the permanent residence and reported and registered the residence, in accordance with the regulations of the Massachusetts Sex Offender Registry Board, prior to the effective date of this bylaw.

B. The person was a minor when he/she committed the offense and was not convicted as an adult and who has not been classified or is no longer classified as a Level 2 or 3 sex offender.

C. The person is a minor.

D. The school, day-care center, park, camp, privately owned park/trust, elderly housing facility or public library within one thousand (1,000) feet of the personal permanent residence was established after the person established the permanent residence and reported and registered the residence in accordance with the regulations of the Massachusetts Sex Offender Registry Board.

E. The person is required to serve a sentence at a jail, prison, juvenile facility, or other correctional institution or facility located in Charlton and within the aforementioned one-thousand-foot distance.

F. The person is admitted to and/or subject to an order of commitment at a public or private facility for the care and treatment of mentally ill persons pursuant to MGL c. 123 located in Charlton and within the aforementioned one-thousand-footdistance.

G. The person is a mentally ill person subject to guardianship pursuant to MGL c. 201, § 6,[5] or a mentally retarded person subject to guardianship pursuant to MGL c. 201 § 6A, residing with his/her guardian or residing within a facility or group residence licensed by the commonwealth that is professionally staffed and supervised twenty-four (24) hours a day and located in Charlton and within the aforementioned one-thousand-footdistance.

§ 167-6.Forfeiture of exceptions. [Added 5-2-2009 ATM by Art. 25]

If, either after the effective date of this bylaw or after a new school, day-care center, park, camp, privately owned park/trust, elderly housing facility or public library opens, a conviction is issued by a court against a sex offender falling within the provisions of § 167-2 of this bylaw but otherwise enjoying an exception set forth in Subsection A, B or D of § 167-5 above, that such sex offender has committed another sex offense, he/she will immediately forfeit that exception and be required to comply with this bylaw.

5.**Editor's Note: MGL c. 201, Guardians and Conservators, was repealed by St. 2008, c. 521, Sec. 21.**

Chapter 170

SOLID WASTE

[HISTORY: Adopted by the Town Meeting of the Town of Charlton as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Transportation
[Adopted as Art. XXXVII of the 2005 Bylaws]

§ 170-1.Securing of trash to prevent escape.

No person shall transport any trash, refuse, rubbish or debris in or upon a vehicle on a public way in the Town unless such trash, rubbish, refuse or debris is properly secured, packaged, contained or covered so as to prevent the same from escaping from the vehicle.

ARTICLE II
Collection and Disposal
[Adopted as Art. XXXVIII of the 2005 Bylaws]

§ 170-2.Title.

This bylaw shall be known and be cited as the "Refuse Bylaw of the Town of Charlton."

§ 170-3.Definitions.

For the purposes of this bylaw, the following terms, phrases, words, and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

ASHES — The residue from burning wood, coal, coke, or other combustible materials.

BOARD — The Board of Health of the Town of Charlton.

GARBAGE — Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking, and consumption of food.

PERSON — Any person, firm, partnership, association, corporation, company, or organization of any kind.

REFUSE — All putrescible and nonputrescible solid waste (except body waste), including garbage, rubbish, ashes, dead animals, and solid market and industrial wastes.

RUBBISH — Nonputrescible solid wastes (excluding ashes), consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, rags, metal, wood, glass, bedding, crockery and similar materials.

SANITARY LANDFILL — The land with any buildings thereon situated in the Town which is used and maintained by the Board for the disposal of refuse.

TOWN — The Town of Charlton.

§ 170-4.Management and control of landfill.

The care, custody, management and control of the Sanitary Landfill shall be in the Board.

§ 170-5.Ownership of refuse at landfill.

Ownership of refuse material set out for collection or deposited at the Sanitary Landfill shall be vested in the Town.

§ 170-6.Permission for disposal at landfill.

No person shall cast, place or deposit any refuse at the Sanitary Landfill without permission of the Board or its duly authorized agent or employee.

§ 170-7.Placement at landfill.

A. All refuse shall be deposited in areas of the Sanitary Landfill to be determined from time to time by the Board or its duly authorized agent or employee and in such manner as the Board may determine.

B. Refuse of each of the following types shall be separately set out for collection or deposited at the Sanitary Landfill and shall be collected and so deposited and then recycled:

   (1) Cardboard (chipboard, corrugated board, other cardboards), newspapers and magazines.

   (2) Bottles and other glass containers made of clear or green glass.

   (3) Aluminum, steel and tin cans.

   (4) High-density polyethylene (HDPE) containers, and all other refuse.

C. The Board shall from time to time promulgate regulations to implement the purposes of this section; provided that no regulation shall be promulgated under this section except after a public hearing. A notice of any such hearing containing the date, time and location of the hearing and a summary of the regulation under consideration shall be published at least seven (7) days prior to the hearing in a newspaper having a general circulation in the Town.

§ 170-8.Permit required for refuse collection.

No person shall handle, take or remove refuse set for collection without a permit issued by the Board or its agent. The Board may make reasonable requirements with respect to permits issued under this section; and whenever any holder of a permit fails to maintain said requirements, or other reasonable requirements which the Board may from time to time make with respect to any such permit or to the conduct of business by any such permittee, the Board may, after hearing or opportunity therefor, modify, suspend, revoke or cancel such permit.

§ 170-9.Severability.

The invalidity of any section, subsection, sentence, clause, or phrase or portion of this bylaw shall not invalidate the validity of the remaining portions hereof.

§ 170-10.Violations and penalties.

Whoever violates any section or provision of this bylaw shall be liable to a penalty not exceeding one hundred dollars ($100) for each offense.

ARTICLE III

Recycling

[Adopted as Art. XXXIX of the 2005 Bylaws]

§ 170-11.Separation of waste.

The Town of Charlton may require the separation of newspapers, glass and aluminum from the municipal solid waste stream.

Chapter 175

STORMWATER MANAGEMENT

[HISTORY: Adopted by the Town Meeting of the Town of Charlton 5-16-2011 ATM by Art. 20. Amendments noted where applicable.]

ARTICLE I
Stormwater Management and Erosion Control

§ 175-1.Purpose.

A. The United States Environmental Protection Agency has identified sedimentation from land disturbance activities and polluted stormwater runoff from land development and redevelopment as major sources of water pollution, impacting drinking water supplies, natural habitats, and recreational resources. Regulation of activities that result in the disturbance of land and the creation of stormwater runoff is necessary for the protection of the Town of Charlton water bodies and groundwater resources, to safeguard the health, safety, and welfare of the general public and protect the natural resources of the Town.

B. Increased volumes of stormwater, contaminated stormwater runoff from impervious surfaces, and soil erosion and sedimentation are major causes of:

(1) Impairment of water quality and decreased flow in lakes, ponds, streams, rivers, wetlands and groundwater;

(2) Contamination of drinking water supplies;

(3) Erosion of stream channels;

(4) Alteration or destruction of aquatic and wildlife habitat;

(5) Flooding; and

(6) Overloading or clogging of municipal catch basins and storm drainage systems.

C. The objectives of this bylaw are to:

(1) Protect water resources;

(2) Require practices that eliminate soil erosion and sedimentation;

(3) Control the volume and rate of stormwater runoff resulting from land disturbance activities in order to minimize potential impacts of flooding;

(4) Require practices to manage and treat stormwater runoff generated from new development and redevelopment;

(5) Protect groundwater and surface water from degradation or depletion;

(6) Promote infiltration and the recharge of groundwater;

(7) Prevent pollutants from entering the municipal storm drainage system;

(8) Ensure that soil erosion and sedimentation control measures and stormwater runoff

management practices are incorporated into the site planning and design process and are implemented and maintained;

(9) Ensure adequate long-term operation and maintenance of stormwater best management practices;

(10) Require practices to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at construction sites that may cause adverse impacts to water quality;

(11) Comply with state and federal statutes and regulations relating to stormwater discharges; and

(12) Establish the Town of Charlton's legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring and enforcement.

§ 175-2.Definitions.

As used in this bylaw, the following terms shall have the meanings indicated:

ABUTTER — The owner(s) of land abutting the land disturbance site.

AGRICULTURE — The normal maintenance or improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act (MGL c. 131, § 40) and its implementing regulations (310 CMR 10.00).

ALTERATION OF DRAINAGE CHARACTERISTICS — Any activity on an area of land that changes the water quality, or the force, quantity, direction, timing or location of runoff flowing from the area. Such changes include: change from distributed runoff to confined, discrete discharge; change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater on the area.

APPLICANT — Any "person" as defined below requesting a stormwater and erosion control permit for proposed land-disturbance activity.

AUTHORIZED ENFORCEMENT AGENCY — The Conservation Commission and its employees or agents will be in charge of enforcing the requirements of this bylaw.

BEST MANAGEMENT PRACTICE (BMP) — An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.

CLEARING — Any activity that removes the vegetative surface cover. Clearing activities generally include grubbing activity as defined below.

CONSTRUCTION AND WASTE MATERIALS — Excess or discarded building or construction site materials that may adversely impact water quality, including but not limited to concrete truck washout, chemicals, litter and sanitary waste.

DEVELOPMENT — The modification of land to accommodate a new use or expansion of use, usually involving construction.

DISTURBANCE OF LAND — Any action, including clearing and grubbing, that causes a change in the position, location, or arrangement of soil, sand, rock, gravel, or similar earth material.

ENVIRONMENTAL SITE MONITOR — A professional engineer or other trained professional selected by the Conservation Commission and retained by the holder of a stormwater and erosion control permit to periodically inspect the work and report to the Conservation Commission.

EROSION — The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.

EROSION AND SEDIMENTATION CONTROL PLAN — A document containing narrative, drawings and details developed by a registered professional engineer (P.E.) or a certified professional in erosion and sediment control (CPESC), which includes best management practices, or equivalent measures designed to control surface runoff, erosion and sedimentation during pre-construction and construction-related land disturbance activities. If a project requires a stormwater pollution prevention plan (SWPPP) per the NDPES General Permit for Stormwater Discharges from Construction Activities (and as amended), the applicant may submit the SWPPP for review as an equal to the erosion and sediment control plan.

ESTIMATED HABITAT OF RARE WILDLIFE AND CERTIFIED VERNAL POOLS — Habitats delineated for state-protected rare wildlife and certified vernal pools for use with the Wetlands Protection Act Regulations (310 CMR 10.00) and the Forest Cutting Practices Act Regulations (304 CMR 11.00).

GRADING — Changing the level or shape of the ground surface.

GRUBBING — The act of clearing land surface by digging up roots and stumps.

IMPERVIOUS SURFACE — Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and roof tops. Impervious surface also includes soils, gravel driveways, and similar surfaces with a runoff coefficient (Rational Method) greater than 85.

LAND-DISTURBING ACTIVITY or LAND DISTURBANCE — Any activity, including clearing and grubbing, that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material.

LOT — An area or parcel of land or any part thereof, in common ownership, designated on a plan filed with the administration of the Zoning Bylaw by its owner or owners as a separate lot.

MASSACHUSETTS ENDANGERED SPECIES ACT — MGL c. 131A and its implementing regulations at 321 CMR 10.00 which prohibit the "taking" of any rare plant or animal species listed as endangered, threatened, or of special concern.

MASSACHUSETTS STORMWATER MANAGEMENT POLICY — The policy issued by the Department of Environmental Protection, as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act, MGL c. 131, § 40, and the Massachusetts Clean Waters Act, MGL c. 21, §§ 23 through 56. The policy addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.

MUNICIPAL STORM DRAINAGE SYSTEM or MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) — The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Charlton.

NON-POINT SOURCE — Diffuse sources of pollutants that affect water quality and are or may be contained in runoff that is discharged into waters of the Commonwealth.

OPERATION AND MAINTENANCE PLAN — A plan describing the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management

system to ensure that it continues to function as designed.

OUTFALL — The point at which stormwater flows out from a discernible, confined point source or discrete conveyance into waters of the Commonwealth.

OUTSTANDING RESOURCE WATERS (ORWS) — Waters designated by Massachusetts Department of Environmental Protection as ORWs. These waters have exceptional sociologic, recreational, ecological and/or aesthetic values and are subject to more stringent requirements under both the Massachusetts Water Quality Standards (314 CMR 4.00) and the Massachusetts Stormwater Management Standards. ORWs include vernal pools certified by the Natural Heritage Program of the Massachusetts Department of Fisheries and Wildlife and Environmental Law Enforcement, all Class A designated public water supplies with their bordering vegetated wetlands, and other waters specifically designated.

OWNER — A person with a legal or equitable interest in property.

PERMITTEE — The person who holds a stormwater and erosion control permit and therefore bears the responsibilities and enjoys the privileges conferred thereby.

PERSON or PERSONS — Any individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

POINT SOURCE — Any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged.

PRE-CONSTRUCTION — All activity in preparation for construction.

PRIORITY HABITAT OF RARE SPECIES — Habitats delineated for rare plant and animal populations protected pursuant to the Massachusetts Endangered Species Act and its regulations.

REDEVELOPMENT — Development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface that results in no net impervious area increase.

RESPONSIBLE PARTIES — Owner(s), persons with financial responsibility, and persons with operational responsibility.

RUNOFF — Rainfall, snowmelt, or irrigation water flowing over the ground surface.

SEDIMENT — Mineral or organic soil material that is transported by wind or water, from its origin to another location; the product of erosion processes.

SEDIMENTATION — The process or act of deposition of sediment.

SITE — Any lot or parcel of land or area of property where land-disturbing activities are, were, or will be performed.

SLOPE — The incline of a ground surface expressed as a ratio of horizontal distance to vertical distance.

SOIL — Earth materials including duff, humic materials, sand, rock and gravel.

STABILIZATION — The use, singly or in combination, of mechanical, structural, or vegetative methods, to prevent or retard erosion.

STORMWATER — Stormwater runoff, snow melt runoff, and surface water runoff and drainage.

STORMWATER MANAGEMENT PLAN — A document containing narrative, drawings and details

prepared by a registered professional engineer (P.E.), which includes structural and nonstructural best management practices to manage and treat stormwater runoff generated from regulated development activity. A stormwater management plan also includes an operation and maintenance plan describing the maintenance requirements for structural best management practices. The stormwater management plan shall comply with all applicable Mass. DEP and Federal EPA requirements.

STORMWATER MANAGER — The Conservation Commission will serve in this capacity.

STRIP — Any activity which removes the vegetative ground surface cover, including tree removal, clearing, grubbing, and storage or removal of topsoil.

TSS — Total suspended solids, material, including but not limited to trash, debris, soils, sediment and sand suspended in stormwater runoff.

VERNAL POOLS — Confined basin depression which, at least in most years, holds water for a minimum of two (2) continuous months during the spring and/or summer, and which is free of adult fish populations, as well as the area within one hundred (100) feet of the mean annual boundary of such a depression, regardless of whether the site has been certified by the Mass. Division of Fisheries and Wildlife.

WATERCOURSE — A natural or man-made channel through which water flows, including a river, brook, or stream.

WETLAND RESOURCE AREA — Areas specified in the Massachusetts Wetlands Protection Act, MGL c. 131, § 40.

WETLANDS — Wet meadows, marshes, swamps, bogs, areas where groundwater, flowing or standing surface water or ice provide a significant part of the supporting substrate for a plant community for at least five (5) months of the year; emergent and submergent communities in inland waters; that portion of any bank which touches any inland water.

§ 175-3.Authority.

This bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and in accordance with the regulations of the federal Clean Water Act found at 40 CFR 122.34 and the Phase II ruling from the Environmental Protection Agency found in the December 8, 1999 Federal Register.

§ 175-4.Applicability.

This bylaw shall apply to all land-disturbing activities within the jurisdiction of the Town of Charlton that results in land disturbance of forty-three thousand five hundred sixty (43,560) square feet [one (1) acre] or more.

A. Regulated activities. Regulated activities shall include, but not be limited to:

(1) Land disturbance of greater than forty-three thousand five hundred sixty (43,560) square feet, associated with construction or reconstruction of structures.

(2) Development or redevelopment involving multiple separate activities in discontinuous locations or on different schedules if the activities are part of a larger common plan of development that all together disturbs forty-three thousand five hundred sixty (43,560) square feet or more of land.

(3) Paving or other change in surface material over an area of forty-three thousand five hundred sixty (43,560) square feet or more causing a significant reduction of permeability or increase

in runoff.

(4) Construction of a new drainage system or alteration of an existing drainage system or conveyance serving a drainage area of more than forty-three thousand five hundred sixty (43,560) square feet.

(5) Any other activity altering the surface of an area exceeding forty-three thousand five hundred sixty (43,560) square feet that will, or may, result in increased stormwater runoff flowing from the property into a public way or the municipal storm drainage system.

B. Exempt activities. The following activities are exempt from the requirements of this bylaw:

(1) Normal maintenance and improvement of Town-owned public ways and appurtenances.

(2) Normal maintenance and improvement of land in agricultural use.

(3) Repair of septic systems when required by the Board of Health for the protection of public health.

(4) The construction of fencing that will not alter existing terrain or drainage patterns.

(5) Construction of utilities other than drainage (gas, water, electric, telephone, etc.) that will not alter terrain or drainage patterns.

§ 175-5.Administration.

A. The Charlton Conservation Commission shall administer this bylaw. Any powers granted to or duties imposed upon the Conservation Commission may be delegated in writing to its agent.

B. The Conservation Commission and its agents shall review all applications for a stormwater and erosion control permit, conduct inspections, issue a final permit and conduct any necessary enforcement action. Following receipt of a completed application, the Conservation Commission shall seek review and comments from the Planning Board and the Highway Department. The Conservation Commission shall not make a decision on the stormwater and erosion control permit until it has received comments from the Planning Board and Highway Department or until fourteen (14) days have elapsed after receipt of the application materials without submission of comments thereon.

C. The Conservation Commission may adopt and periodically amend stormwater regulations relating to receipt and content of stormwater and erosion control permit applications; review time periods, permit terms, conditions, additional definitions, enforcement, fees (including application, inspection, and/or consultant fees), procedures and administration of this bylaw by majority vote of the Conservation Commission, after conducting a public hearing to receive comments on any proposed revisions. Such hearing dates shall be advertised in a newspaper of general local circulation, at least seven (7) days before the hearing date. After public notice and hearing, the Conservation Commission may promulgate rules and regulations to effectuate the purposes of this bylaw. Failure by the Conservation Commission to promulgate such rules and regulations shall not have the effect of suspending or invalidating this bylaw.

D. The Conservation Commission will refer to the policy, criteria and information, including specifications and standards of the latest edition of the *Massachusetts Stormwater Management Policy* for execution of the provisions of this bylaw.

E. The applicant will publish a notice in the local newspaper that the Conservation Commission is accepting comments on the stormwater and erosion control permit application. The stormwater and

erosion control permit application shall be available for inspection by the public during normal business hours at the Town Hall for five (5) business days from the notice. A public hearing is not required. The public may submit their comments within the time that the stormwater and erosion control permit application is available for inspection. Comments may be submitted to the Conservation Commission during business hours.

F. Filing an application for a stormwater and erosion control permit grants the Conservation Commission, or its agent, permission to enter the site to verify the information in the application and to inspect for compliance with permit conditions.

G. The Conservation Commission may:

(1) Approve the application and issue a permit if it finds that the proposed plan will protect water resources and meets the objectives and requirements of this bylaw;

(2) Approve the application and issue a permit with conditions, modifications, requirements for operation and maintenance requirements of permanent structural BMPs, designation of responsible party, or restrictions that the Conservation Commission determines are required to ensure that the project will protect water resources and will meet the objectives and requirements of this bylaw; or

(3) Disapprove the application and deny a permit if it finds that the proposed plan will not protect water resources or fails to meet the objectives and requirements of this bylaw. If the Conservation Commission finds that the applicant has submitted insufficient information to describe the site, the work, or the effect of the work on water quality and runoff volume, the Conservation Commission may disapprove the application, denying a permit.

H. The Conservation Commission shall take final action on an application within thirty (30) days from submission. Failure to take action shall be deemed to be approval of said application.

I. Appeals of action by the Conservation Commission. A decision of the Conservation Commission shall be final. Further relief of a decision by the Conservation Commission made under this bylaw shall be reviewable in the Superior Court in an action filed within ten (10) days thereof. The remedies listed in this bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

§ 175-6.Permits and procedures.

Permit procedures and requirements shall be defined and included as part of any rules and regulations promulgated as permitted under § 175-4 of this bylaw.

§ 175-7.Fees.

The Conservation Commission shall establish fees to cover expenses connected with application review and monitoring permit compliance. The fees shall be sufficient to cover Town secretarial staff and professional staff. The Conservation Commission is also authorized to retain and charge the applicant fees to cover a registered professional engineer or other professional consultant to advise the Conservation Commission on any or all aspects of the project. The applicant for a stormwater and erosion control permit may be required to establish and maintain an escrow account to cover the costs of said consultants. Applicants must pay review fees to the Conservation Commission before the review process may begin.

§ 175-8.Surety.

The Conservation Commission may require the permittee to post, before the start of land disturbance activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the

bond shall be approved by Town Counsel, and be in an amount deemed sufficient by the Conservation Commission to insure that the work will be completed in accordance with the permit. If the project is phased, the Conservation Commission may release part of the bond as each phase is completed in compliance with the permit, but the bond may not be fully released until the Conservation Commission has received the final report as required in the regulations and issued a certificate of completion.

§ 175-9.Waivers.

A. The Conservation Commission may waive strict compliance with any requirement of this bylaw or the rules and regulations promulgated hereunder, where such action:

(1) Is allowed by federal, state and local statutes and/or regulations;

(2) Is in the public interest; and

(3) Is not inconsistent with the purpose and intent of this bylaw.

B. Any applicant may submit a written request to be granted such a waiver. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of the bylaw does not further the purposes or objectives of this bylaw.

C. All waiver requests shall be discussed and a decision will be made by the Conservation Commission within thirty (30) days of receiving the waiver request.

D. If, in the Conservation Commission's opinion, additional time or information is required for review of a waiver request, the Conservation Commission may continue a consideration of the waiver request to a date certain announced at the meeting. In the event the applicant objects to a continuance, or fails to provide requested information, the waiver request shall be denied.

§ 175-10.Enforcement.

A. The Conservation Commission or its authorized agent shall enforce this bylaw, its regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

B. Orders. The Conservation Commission or its authorized agent may issue a written order to enforce the provisions of this bylaw or the regulations thereunder, which may include:

(1) A requirement to cease and desist from the land-disturbing activity until there is compliance with the bylaw or provisions of the stormwater and erosion control permit;

(2) Maintenance, installation or performance of additional erosion and sediment control measures;

(3) Monitoring, analyses, and reporting;

(4) Remediation of erosion and sedimentation resulting directly or indirectly from the land-disturbing activity;

(5) Compliance with the operation and maintenance plan.

(6) If the enforcing person determines that abatement or remediation of erosion and sedimentation is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Charlton may, at its option, undertake such work, and the property owner shall reimburse the Town's expenses.

(7) Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator (if different than the property owner) and the property owner shall be notified of the costs incurred by the Town of Charlton, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Conservation Commission within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Conservation Commission affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate, as provided in MGL c. 59, § 57, after the thirty-first (31st) day following the day on which the costs were due.

C. Criminal penalty. Any person who violates any provision of this bylaw, regulation, order or permit issued thereunder shall be punished by a fine of not more than three hundred dollars ($300). Each day or part thereunder that such violation occurs or continues shall constitute a separate offense.

D. Noncriminal disposition. As an alternative to criminal prosecution or civil action, the Town of Charlton may elect to utilize the noncriminal disposition procedure set forth in MGL c. 40, § 21D, which has been adopted by the Town in Chapter 10, Penalties, Article I, of the General Bylaws, in which case the Conservation Commission or authorized agent shall be the enforcing person. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

E. Tax liens. The Town of Charlton shall require the repayment of services provided to the responsible party which the responsible party was obligated to perform as put forth in the operation and maintenance plan. Such services may include but are not limited to the following: removing sediment from stormwater devices, repairing stormwater devices or revegetating stormwater devices. The Town will send the responsible party a bill for services provided. If the bill is not paid, the Town may impose a tax lien on the responsible party or parties' property.

§ 175-11.Severability.

If any provision, paragraph, sentence, or clause of this bylaw shall be held invalid for any reason, all other provisions shall continue in full force and effect.

ARTICLE II
Illicit Discharges

§ 175-12.Purpose.

A. Increased volumes of stormwater and contaminated stormwater runoff are major causes of: 1) impairment of water quality and reduced flow in lakes, ponds, streams, rivers, wetlands and groundwater; 2) contamination of drinking water supplies; 3) alteration or destruction of aquatic and wildlife habitat; and 4) flooding. The United States Environmental Protection Agency has identified land disturbance and polluted stormwater runoff as major sources of water pollution. Regulation of illicit connections and discharges to the municipal storm drainage system is necessary for the protection of the Town of Charlton's water bodies and groundwater resources and to safeguard the public health, safety, and welfare and the natural resources of the Town.

B. The objectives of this bylaw are:

(1) To prevent pollutants from entering the Town of Charlton's municipal storm drainage system;

(2) To prohibit illicit connections and unauthorized discharges to the municipal storm drainage

system;

(3) To require the removal of all such illicit connections;

(4) To comply with state and federal statutes and regulations relating to stormwater discharges; and

(5) To establish the legal authority for the Town of Charlton to ensure its compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.

§ 175-13.Definitions.

For the purposes of this bylaw, the following definitions shall apply:

CLEAN WATER ACT — Often referred to as the "CWA," the Clean Water Act is found in the Federal Water Pollution Control Amendment of 1972 (33 U.S.C. § 1251 et seq.), with subsequent amendments.

DISCHARGE OF POLLUTANTS — The addition from any source of any pollutant or combination of pollutants into the municipal storm drainage system or into the waters of the United States or Commonwealth from any source.

GROUNDWATER — Water beneath the surface of the ground, including confined or unconfined aquifers.

ILLICIT CONNECTION — A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drainage system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this bylaw.

ILLICIT DISCHARGE — Direct or indirect discharge to the municipal storm drainage system that is not composed entirely of stormwater, except as exempted in § 175-18. The term does not include a discharge regulated and in compliance with its own separate NPDES stormwater discharge permit or a surface water discharge permit, or resulting from fire-fighting activities exempted pursuant to § 175-18B of this bylaw.

MUNICIPAL STORM DRAINAGE SYSTEM or MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) — The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Charlton.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT — A permit issued by United States Environmental Protection Agency or jointly with the state that authorizes the discharge of pollutants to waters of the United States.

NON-POINT SOURCE — Diffuse sources of pollutants that affect water quality and are or may be contained in runoff that is discharged into waters of the Commonwealth.

NON-STORMWATER DISCHARGE — Discharge to the municipal storm drainage system not composed entirely of stormwater.

PERSON or PERSONS — Any individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

POINT SOURCE — Any discernible, confined, and discrete conveyance, including, but not limited to,

any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged.

POLLUTANT — Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heat, or other matter, whether originating at a point or nonpoint source, that is considered toxic to humans or the environment. Pollutants shall include, but not be limited to:

(1) Paints, varnishes, and solvents;

(2) Automotive oil and other fluids;

(3) Cleaning products and other hazardous and nonhazardous liquids.

(4) Solid waste, refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;

(5) Fats and oils and grease;

(6) Yard waste, pesticides, herbicides, and fertilizers;

(7) Poisons, hazardous materials and wastes;

(8) Sewage, fecal coliform and pathogens;

(9) Dissolved and particulate metals;

(10) Pet and animal wastes;

(11) Rock; sand; salt, soils;

(12) Construction wastes and residues; and

(13) Noxious or offensive matter of any kind.

PROCESS WASTEWATER — Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

SANITARY SEWER — The system of conveyances designed or used for collecting or conveying domestic and industrial wastewater, owned or operated by the Town of Charlton.

STORMWATER — Runoff from precipitation or snow melt.

SURFACE WATER DISCHARGE PERMIT — A permit issued by the Department of Environmental Protection pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.

TOXIC OR HAZARDOUS MATERIAL OR WASTE — Any material which, because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as toxic or hazardous under MGL c. 21C and c. 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

WASTEWATER — Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that, during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste

product.

WATERCOURSE — A natural or man-made channel through which water flows, or a stream of water, including, but not limited to, a river, brook or underground stream.

WATERS OF THE COMMONWEALTH — All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.

§ 175-14.Applicability.

This bylaw shall apply to all flows and dumping to the municipal storm drainage system, waters of the Commonwealth and adjoining land areas that drain to waters of the Commonwealth in the Town of Charlton.

§ 175-15.Authority.

This bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and in accordance with the regulations of the federal Clean Water Act found at 40 CFR 122.34 and the Phase II ruling from the Environmental Protection Agency found in the December 8, 1999 Federal Register.

§ 175-16.Administration.

The Conservation Commission shall administer, implement and enforce this bylaw. Any powers granted to the Conservation Commission may be delegated in writing to its designated agent.

§ 175-17.Regulations.

The Conservation Commission may promulgate rules and regulations to effectuate the purposes of this bylaw. Failure by the Conservation Commission to promulgate such rules and regulations shall not have the effect of suspending or invalidating this bylaw.

§ 175-18.Prohibited and exempt activities.

A. Prohibited activities.

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

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

(3) Obstruction of municipal storm drainage system. No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drainage system without prior written approval from the Conservation Commission or its agent.

B. Exemptions.

(1) Discharge or flow resulting from fire-fighting activities;

(2) The following non-stormwater discharges or flows are exempt from this bylaw, provided that the source is not a significant contributor of a pollutant to the municipal storm drainage system:

(a) Waterline flushing;

(b) Flow from potable water sources;

(c) Springs;

(d) Natural flow from riparian habitats and wetlands;

(e) Diverted stream flow;

(f) Rising groundwater;

(g) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;

(h) Discharge from landscape irrigation or lawn watering;

(i) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;

(j) Water from individual residential car washing;

(k) Discharge from dechlorinated swimming pool water [less than one (1) ppm chlorine], provided test data is submitted to the Town substantiating that the water meets the one (1) ppm standard, and the pool is drained in such a way as not to cause a nuisance or public safety issue and complies with all applicable Town bylaws;

(l) Discharge from street sweeping;

(m) Dye testing, provided verbal notification is given to the Conservation Commission prior to the time of the test;

(n) Non-stormwater discharge permitted under an NPDES permit or a surface water discharge permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and

(o) Discharge for which advance written approval is received from the Conservation Commission as necessary to protect public health, safety, welfare or the environment.

(3) Discharge or flow that results from exigent conditions and occurs during a state of emergency declared by any agency of the federal or state government, or by the Charlton Town Administrator, Board of Selectmen or Board of Health.

§ 175-19.Registration of sump pumps.

The owner of a sump pump discharging to the municipal storm drainage system shall register the discharge with the Conservation Commission by February 1, 2012. Procedures and requirements shall be defined and included as part of any rules and regulations promulgated as permitted under § 175-17 of this bylaw.

§ 175-20.Emergency suspension of storm drainage system access.

The Conservation Commission may suspend municipal storm drainage system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened

discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Conservation Commission may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

§ 175-21.Notification of spills.

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the Commonwealth, the person shall take all necessary steps to ensure containment and cleanup of the release. Procedures and requirements shall be defined and included as part of any rules and regulations promulgated as permitted under § 175-17 of this bylaw.

§ 175-22.Enforcement.

A. Authorized agent. The Conservation Commission or its authorized agent shall enforce this bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

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

C. Orders.

(1) The Conservation Commission or its authorized agent may issue a written order to enforce the provisions of this bylaw or the regulations thereunder, which may include:

(a) Elimination of illicit connections or discharges to the municipal storm drainage system;

(b) Performance of monitoring, analyses, and reporting;

(c) That unlawful discharges, practices, or operations shall cease and desist; and

(d) Remediation of contamination in connection therewith.

(2) If the enforcing person determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Charlton may, at its option, undertake such work, and all costs incurred by the Town shall be charged to the violator, to be recouped through all available means, including the placement of liens on the property.

(3) Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Conservation Commission within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Conservation Commission affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special

assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in MGL c. 59, § 57, after the thirty-first (31st) day at which the costs first become due.

D. Criminal penalty. Any person who violates any provision of this bylaw, regulation, order or permit issued thereunder shall be punished by a fine of not more than three hundred dollars ($300). Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

E. Noncriminal disposition. As an alternative to criminal prosecution or civil action, the Town of Charlton may elect to utilize the noncriminal disposition procedure set forth in MGL c. 40, § 21D, in which case the Conservation Commission or its authorized agent shall be the enforcing person. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

F. Entry to perform duties under this bylaw. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Conservation Commission, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this bylaw and regulations and may make or cause to be made such examinations, surveys or sampling as the Conservation Commission deems reasonably necessary.

G. Appeals. The decisions or orders of the Conservation Commission shall be final. Further relief shall be to a court of competent jurisdiction.

H. Remedies not exclusive. The remedies listed in this bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

§ 175-23.Severability.

The provisions of this bylaw are hereby declared to be severable. If any provision, paragraph, sentence, or clause of this bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this bylaw.

§ 175-24.Transitional provisions.

Residential property owners shall have sixty (60) days from the effective date of the bylaw to comply with its provisions or petition the Conservation Commission for an extension.

Chapter 180

STREETS AND SIDEWALKS

[HISTORY: Adopted by the Town Meeting of the Town of Charlton as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Moving of Buildings; Obstructions; Pasturing Animals
[Adopted as Art. XVII of the 2005 Bylaws]

§ 180-1.Moving buildings.

No building shall be moved over a public way without a permit from the Board of Selectmen and other regulating authorities as appropriated by law.

§ 180-2.Obstructions.

No persons, except those Town department employees performing their regular duties on behalf of the Town, shall place or cause to be placed in any of the public streets any dirt, rubbish, wood or timber or any other material of any kind, tending to obstruct the streets, without a written license from the Board of Selectmen.

§ 180-3.Pasturing animals.

No person shall pasture any animal upon any street or way in the Town, without a keeper, except within the limit of such way adjoining his own premises.

ARTICLE II
Removal of Snow from Rights-of-Way
[Adopted as Art. XIX of the 2005 Bylaws]

§ 180-4.Placement on public way prohibited.

No person shall plow or otherwise remove snow from private property onto a public way in such manner as to obstruct travel or snow removal operations on such way.

ARTICLE III
Removal of Snow and Ice from Sidewalks
[Adopted as Art. XXI of the 2005 Bylaws]

§ 180-5.Definitions.

The following words used in this bylaw shall have the following meanings, unless a contrary intention clearly appears:

OWNER OF LAND — The record owner of such land, and shall include any one record owner in the case of multiple ownership.

SIDEWALK — A sidewalk, whether paved or not, within the limits of a public way.

SUPERINTENDENT — The Superintendent of the Highway Department of the Town, or his/her designee.

§ 180-6.Duty to remove.

Except as provided in § 180-7 of this bylaw, every owner of land abutting a sidewalk shall cause all snow and ice to be removed to a width of not less than four (4) feet from the portion of the sidewalk abutting his/her land.

§ 180-7.Exception.

The provisions of § 180-6 of this bylaw shall not apply in any instance in which, due to weather conditions, snow or ice is evenly spread over a sidewalk and frozen thereto so that removal is impracticable, so long as such sidewalk is maintained in a reasonable safe condition by sanding or otherwise.

§ 180-8.Enforcement; violations and penalties.

The Superintendent shall enforce the provisions of this bylaw. Any owner who continues to violate any provision of this bylaw after twenty-four (24) hours following receipt by him/her of written notice of such violation from the Superintendent shall be liable to a penalty not exceeding fifty dollars ($50) for each offense. Each day that such violation continues after such twenty-four-hour period shall constitute a separate offense.

ARTICLE IV

Temporary Repair of Private Ways

[Adopted 5-13-2006 ATM by Art. 32 (Art. XLIII of the 2005 Bylaws)]

§ 180-9.Authority.

The Town may, subject to appropriation therefor, make temporary repairs on Town ways which have been opened to public use for six (6) years or more.

§ 180-10.Permitted repairs.

Such repairs shall include only:

A. Filling in holes and depressions in the surfaces and subsurfaces of such ways with suitable materials;

B. Oiling the surfaces of such ways;

C. Surfacing such ways with bituminous materials, including, but not limited to, bituminous concrete; and

D. Installing and constructing necessary drainage facilities.

§ 180-11.Conditions.

No such repairs shall be made unless:

A. Fifty-one percent (51%) of the owners of land abutting the way have petitioned the Selectmen for such repairs and have delivered to the Selectmen agreements in a form approved by the Town Counsel releasing the Town from any claims for damages caused by such repairs and covenanting not to sue the Town for any such damages; and

B. The Selectmen's designee has determined such repairs are required by public necessity. The Selectmen shall schedule such repairs based upon the amount of funds appropriated therefor. No betterment charges shall be assessed, and no cash deposit shall be required for such repairs.

§ 180-12.Liability of Town.

The liability limit of the Town on account of damages sustained by any person, other than an abutting owner, caused by such repairs shall be zero dollars ($0).

Chapter 185

VEHICLES AND TRAFFIC

[HISTORY: Adopted by the Town Meeting of the Town of Charlton as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Handicapped Parking; Fire Lanes
[Adopted as Art. XXX of the 2005 Bylaws]

§ 185-1.Handicapped parking.

A. Definitions. As used in this section, the following terms shall have the meanings indicated:

HANDICAPPED PARKING — Designated parking spaces for vehicles either owned and operated by disabled veterans or by handicapped persons and bearing distinctive number plates or placards authorized by MGL c. 90, § 2, or for vehicles transporting handicapped persons and displaying the special parking identification plate or placard authorized by said MGL c. 90, § 2, or for vehicles bearing the official identification of a handicapped person issued by any state or any Canadian province shall be provided in public and private off-street parking areas.

B. Any person or body that has lawful control of a public or private way or of improved or enclosed property used as an off-street parking area for a business, shopping mall, theater, auditorium, sporting or recreational facility, cultural center, or for any other place where the public has a right of access as invitees or licensees, shall reserve parking spaces in said off-street areas for any vehicle owned and operated by a disabled veteran or handicapped person whose vehicle bears the distinguishing license plate or placard authorized by said MGL c. 90, § 2, or for any vehicle transporting a handicapped person displaying the special identification plate or placard authorized by MGL c. 90, § 2, or for any vehicle bearing the official identification of a handicapped person issued by any state or any Canadian province, according to the following formula:

If the number of parking spaces in any such area is:	**Number of Required Handicapped Parking Spaces**
More than 15 but not more than 25	1
More than 25 but not more than 40	5% of such spaces but not less than 2
More than 40 but not more than 100	4% of such spaces but not less than 3
More than 100 but not more than 200	3% of such parking spaces but not less than 4
More than 200 but not more than 500	2% of such spaces but not less than 6
More than 500 but not more than 1,000	1 1/2% of such spaces but not less than 10
More than 1,000 but not more than 2,000	1% of such spaces but not less than 15
More than 2,000 but not more than 5,000	3/4% of 1% of such spaces but not less than 20
More than 5,000	1/2% of 1% of such spaces but not less than 30

C. Parking spaces designated as reserved under the provision of Subsection B, immediately above, shall be identified by the use of above grade signs with white lettering against a blue background and shall bear the words "HANDICAPPED PARKING: SPECIAL PLATE REQUIRED. UNAUTHORIZED VEHICLES MAY BE REMOVED AT OWNER'S EXPENSE"; shall be as

near as possible to a building entrance or walkway; shall be adjacent to curb ramps or other unobstructed methods permitting sidewalk access to a handicapped person; and shall be twelve (12) feet wide or two eight-foot-wide areas with four (4) feet of cross hatch between them. It shall be a violation of MGL c. 90, § 2, eighth paragraph, for a person to park a vehicle in the cross hatch areas.

D. The leaving of unauthorized vehicles within parking spaces designated for use by disabled veterans or handicapped persons or in such manner as to obstruct a curb ramp designated for use by disabled veterans or handicapped persons as a means of ingress or egress to a street or public way is hereby prohibited.

E. The penalty for violation of this bylaw shall be fifty dollars ($50) for the first offense, and one hundred dollars ($100) for the second and any subsequent offense. Nothing herein shall be construed as prohibiting the removal of any vehicle which is in violation of this bylaw in accordance with the provisions of MGL c. 266, § 120D.

F. This bylaw shall be enforced by the Town of Charlton Police Department. Penalties for violations may be enforced by a noncriminal disposition pursuant to MGL c. 40, § 21D, and Chapter 10, Penalties, Article I, of the Charlton General Bylaws.

§ 185-2.Fire lanes.

A. No person shall leave a vehicle or object, or allow to remain standing, whether attended or unattended, or allow it to remain live parked, within the limits of a private way or any place where the public has a right of access as invitees or licensees, which way or area has been designated by the Fire Chief as a fire lane or as furnishing a means of access for fire apparatus to any building.

B. The Fire Chief may require and prescribe the establishment of fire lanes whenever and wherever public safety or necessity in such Chief's opinion so requires and may prescribe the method by which it shall be done.

C. Fire lanes shall be marked by yellow lines, at least four (4) inches wide on a diagonal, from the point of origin to the curb or sidewalk. The legend "FIRE LANE" shall be included within the printed area. Signs with the legend "NO PARKING- FIRE LANE" may be required at the Fire Chief's discretion.

D. The penalty for violation of this bylaw shall be fifty dollars ($50) for the first offense, and one hundred dollars ($100) for the second or any subsequent offense. Nothing herein shall be construed as prohibiting the removal of any vehicle which is in violation of this bylaw, in accordance with the provisions of MGL c. 266, § 120D.

E. This bylaw shall be enforced by the Town of Charlton Police Department. Penalties for violations may be enforced by a noncriminal disposition pursuant to MGL c. 40, § 21D.

ARTICLE II
Driving Control
[Adopted 5-5-2007 ATM by Art. 20 (Art. XXXVI of the 2005 Bylaws)]

§ 185-3.Title and purpose.

A. This bylaw shall be known as the "Driving Control Bylaw" and shall further regulate driving on public Town ways and private ways open to public travel in the Town of Charlton.

B. The purpose of this bylaw is to encourage drivers to observe safer practices on Town ways for the protection of the general public, and to provide meaningful and effective enforcement mechanisms

to help achieve that purpose. Many of the substantive provisions below have been modeled on those of 720 CMR 9.06, which regulates driving on Commonwealth highways.

§ 185-4.Operation of vehicles.

A. Drive within marked lanes. When any roadway is divided into lanes, the driver of a vehicle shall so drive that the vehicle shall be entirely within a single lane, and he/she shall not move from the lane in which he/she is driving until he/she has first ascertained if such movement can be made with safety.

B. Use right lane. Upon all roadways, the driver of a vehicle shall drive in the lane nearest the right side of the roadway when said lane is available for travel, except when overtaking another vehicle or when preparing for a left turn.

C. Overtaking other vehicles. The driver of any vehicle overtaking another vehicle proceeding in the same direction shall pass at a safe distance to the left thereof, and shall not cut in ahead of such other vehicle until safely clear of it.

D. Overtake only when there is a space ahead. The driver of a vehicle shall not overtake and pass a vehicle proceeding in the same direction unless there is sufficient clear space ahead on the right side of the roadway to permit the overtaking to be completed without impeding the safe operation of any vehicle ahead or without causing the driver of any such vehicle to change his/her speed or alter his/her course, except as provided in Subsection E immediately below.

E. Vehicle being passed. Subject to the provisions of MGL c. 89, § 2, the driver of a vehicle when about to be overtaken and passed by another vehicle approaching from the rear shall give way to the right when practicable in favor of the overtaking vehicle, on suitable and visible signal being given by the driver of the overtaking vehicle, and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

[Note: MGL c. 89, § 2, as of the date of adoption of this bylaw provides as follows:[6]

"Except as herein otherwise provided, the driver of a vehicle passing another vehicle traveling in the same direction shall drive a safe distance to the left of such other vehicle; and, if the way is of sufficient width for the two vehicles to pass, the driver of the leading one shall not unnecessarily obstruct the other. Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on visible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

The driver of a vehicle may, if the roadway is free from obstruction and of sufficient width for two or more lines of moving vehicles, overtake and pass upon the right of another vehicle when the vehicle overtaken is (a) making or about to make a left turn, (b) upon a one-way street, or (c) upon any roadway on which traffic is restricted to one direction of movement."]

F. Obstructing traffic.

(1) No person shall drive in such a manner as to obstruct unnecessarily the normal movement of traffic upon any street or way. Officers are hereby authorized to require any driver who fails to comply with this Subsection F to drive to the side of the roadway and wait until such traffic as has been delayed has passed.

6.**Editor's Note: This section of state law was amended by St. 2008, c. 525, §§ 8, 9, so that the first clause now reads as follows: Except as herein otherwise provided, the driver of a vehicle passing another vehicle traveling in the same direction shall drive a safe distance to the left of such other vehicle <u>and shall not return to the right until safely clear of the overtaken vehicle</u>."**

(2) Subject to the provisions of MGL c. 89, § 11, no driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk and on the right half of the roadway to accommodate the vehicle he/she is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic control signal indication to proceed.

[Note: MGL c. 89, § 11, as of the date of adoption of this bylaw provides as follows:

"When traffic control signals are not in place or not in operation the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be so to yield, to a pedestrian crossing the roadway within a crosswalk marked in accordance with standards established by the department of highways if the pedestrian is on that half of the traveled part of the way on which the vehicle is traveling or if the pedestrian approaches from the opposite half of the traveled part of the way to within 10 feet of that half of the traveled part of the way on which said vehicle is traveling.

No driver of a vehicle shall pass any other vehicle which has stopped at a marked crosswalk to permit a pedestrian to cross, nor shall any such operator enter a marked crosswalk while a pedestrian is crossing or until there is a sufficient space beyond the crosswalk to accommodate the vehicle he is operating, notwithstanding that a traffic control signal may indicate that vehicles may proceed.

Whoever violates any provision of this section shall be punished by a fine of not more than $200.

Whenever a pedestrian is injured by a motor vehicle in a marked crosswalk, the department of state police or the municipal police department with jurisdiction of the street, in consultation with department of state police if deemed appropriate, shall conduct an investigation into the cause of the injury and any violation of this section or other law or ordinance and shall issue the appropriate civil or criminal citation or file an application for the appropriate criminal complaint, if any. This section shall not limit the ability of a district attorney or the attorney general to seek an indictment in connection with the operation of a motor vehicle which causes injury or death and which violates this section."]

G. Following too closely. The driver of a vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard to the speed of such vehicle and the traffic upon and condition of the way.

H. Slow vehicles to stay two hundred (200) feet apart. Upon ways less than twenty-seven (27) feet wide and upon which vehicular traffic is permitted to operate in both directions, the driver of any slow-moving commercial vehicle when traveling outside of a business or residential district shall not follow another slow-moving commercial vehicle within two hundred (200) feet, but this shall not be construed to prevent such slow-moving commercial vehicle from overtaking and passing another slow-moving commercial vehicle. The provisions of this Subsection H shall not apply to funerals or other lawful processions.

I. Care in starting, stopping, turning or backing, Except as otherwise provided in 720 CMR 9.08(3), the driver of any vehicle before starting, stopping, turning from a direct line, or backing shall first see that such movement can be made in safety. If such movement cannot be made in safety or if it interferes unduly with the normal movement or other traffic, said driver shall wait for a more favorable opportunity to make such a movement. If the operation of another vehicle should be affected by a stopping or turning movement, the driver of such other vehicle shall be given a plainly visible signal, as required by MGL c. 90, § 14B.

[Note: 720 CMR 9.08(3) as of the date of adoption of this bylaw provides as follows:

"Backing Prohibitions. No person shall back a vehicle for the purpose of gaining entrance to any express state highway off ramp. Exit from the highway shall be made only at succeeding exits. No person shall back a vehicle from any ramp which provides entrance or exit for an express state highway."]

[Note further: MGL c. 89, § 11, as of the date of adoption of this bylaw provides as follows:

"Every person operating a motor vehicle, before stopping said vehicle or making any turning movement which would affect the operation of any other vehicle, shall give a plainly visible signal by activating the brake lights or directional lights or signal as provided on said vehicle; and in the event electrical or mechanical signals are not operating or not provided on the vehicle, a plainly visible signal by means of the hand and arm shall be made. Hand and arm signals shall be made as follows:

1. An intention to turn to the left shall be indicated by hand and arm extended horizontally.

2. An intention to turn to the right shall be indicated by hand and arm extended upward.

3. An intention to stop or decrease speed shall be indicated by hand and arm extended downward.

Whoever violates any provision of this section shall be punished by a fine of not less than twenty-five dollars for each offense."]

J. Obedience to traffic control signals. Colors and arrow indications in traffic control signals shall have the commands ascribed to them in this Subsection J, including Subsections (1) through and including (8) below, and no other meanings, and every driver of a vehicle, railway car or other conveyance shall comply therewith, except when otherwise directed by an officer or by a lawful traffic regulating sign (other than a "stop" sign), signal or device or except as provided in Subsection X(2) below. In no case shall a driver enter or proceed through an intersection without due regard to the safety of other persons within the intersection, regardless of what indications may be given by traffic control signals.

(1) Green. While the green lens is illuminated, drivers facing the signal may proceed through the intersection, but shall yield the right-of-way to pedestrians and vehicles lawfully within a crosswalk or the intersection at the time such a signal was exhibited. Drivers of vehicles making a right or left turn shall yield the right-of-way to pedestrians crossing with the flow of traffic.

(2) Right, left and vertical green arrows. When a right green arrow is illuminated, drivers facing said signal may turn right. When a left green arrow is illuminated, drivers facing said signal may turn left. When a vertical green arrow is illuminated, drivers facing said signal may go straight ahead. When a green arrow is exhibited together with a red or yellow lens, drivers may enter the intersection to make the movement permitted by the arrow, but shall yield the right-of-way to vehicles proceeding from another direction on a green indication, and to pedestrians legally within a marked crosswalk.

(3) Yellow. While the yellow lens is illuminated, waiting drivers shall not proceed, and any driver approaching the intersection or a marked stop line shall stop at such point unless so close to the intersection that a stop cannot be made in safety; provided, however, that if a green arrow is illuminated at the same time drivers may enter the intersection to make the movement permitted by such arrow.

(4) Right and left yellow arrows. When yellow arrows are illuminated, drivers are warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection.

(5) Red. While the red lens is illuminated, drivers facing the signal shall stop outside of the intersection or at such point as may be clearly marked by a sign or line; provided, however, that if a green arrow is illuminated at the same time drivers may enter the intersection to make the movement permitted by such arrow.

(6) Right and left red arrows. Vehicular traffic facing a steady red arrow signal shall not enter the intersection to make the movement indicated by the arrow and, unless entering the intersection to make a movement permitted by another signal, shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then before entering the intersection, and shall remain standing until an indication permitting the movement indicated by such red arrow shown. Except when a sign is in place prohibiting a turn, vehicular traffic facing any steady red signal may cautiously enter the intersection to turn right, or to turn left from a one-way street into a one-way street, after stopping. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(7) Flashing red (stop signal). When a red lens is illuminated by rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a stop line when marked, and the right to proceed shall be subject to provisions of MGL c. 89, § 8.

[Note further: MGL c. 89, § 8, as of the date of adoption of this bylaw provides as follows:

"When two vehicles approach or enter an intersection of any ways, as defined in section one of chapter ninety, at approximately the same instant, the operator of the vehicle on the left shall yield the right-of-way to the vehicle on the right. Any operator intending to turn left, in an intersection, across the path or lane of vehicles approaching from the opposite direction shall, before turning, yield the right-of-way until such time as the left turn can be made with reasonable safety. Any operator of a vehicle entering a rotary intersection shall yield the right-of-way to any vehicle already in the intersection. The foregoing provisions of this section shall not apply when an operator is otherwise directed by a police officer, or by a traffic regulating sign, device or signal lawfully erected and maintained in accordance with the provisions of section two of chapter eighty-five and, where so required with the written approval of the department of highways and while such approval is in effect.

At any intersection on ways, as defined in section one of chapter ninety, in which vehicular traffic is facing a steady red indication in a traffic control signal, the driver of a vehicle which is stopped as close as practicable at the entrance to the crosswalk or the near side of the intersections or, if none, then at the entrance to the intersection in obedience to such red or stop signal, may make either (1) a right turn or (2) if on a one-way street may make a left turn to another one-way street, but shall yield the right-of-way to pedestrians and other traffic proceeding as directed by the signal at said intersection, except that a city or town, subject to section two of chapter eighty-five, by rules, orders, ordinances, or bylaws, and the department of highways on state highways or on ways at their intersections with a state highway, may prohibit any such turns against a red or stop signal at any such intersection, and such prohibition shall be effective when a sign is erected at such intersection giving notice thereof. Any person who violates the provisions of this paragraph shall be punished by a fine of not less than thirty-five dollars."]

(8) Flashing yellow (caution signal). When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

K. Lane-direction-control signals.

(1) When lane-direction-control signals are placed over the individual lanes of a street or highway, vehicular traffic may travel in any lane over which a green signal is shown, but shall not enter or travel in any lane over which a red signal is shown.

L. Lane control signals. When traffic control signals are located and operated over or adjacent to the individual lanes of a street or highway within an area designated as a lane traffic control area, vehicles shall be operated in obedience to the command given by the signal indication shown over or adjacent to the lane in which the vehicle is being operated. A lane traffic control area is that portion of a way designated by official traffic signs installed not less than one thousand (1,000) feet in advance of lane traffic control signal installations.

M. Obedience to isolated stop signs. Except when directed to proceed by a police officer, every driver of a vehicle approaching a stop sign or a flashing red signal indication shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After having stopped, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time when such driver is moving across or within the intersection or junction of roadways. This Subsection M shall not apply when the traffic is otherwise directed by an officer or by a lawful traffic-regulating sign, signal or device or as provided in Subsection X(3) below.

N. Obedience to "Yield" Signs. Every driver of a vehicle or other conveyance approaching an intersection of ways, where there exists facing him/her an official sign bearing the word "Yield," said sign having been erected in accordance with the written approval of the Mass. Highway Department to the extent legally required, and such approval being in effect, shall surrender to oncoming traffic his/her right to enter the intersection until such time as he/she has brought his/her vehicle or other conveyance to a complete stop at a point between the said "Yield" sign and the nearer line of the street intersection; provided, however, that this requirement to stop before entering the intersection shall not apply when a driver approaching a "Yield" sign can enter the intersection in safety without causing interference to approaching traffic. This Subsection N shall not apply when the traffic is otherwise directed by an officer or by a lawful traffic regulating sign, signal or device or as provided in Subsection X(3) below.

O. Sound horn when necessary. The driver of a vehicle shall give an audible warning with his/her horn or other suitable warning device whenever necessary to insure safe operation.

P. Keep to the right of roadway division. Upon such ways as are divided by a parkway, grass plot, reservation, viaduct, subway or by any structure or areas, drivers shall keep to the right of such division, and shall cross such parkway, grass plot or reservation only at a crossover. In the case of a way which has no crossovers, access to the adjoining roadway shall be gained only by the proper use of under or overpasses and ramps. The foregoing provisions shall not apply when drivers are otherwise directed by an officer, or official signs, signals or markings.

Q. Operation at under or over passes and at intersections with islands. At any junction or crossing of ways where the roadway grades have been separated and where the ways are connected by ramps, and at any intersection of ways in which there are channelizing islands, drivers of vehicles shall

proceed only as indicated by signs, signals or markings.

R. Driving on road surface under construction or repair. No operator shall enter upon the road surface of any way or section thereof when, by reason of construction, surface treatment, maintenance or the like, or because of some unprotected hazard, such road surface is closed to travel, and one or more signs, lights or signals have been erected to indicate that all or part of the road surface of the way is not to be used, or when so advised by an officer, watchman, member of a local or state highway crew or employee of the Police Department, or of the MA Highway Department if apt, either audibly or by signals.

S. No driving on sidewalks. The driver of a vehicle shall not drive upon any sidewalk except at a permanent or temporary driveway.

T. Emerging from alley or private driveway. The driver of a vehicle emerging from a private way, driveway or garage shall stop such vehicle immediately prior to driving upon the sidewalk area extending across such driveway or garage, and where no such sidewalk exists the stop shall be made at the building or property line as the case may be, and upon entering the way shall yield the right-of-way to vehicles approaching on the way.

U. Certain turns prohibited. The driver of a vehicle or other conveyance shall not make a turn from the way in which he/she is driving into another way or driveway, at any point in the way, where such a movement is prohibited by signs.

V. Driving or parking on channelizing island. No person shall drive over or park a motor vehicle upon any channelizing island, as defined in § 185-5 below, unless directed to do so by a police officer.

W. Obedience to traffic signs, signals and markings. The driver of any vehicle or of any street car shall obey the instructions of any official traffic control sign, signal, device, marking or legend unless otherwise directed by a police officer.

X. Rights and duties of drivers in funerals or other processions.

(1) It shall be the duty of each driver in a funeral or other procession to keep as near to the right edge of the way as is feasible and to follow the vehicle ahead as closely as practicable and safe.

(2) At an intersection where a traffic control signal is operating, the driver of the first vehicle in a funeral or other procession shall be the only one required to stop for a red or red and yellow indication.

(3) At an intersection where a lawful isolated stop sign or signal exists, the driver of the first vehicle in a funeral or other procession shall be the only one required to stop before proceeding through the intersection.

Y. Workers and equipment in way. Whenever traffic signs are erected or warning lights are displayed in or adjacent to a way to notify of the presence of workers and equipment, in such way every motorist shall regulate the speed of his/her vehicle in a manner and to a degree consistent with the particular condition.

Z. U-turns prohibited. No operator shall back or turn a vehicle so as to proceed in a direction opposite to that in which said vehicle is headed or traveling wherever signs notifying of such a restriction have been erected.

AA. Vehicle operation at crosswalks.

(1) Subject to the provisions of MGL c. 89, § 11, when traffic control signals are not in place or not in operation the driver of a vehicle, which for the purposes of this bylaw shall include bicycles, shall yield the right-of-way, slowing down or stopping if need be so to yield, to a pedestrian crossing the way within a marked crosswalk when the pedestrian is upon the half of the way upon which the vehicle is traveling or when the pedestrian approaches from the opposite half of the way to within five (5) feet of that half of the way upon which the vehicle is traveling.

(2) Subject to the provisions of MGL c. 89, § 11, no operator of a vehicle shall pass any other vehicle which has been stopped at a marked crosswalk to permit a pedestrian to cross a way, nor shall any operator enter a marked crosswalk until there is sufficient space on the other side of the crosswalk to accommodate the vehicle he/she is operating notwithstanding any traffic control signal indication to proceed.

BB. Operators to exercise due care. The provisions of this bylaw shall in no way abrogate the provisions of MGL c. 90, §§ 14 and 14A, which provide: "Precautions for safety of other travelers" and for the "Protection of blind persons crossing or attempting to cross ways." Furthermore, notwithstanding the provisions of this bylaw, every operator of a vehicle shall exercise due care to avoid colliding with any pedestrian upon the way and shall give warning by sounding the horn when necessary and shall exercise proper precautions which may become necessary for safe operation.

§ 185-5.Definitions.

For the purpose of this bylaw, the words and phrases used herein shall have the following meanings, except in those instances where the context clearly indicates a different meaning:

BICYCLE — Any wheeled vehicle propelled by pedals and operated by one (1) or more persons.

BUS — Every vehicle designed for carrying more than eight (8) passengers and used primarily for the transportation of persons either for compensation, as a service, or as an adjunct to a school program.

BUS STOP — An area in a way set aside for the boarding of or alighting from buses.

CAUTION SIGNAL — A flashing yellow signal having the same general function as a warning sign.

CHANNELIZING ISLAND — A traffic island located to guide traffic streams along certain definite paths and to prevent the promiscuous movement of vehicles in what would otherwise be a widely extended way area.

CHARLTON HIGHWAY DEPARTMENT — The Town of Charlton's Highway Department.

COMMERCIAL VEHICLE — Any vehicle registered for commercial purposes and designed and used primarily for the transportation of goods, wares or merchandise.

CONTAINER — Any drum, barrel, cylinder, bag, carboy or other shipping vessel (other than a tank vehicle) used for the transportation of dangerous articles.

CROSSOVER — An opening in a channelizing island that connects both sides of a divided way.

CROSSWALK — That portion of a way ordinarily included within the extensions of the sidewalk lines, or, if none then the footpath lines, and, at any place in a way, clearly indicated for pedestrian crossing by lines or markers upon the way surface.

CURB MARKING — That portion of a curbing which has been painted by the Charlton Highway Department or State Highway Department.

DEPARTMENT — The Town of Charlton Police Department unless otherwise specified.

DIVIDED WAY — A way with separated roadways for traffic in opposite directions.

EMERGENCY VEHICLE — Vehicles of the Fire Department (Fire Patrol), police vehicles and such ambulances and emergency vehicles of federal, state or municipal departments or public service corporations as are commonly recognized as such.

EXPRESS STATE HIGHWAY — A divided arterial highway of the Commonwealth for through traffic with full or partial control of access and generally with grade separations at intersections.

HIGHWAY — The entire width between property lines of any state highway or lawful through way designated by the MA Highway Department.

HIGHWAY TRAFFIC SIGNALS — Any power-operated traffic control device, except a sign, by which traffic is warned or is directed to take some specific action, and which has been erected by the Department or in conformance with the Department's *Manual on Uniform Traffic Control Devices*.

INTERSECTION — The area embraced within the extensions of lateral curblines, or, if none, then the lateral boundary lines, of intersection or intersecting ways as defined in MGL c. 90, § 1, including divided ways. This bylaw shall apply at any place along any way at which drivers are to be controlled by traffic control signals whether or not such place is an intersection as herein defined, subject to state law.

LANE — A longitudinal division of a way of sufficient width to accommodate the passage of a single line of vehicles, whether or not such lane is indicated by pavement markings or longitudinal construction joints.

LIMITED-ACCESS HIGHWAY — An express state highway with full control of access.

MA HIGHWAY DEPARTMENT — The Commonwealth of Massachusetts Department of Highways.

OFFICER — Any police officer or any officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

OFFICIAL SIGNS, SIGNALS, MARKINGS AND DEVICES — All signs, signals, markings and devices installed or maintained by the Town in conformance with the MA Highway Department's *Manual on Uniform Traffic Control Devices* or with approval of said Department where required, or by the MA Highway Department itself.

ONE-WAY WAYS OR STREETS — Ways designated by the Town, with the approval of the MA Highway Department where required by law, or by the MA Highway Department itself, as one-way and upon which vehicular traffic may move only in the direction indicated by signs.

PARKING — The stopping or standing of a vehicle whether occupied or not, otherwise than temporarily, except that a vehicle shall not be deemed parked when stopped or standing for the purpose of and while actually engaged in loading or unloading or in obedience to an officer or traffic control signs or signals, or while making emergency repairs or, if disabled, while arrangements are being made to move such vehicle.

PEDESTRIAN — Any person afoot or riding on a conveyance moved by human power, except bicycles or tricycles.

POLICE DEPARTMENT — The Town of Charlton Police Department unless otherwise indicated.

SIDEWALK — That portion of a way set aside for pedestrian travel.

STOP SIGNAL — A flashing red signal having the same function as a stop sign and erected by the Town in conformance with the Department's *Manual on Uniform Traffic Control Devices*, with the approval of

the MA Highway Department where required by law, or by the MA Highway Department itself.

STREET MARKING — Any painted line, legend, marking or marker of any description painted or placed on any way by the Town, with the approval of the MA Highway Department where required by law, or by the MA Highway Department itself, and which purports to direct or regulate traffic.

TOWN — Town of Charlton or its departments or agents unless otherwise specified.

TRAFFIC — Pedestrians, ridden or herded animals, vehicles, street cars or other conveyances either singly or together while using any way for the purpose of travel.

TRAFFIC CONTROL SIGNAL — A traffic signal which, through its indications, alternately directs traffic to stop and permits it to proceed and which has been erected by the Town in conformance with the MA Highway Department's *Manual on Uniform Traffic Control Devices*, or with the approval of said Department if required by law.

TRAFFIC ISLAND — Any area or space set aside, within a roadway, which is not intended for use by vehicular traffic.

TRAFFIC SIGNALS — Any power-operated traffic control device, except a sign, by which traffic is warned or is directed to take some specific action, and which has been erected by the MA Highway Department or in conformance with the Department's *Manual on Uniform Traffic Control Devices*, or with the approval of the MA Highway Department if required by law.

URBAN AREA or DOWNTOWN AREA — The territory contiguous to and including any street which is built up with structures devoted to business, industry or dwelling houses situated at intervals of less than one hundred (100) feet for a distance of a quarter of a mile or more.

U-TURN — The turning of a vehicle by means of a continuous left turn whereby the direction of such vehicle is reversed.

VEHICLE — Every device in, upon or by which any person or property is or may be transported or drawn upon a way, including bicycles when the provisions of this bylaw are applicable to them, except other devices moved by human power or used exclusively upon stationary rails or tracks and devices which derive their power for operation from stationary overhead wires.

WAY — That portion of a way between regularly established curblines or that part, exclusive of shoulders, improved and intended to be used for vehicular traffic.

[Editorial note: The above inclusion in this bylaw of the text of (as contrasted with references to) certain provisions of the Mass. General Laws and the Code of Mass. Regulations as they read as of the date of adoption hereof by Town Meeting is intended for informational purposes only, and any subsequent amendments to such statutory provisions, of which all persons as a matter of law are deemed to be on notice, shall apply, as shall any other, applicable law. Therefore, it is important that any person reading the bylaw also read the current version of such statutes in order to fully understand the applicable law.]

§ 185-6.Exemptions, enforcement and fines.

A. Exemptions. The provisions of this bylaw shall not apply to persons acting in conformity with the direction of an officer, to persons or drivers actually engaged in work upon a way closed to travel or under construction or repair when the nature of their work necessitates a departure from any part of the bylaw, to officers when engaged in the performance of public duties which necessitates a departure from any part of same, nor to drivers of emergency vehicles while operating in an emergency and in performance of public duties which necessitate a departure therefrom. These

exemptions shall not, however, protect the driver of any vehicle from the consequence of a reckless disregard of the safety of others, though the bylaw shall not be deemed to create any private cause of action by virtue of any such action or omission.

B. Owner prima facie responsible for violations. If any vehicle is found upon any way in violation of any provision of this bylaw and orders and the identity of the driver cannot be determined, the owner or the person in whose name such a vehicle is registered shall be held prima facie responsible for such violations.

C. Obedience to police. No person shall willfully fail or refuse to comply with any lawful order or direction of a police officer in regard to the direction, control or regulation of traffic. Any person acting in conformity with any such order or direction shall be relieved from the observance of any provision of this bylaw with which the order or direction may conflict.

D. Obedience to signs, etc. No person shall disobey the instructions of any official sign, signal, marking or marker.

E. Penalties. Unless otherwise specified herein or by the Mass. General Laws or state regulations promulgated thereunder, the penalty for any violation of this bylaw shall be a twenty-dollar ($20) fine for each offense. In the event of any conflict between the section and the Mass. General Laws or state regulations, such laws and regulations shall control.

F. Enforcing officers. This bylaw shall be enforced by any police officer.

G. Enforcement. This bylaw shall be enforced exclusively pursuant to the provisions of Chapter 90C of the Massachusetts General Laws.

§ 185-7.Selectmen rules and regulations; effect of bylaw.

The Town of Charlton Board of Selectmen is hereby authorized to adopt such rules and regulations, so long as inconsistent with neither the Mass. General Laws nor this bylaw, as it deems necessary or advisable for the purpose of effectuating the provisions of this bylaw. Nothing in this bylaw shall derogate from the authority of such Board to make rules and orders pursuant to MGL c. 40, § 22, nor from any other authority vested in the Town or its boards, commissions, departments, officers, employees or agents by any other provision of law, the provisions hereof being intended to be in addition to all such rather than to in any way limit same.

§ 185-8.Severability.

The invalidity of any part or parts of this bylaw shall not affect the validity of the remaining parts.

Chapter 190

WATER USE

[HISTORY: Adopted by the Town Meeting of the Town of Charlton as Art. XXII of the 2005 Bylaws. Amendments noted where applicable.]

ARTICLE I
Connections and Rates

§ 190-1.Connection to Town system required.

The owner of any building(s) upon land abutting a public or private way in which there is a common, Town-owned water line or main may, subject to capacity, to the availability of a sufficient volume of potable water and to any applicable rules, regulations, standards and procedures of the Water and Sewer Commissioners, connect such building(s) to such water line or main, provided that such owner disconnects such building(s) from any and all other water sources.

§ 190-2.Responsibility for payment of charges.

Persons connected to Town-owned water lines or mains shall pay for the water provided thereby at rates to be established by the Town's Water and Sewer Commissioners in accordance with applicable law (including, where applicable, regulations of the Massachusetts Department of Telecommunications and Energy), or until such time as Water and Sewer Commissioners are elected, by the Selectmen acting in their capacity of Water and Sewer Commissioners or otherwise.

§ 190-3.Severability.

If any provision of the within bylaw is held invalid by a court of competent jurisdiction or by the Attorney General, the remainder of such bylaw shall take effect and remain in effect to the maximum extent permitted by applicable law.

ARTICLE II
Water Use Restriction

§ 190-4.Authority.

This bylaw is adopted by the Town of Charlton under its police powers to protect public health and welfare and its powers under MGL c. 40, § 21 et seq., as well as under any other, applicable legal authority, including any general or special law, and implements the Town's authority to regulate water use pursuant to MGL c. 41, § 69B. This bylaw also implements the Town's authority under MGL c. 40, § 41A, conditioned upon a declaration of water supply emergency issued by the Department of Environmental Protection.

§ 190-5.Purpose.

The purpose of this bylaw is to protect, preserve and maintain the public health, safety and welfare whenever there is in force a State of Water Supply Conservation or State of Water Supply Emergency by providing for enforcement of any duly imposed restrictions, requirements, provisions or conditions imposed by the Town or by the Department of Environmental Protection.

§ 190-6.Definitions.

As used in this bylaw, the following terms shall have the meanings indicated:

PERSON — Any individual, corporation, limited-liability company, trust, partnership or association, or other entity.

STATE OF WATER SUPPLY CONSERVATION — A State of Water Supply Conservation declared by the Town pursuant to § 190-7 of this bylaw.

STATE OF WATER SUPPLY EMERGENCY — A State of Water Supply Emergency declared by the Department of Environmental Protection under MGL c. 21G, §§ 15 through 17.

WATER USERS or WATER CONSUMERS — All public and private users of the Town's public water system, irrespective of any person's responsibility for billing purposes for water used at any particular facility.

§ 190-7.Declaration of State of Water Supply Conservation.

The Town, through its Board of Water and Sewer Commissioners, may declare a State of Water Supply Conservation upon a determination by a majority vote of the Board that a shortage of water exists and conservation measures are appropriate to ensure an adequate supply of water to all water consumers. Public notice of a State of Water Supply Conservation shall be given under § 190-9 of this bylaw before it may be enforced.

§ 190-8.Restricted water uses.

A declaration of a State of Water Supply Conservation shall include one or more of the following restrictions, conditions, or requirements limiting the use of water as necessary to protect the water supply. The applicable restrictions, conditions or requirements shall be included in the public notice required under § 190-9.

A. Odd/Even day outdoor watering. Outdoor watering by water users with odd-numbered addresses is restricted to odd-numbered days. Outdoor watering by water users with even-numbered addresses is restricted to even-numbered days.

B. Outdoor watering ban. Outdoor watering is prohibited.

C. Outdoor watering hours. Outdoor watering is permitted only during daily periods of low demand, to be specified in the declaration of a State of Water Supply Conservation and public notice thereof.

D. Filling swimming pools. Filling of swimming pools is prohibited.

E. Automatic sprinkler use. The use of automatic sprinkler systems is prohibited.

§ 190-9.Public notification of State of Water Supply Conservation; notification of DEP.

Notification of any provision, restriction, requirement or condition imposed by the Town as part of a State of Water Supply Conservation shall be published in a newspaper of general circulation within the Town, or by such other means reasonably calculated to reach and inform all users of water of the State of Water Supply Conservation. Any restriction imposed under § 190-8 shall not be effective until such notification is provided. Notification of the State of Water Supply Conservation shall also be simultaneously provided to the Massachusetts Department of Environmental Protection.

§ 190-10.Termination of State of Water Supply Conservation; notice.

A State of Water Supply Conservation may be terminated by a majority vote of the Board of Water and Sewer Commissioners, upon a determination that the water supply shortage no longer exists. Public notification of the termination of a State of Water Supply Conservation shall be given in the same manner required by § 190-9.

§ 190-11.State of Water Supply Emergency; compliance with DEP orders.

Upon notification to the public that a declaration of a State of Water Supply Emergency has been issued by the Department of Environmental Protection, no person shall violate any provision, restriction, requirement, condition of any order approved or issued by the Department intended to bring about an end to the state of emergency.

§ 190-12.Violations and penalties.

Any person violating this bylaw shall be liable to the Town in the amount of fifty dollars ($50) for the first violation and one hundred dollars ($100) for each subsequent violation. Fines shall be recovered by indictment, or on complaint before the District Court, or by noncriminal disposition in accordance with MGL c. 40, § 21D. Each day of violation shall constitute a separate offense.

§ 190-13.Severability.

The invalidity of any portion or provision of this bylaw shall not invalidate any other portion or provision thereof.

ARTICLE III
Water Charges and Bills

§ 190-14.Due dates; rate of interest on unpaid balances.

All municipal charges and bills payable under this bylaw, with the exception of fees and charges as to which the bylaw requires immediate payment (by way of examples only, filing, inspection and connection fees), shall be due on the thirtieth (30th) day following the date of mailing of the bill or statement reflecting same, unless otherwise specifically provided by statute or other bylaw of the Town or by duly adopted rule or regulation of the Town's Water and Sewer Commissioners. Interest shall accrue and be payable on all amounts remaining unpaid after such due date at the maximum rate then in effect for unpaid assessments, rates and charges pursuant to MGL c. 59, § 57, as same may be amended from time to time, said rate as of the date of the initial adoption of the within section of this bylaw being fourteen percent (14%) per annum. (For the statutory authority for this section of the bylaw, see MGL c. 40, § 21E.)

PART IV: ZONING BYLAW

Chapter 200

ZONING

[HISTORY: Adopted by the Town Meeting of the Town of Charlton 4-4-1987, as amended through May 2011. Subsequent amendments noted where applicable.]

SECTION 1
Intent and Application

§ 200-1.1.Title.

This bylaw shall be known as the "Charlton Zoning Bylaw."

§ 200-1.2.Purpose.

The purpose of this bylaw is to promote the health, safety, convenience, amenity and general welfare of the inhabitants of the Town of Charlton, through encouraging the most appropriate use of the land as authorized by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts, as amended, with the objective as follows:

To preserve health; to secure safety from fire, flood, panic and other dangers; to lessen congestion in the streets and ways; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to recognize the need for housing for persons of all income levels; to facilitate the adequate provision of transportation, water, water supply, drainage, schools, parks, open space, and other public requirements; to preserve the value of land and buildings, including the conservation of natural resources, protection of aquifers, and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the Town, including consideration of Town plans and programs, and to preserve and increase amenities.

§ 200-1.3.Applicability.

When the application of this bylaw imposes greater restrictions than those imposed by any other bylaws, regulations, permits, restrictions, easements, covenants, or agreements, the provisions of this bylaw shall control.

§ 200-1.4.Severability.

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision herein.

§ 200-1.5.Amendments.

This bylaw may from time to time be changed by amendments, additions, or repeal by the Town Meeting in the manner provided in Chapters 40A and 808 of the Massachusetts General Laws, and any amendment therein.

§ 200-1.6.Repeal of prior enactments.

Upon its effective date, this bylaw shall repeal and be substituted for the following bylaws of the Town of Charlton: 1) the bylaw adopted under Article 17 of the warrant for the July 24, 1965 Special Town

Meeting and amended under Article 27 of the warrant for the May 31, 1979 Annual Town Meeting, 2) Sections 1, 2, 3, 4 and 5 of the bylaw adopted under Article 19 of the warrant for the April 4, 1981 Annual Town Meeting, 3) Sections 1, 2, 3, 4, 5, 6, and 7 of the bylaw adopted under Article 18 of the warrant for the April 2, 1983 Annual Town Meeting, and Section 2 of the bylaw adopted under Article 30 of the warrant for the April 5, 1986 Annual Town Meeting.

§ 200-1.7.Previous rights.

This bylaw, upon its effective date, shall not affect such rights or duties that have matured, penalties that were incurred, proceedings that were begun or appointments made before its effective date, pursuant to the previously effective bylaws, except as provided by Chapter 40A of the General Laws of Massachusetts.

SECTION 2
Definitions

§ 200-2.1.Uses and structures.

ACCESSORY APARTMENT

A. An accessory apartment is a dwelling unit constructed within and/or added onto an existing, one-family dwelling or attached garage. An accessory apartment contains a full bathroom, kitchen, living room, and bedroom. An accessory apartment shall not have more than one (1) bedroom. Only one (1) accessory apartment will be allowed within or added onto a one-family dwelling or its attached garage. The owner(s) of the residence in which or for which the accessory apartment is created shall occupy at least one (1) of the dwelling units on the premises, except for bona fide, temporary absences. The owner's dwelling unit shall not be rented during any such temporary absence.

B. An accessory apartment shall be designed to maintain the appearance of a single-family residence as to the one-family dwelling of which it is a part, and shall be clearly subordinate to the one-family dwelling. Any exterior entrance to the apartment shall be located on the side or rear of the one-family dwelling, or of its garage, and any additions containing the apartment, in whole or in part, shall not increase the square footage of the original structure of the one-family dwelling by more than five hundred (500) square feet. Accessory apartments may not be added to or expanded, and must be complete, separate housekeeping units that can be isolated from the original unit of the one-family dwelling. No more than two (2) persons may occupy an accessory apartment. For dwellings to be served by an on-site septic system, the owner must obtain written approval from the Board of Health before a building permit can be obtained for construction of the accessory apartment. This is to ensure that the existing sewage disposal system and water supply are adequate for the proposed accessory apartment.

ACCESSORY BUILDING — An accessory building is one which is subordinate or incidental to the main use of a building on a lot. The term "accessory building" when used in connection with a farm shall include all structures customarily used for farm purposes and they shall not be limited in size. [Amended 5-21-2012 ATM by Art. 28]

ACCESSORY USE — A land use which is subordinate and incidental to a predominant or main use. See § 200-3.2, Use regulations, Subsection B(8), Accessory uses, for accessory use listing per zoning districts. [Amended 5-21-2012 ATM by Art. 28]

ANIMAL OR VETERINARY HOSPITAL — Commercial facilities for keeping animals to be treated, in treatment or recovering from treatment in accord with normal veterinary practice as established by the Massachusetts Board of Registration, Veterinary Medicine. This definition shall not apply to educational

institutions of veterinary science.

BOARDINGHOUSE — A building with not more than five (5) guest rooms where lodging and meals are provided by the proprietor for compensation.

BUILDING — A structure enclosed within exterior walls or firewalls built, erected and framed of a combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals or property.

BUILDING AREA — Building area is the aggregate or the maximum horizontal cross-section area of the main building on the lot, excluding cornices, eaves, gutters or chimneys projecting not more than thirty (30) inches. Also excluded from building area are steps and one-story porches, decks, balconies and terraces.

DAY-CARE CENTER — A facility engaged in the regular daily care for remuneration of more than six (6) children who do not reside at the facility, and who are less than seven (7) years of age, or less than sixteen (16) years of age with special educational needs.

DISPOSAL AREA — The use of any area of land, whether inside or outside of a building, for the storage, keeping or abandonment of junk, scrap or discarded materials made or used by human beings, or the demolition or abandonment of automobiles or other vehicles, boats or machinery or parts thereof.

DORMITORY — A building or group of buildings designed or altered for the purpose of accommodating students or members of religious orders with sleeping quarters, with or without communal kitchen facilities, and administered by bonafide educational or religious institutions as defined by MGL c. 40A, § 3, and the cases thereunder. Dormitories include fraternity or sorority houses, convents, priories or monasteries, but do not include clubs and lodges. [Amended 5-21-2012 ATM by Art. 28]

DWELLING — A building or portion thereof designed exclusively for residential occupancy, including one-family, two-family, and multifamily dwellings, but not including hotels or boardinghouses.

DWELLING UNIT — One (1) or more rooms, whether or not containing an interior door in common with another dwelling unit, and containing cooking, sanitary, eating and sleeping facilities arranged for the use of one (1) or more persons; as distinguished from and not including boardinghouses, communes, dormitories, hotels, lodging houses and similar transient living accommodations; or trailer homes, mobile homes or trailer coaches or recreational vehicles outfitted with living accommodations.

DWELLING, MULTIFAMILY — A building designed for and occupied exclusively as a home or residence and containing three (3) or more dwelling units.

DWELLING, ONE-FAMILY — A detached building designed for and occupied exclusively as a home or residence and containing no more than one (1) dwelling unit.

DWELLING, TWO-FAMILY — A detached building designed for and occupied exclusively as a home or residence and containing two (2) dwelling units.

EXPOSURE — An exterior wall which faces a yard or courtyard whose minimum dimension shall be not less than fifty (50) feet.

FAMILY — An individual, two (2) or more persons related by blood or marriage, or a group of not more than five (5) persons who need not be so related, living as a single housekeeping unit.

FAMILY DAY-CARE HOME — A facility engaged in the regular daily care for remuneration of (6) six or fewer children who do not reside at the facility, and who are less than seven (7) years of age, or less than sixteen (16) years of age with special educational needs.

FARM — A tract of land in separate ownership devoted primarily to agricultural use, including the raising of livestock.

FAST-FOOD RESTAURANTS — Establishments selling food prepared for immediate consumption which is distributed to consumers in whole or in part, by means of automobile drive-up windows, counters or by employees delivering such food to automobiles. [Added 5-12-2012 ATM by Art. 28]

FIBER-OPTICS FACILITY — Manufacture or production of fiber-optic goods or products.

FLOOR AREA — The total area of the several floors of a building measured from the exterior building faces.

FRONTAGE — The continuous linear extent of a lot measured along the public street right-of-way from the intersection of one (1) side lot line to the intersection of the other side lot line of the same lot.

GARAGE, PRIVATE — A detached or attached accessory building for the parking or storage of vehicles belonging to the occupants of the premises.

GARAGE, PUBLIC — A building other than a private garage used for maintenance, repair or storage of automobiles or other vehicles for compensation.

HEAVY INDUSTRIAL USES — Uses of land whose primary products or activities are:

Ordnance and accessories	Petroleum refining
Meat packing and/or slaughtering	Paving materials
Textile dyeing and finishing	Processing of reclaimed rubber
Wool scouring	Fertilizer plant
Tannery	Sawmills
Ready-mix concrete	Stone quarry
Refractory concrete block and brick	Sand or gravel pits
Metal fabrication requiring the use of drop hammers or other similar noise-producing heavy equipment	Paper or pulp mills

HEIGHT OF BUILDING — The vertical distance from grade, which is the average ground level, to the top of the highest roof beams of a flat roof, or to the mean level of the highest gables or slope of a hip, pitch or sloped roof. When a building faces on more than one (1) street, the height shall be measured from the average of the grades at the center of each street front.

HOME OCCUPATION — An accessory use which is carried on by the permanent resident of a dwelling unit, with not more than two (2) nonresident employees, and only inside the dwelling with only customary home equipment used therein; further subject to the provisions that all materials and products of the occupation be stored only within the dwelling and accessory structures, no external alterations or structural changes not customary to a residential building are required; the home occupation is clearly incidental and secondary to the residential use, no products may be sold that are not incidental to the home occupation, and the occupation does not result in the production of offensive noise, vibration, heat, dust or other objectionable conditions such as on-street parking.

HOTEL/MOTEL — A building designed as the more or less temporary abiding place for more than twelve (12) persons or providing six (6) or more sleeping rooms in which lodging is provided with or without meals.

INSTITUTIONAL AND PHILANTHROPIC USES

A. Institutional and philanthropic uses are nonprofit social and educational activities, facilities and organizations which include the following:

Parish halls and other religious or semi-religious meeting places
Museums
Agricultural and horticultural societies
Historical societies
Literary societies, including libraries
Scientific societies
Fraternal societies
Charitable societies
Civic societies

B. Institutional and philanthropic uses shall not include:

Profit-making businesses and government or nonprofit institutions engaged in the treatment of physical and mental illnesses, diseases and disabilities

Profit-making business and government or nonprofit institutions engaged in psychological or social counseling or therapy

Residential quarters for groups or individuals in which psychological or social counseling or therapy is administered

LARGE-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATION — A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a minimum nameplate capacity of 250 kW DC.

LIGHT MANUFACTURING — Warehousing, assembly, fabrication, processing and reprocessing of materials, and food products, excepting that meat packing, pet food plants, tanneries and slaughterhouses are prohibited. Also prohibited are establishments that treat and/or process hazardous waste or hazardous materials. Light manufacturing may include the production of medical devices and pharmaceuticals. Further provided that storage of goods or materials shall not be permitted on any lot except in an appropriate enclosure and also in compliance with § 200-4.1E hereof.

LODGING HOUSE — A dwelling in which living space without cooking facilities is let for compensation to twelve (12) or fewer persons and provides not more than five (5) guest rooms for persons who are not within the second degree of kinship to the owner or operator as defined by civil law.

LONG-TERM CARE FACILITY — Any institution, whether conducted for charity or profit, which is advertised, announced or maintained for the express or implied purpose of providing three (3) or more individuals admitted thereto with long-term resident, nursing, convalescent or rehabilitative care; supervision and care incident to old age for ambulatory persons; or retirement home care for elderly persons. Long-term care facility shall include convalescent or nursing homes, rest homes, infirmaries maintained in towns and charitable homes for the aged. (Massachusetts Department of Public Health Regulations 105 CMR 151.000, effective February 6, 1980) [Amended 5-21-2012 ATM by Art. 28]

LOT — An area of land in one (1) ownership with definite boundaries ascertainable by recorded deed or plan and used or set aside and available for use as the site of one (1) or more buildings or for any other definite purpose.

LOT LINE — The property line bounding the lot.

LOT WIDTH — The linear distance from side lot line to side lot line measured along the front yard setback line. At no point, between the front lot line and the rear of the principal structure located on the

lot, shall the lot have a width less than two-thirds (2/3) of the minimum lot frontage required.

MAJOR RESIDENTIAL DEVELOPMENT — Five (5) or more dwelling units developed on a lot in single ownership, or on lots that were in single ownership in a five-year period prior to filing of an application for a building permit for any of the dwelling units.

MANUFACTURING — A use engaged in the basic processing and manufacturing of materials, or the manufacture from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products.

MOBILE HOME — A dwelling unit built on a chassis and containing complete electrical, plumbing and sanitary facilities and capable of being installed on a temporary or permanent foundation for use as temporary or permanent living quarters.

MOBILE HOME PARK — Any lot upon which two (2) or more mobile homes occupied for dwelling purposes are located.

NONCONFORMING USE OF STRUCTURE — A lawfully existing use of structure which conformed to the provisions of the zoning bylaw, if any, at the time it was established or constructed, but does not conform to the presently applicable requirements for the district in which it is located.

NURSING AND/OR CONVALESCENT HOME — Any institution, however named, whether conducted for charity or profit, which is advertised, announced or maintained for the express or implied purpose of caring for three (3) or more persons admitted thereto for the purpose of nursing or convalescent care.

PARKING AREA — An area other than a street used for temporary parking of more than four (4) automobiles or other types of vehicles.

PARKING SPACE — A space designed to be occupied by, and adequate to park a motor vehicle plus access thereto. Within a parking area, each parking space shall not be less than eight and one-half (8 1/2) by eighteen (18) feet in width and length.

PROFESSIONAL OFFICE — An office of recognized professions such as doctors, dentists, lawyers, engineers, artists, musicians, architects, designers, and others, who through training are qualified to perform services of a professional nature.

RESTAURANT — An establishment for the sale of prepared food, more than half (1/2) the dollar sales of which are for consumption on the premises and within a building.

RIDING STABLE — A riding stable, also sometimes called boarding stables, riding trails and riding academies, is a facility for the boarding and/or riding of horses and ponies. [See Use Regulation Schedule, § 200-3.2B(4), Recreational Use No. 7.]

SINGLE OWNERSHIP — An individual person, two (2) or more individuals, a group or association of individuals or a partnership or corporation, including an organization of unit owners under MGL c. 183A, having common individual interests in a tract of land and improvements thereon.

STREET — Any public way laid out for vehicular traffic or used as a public way for such traffic.

STRUCTURE — Any combination of materials assembled at a fixed location and requiring attachment to the land through pilings, footings, foundations and the like, to give support or shelter and/or provide for human habitation or use, such as a building, bridge, trestle, tower, framework, tank, tunnel, tent, stadium, reviewing stand, platform, bin, fence, sign, flagpole, swimming pool, or the like.

STRUCTURE ALTERATIONS — Any change in, or additions to, the structural or supporting members of a building or other structure as bearing walls, columns, beams or girders.

SUBSTANTIAL IMPROVEMENT

A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either:

   (1) Before the improvement or repair is started; or

   (2) If the structure has been damaged and is being restored, before the damage occurred.

B. The term does not include any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions.

TEMPORARY CONSTRUCTION OFFICE — A structure, building or trailer built on, or towed to, a site for the purpose of providing an on-site office in which to manage the construction of one (1) or more permanent structures or buildings.

TRAILER — A wheeled, roofed vehicle, without motor power, designed to be drawn by a motor vehicle and to be used for habitation, business or recreational use.

VARIANCE — A grant of relief from the requirements of this bylaw which use and construction in a manner that would otherwise be prohibited by the bylaw.

WAREHOUSE — A building used primarily for the storage of goods and materials or for distribution, but not for sale on the premises.

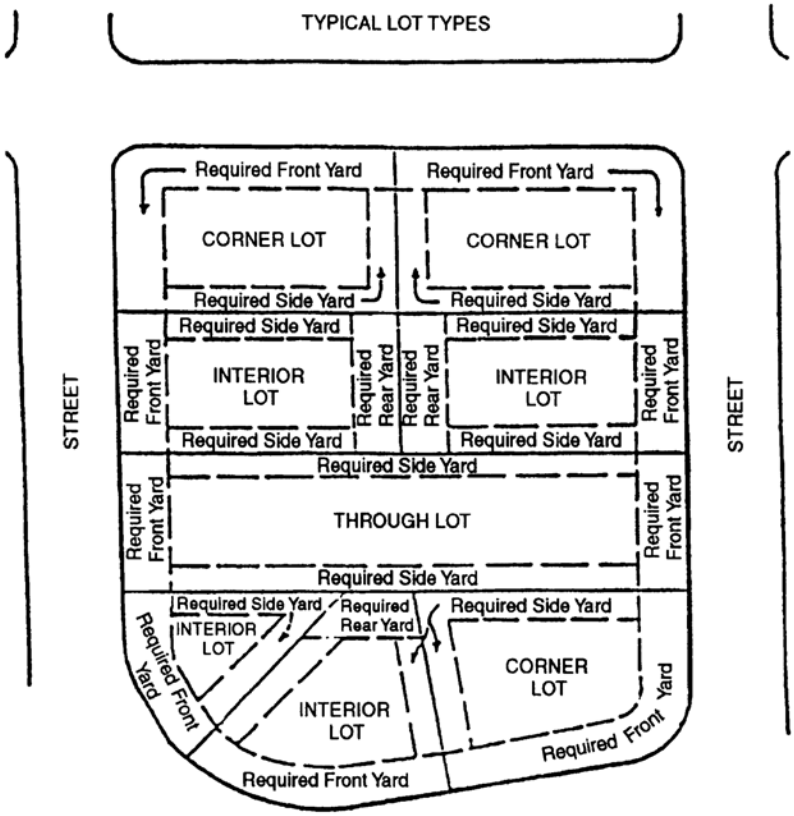
WIND ENERGY CONVERSION SYSTEM — Any device, such as a wind charger, windmill or wind turbine, which converts wind energy to a form of usable energy.

YARD, FRONT — An open, unoccupied space extending across the full width of the lot between the front most main building and the front lot line. The depth of the required front yard shall be measured perpendicular from the nearest point of the front lot line to the required front building set back line. (See diagram.)

YARD, REAR — An open unoccupied space extending across the full width of the lot between the most rear main building and the rear lot line. The depth of the required rear yard shall be measured perpendicularly from the nearest point of the rear lot line to the required rear building setback line. (See diagram.)

YARD, SIDE — An open, unoccupied space between the main building and side lot line, extending from the front yard to the rear yard. The width of the required side yard shall be measured perpendicularly from the nearest point of the side lot line to the required side building setback line. (See diagram.)

DIAGRAM SHOWING REQUIRED YARDS



§ 200-2.2.Floodplain.

AREA OF SPECIAL FLOOD HAZARD — The land in the floodplain subject to a one-percent or greater chance of flooding in any given year.

BASE FLOOD — The flood having a one-percent chance of being equaled or exceeded in any given year.

DEVELOPMENT — Any human-made or -caused change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving excavation or drilling operations located within the special flood hazard.

FLOOD or FLOODING — A general and temporary condition of partial or complete inundation of normally dry land area from:

A. The overflow of inland water; and/or

B. The unusual and rapid accumulation of runoff of surface waters from any source.

FLOOD INSURANCE RATE MAP (FIRM) — The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the Town of Charlton.

FLOOD INSURANCE STUDY — The official report provided in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Boundary-Floodway Map and the water

surface elevation of the base flood.

FLOODWAY — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

NEW CONSTRUCTION — Structures for which the start of construction commenced on or after the effective date of the establishment of the Floodplain District provisions contained in Section 6 of this bylaw.

SECTION 3
Use and Intensity Regulations

§ 200-3.1.Zoning districts.

A. Establishment. The Town of Charlton is hereby divided into the following zoning districts.

Title	**Short Name**
Agricultural	A
Low Density Residential	R-40
Residential - Small Enterprise	R-SE
Neighborhood Business	NB
Village	V
Community Business	CB
Industrial - General	IG
Business Enterprise Park	BEP
Floodplain	FP
Adult Entertainment	AE
Wireless Telecommunication Facilities	WCF

B. Zoning Map. The boundaries of the districts are defined and bounded on the map entitled "Town of Charlton Zoning Map" dated March 3, 1987, on file with the Town Clerk. That map and all explanatory matter thereon is hereby made a part of this bylaw, together with any amendments adopted by vote of the Town Meeting. Upon adoption the Zoning Map shall also be the Official Town Map.

C. District boundaries. Boundaries of zoning districts indicated on the Zoning Map as approximately following or terminating at a Town limit or lot line, or street, railroad, or stream center lines shall be construed to be actually at those lines. Boundaries indicated as at a numerically noted distance from a street line shall be construed to be actually parallel to, and located such distance in feet from such street line. When not locatable in any other way, boundaries shall be determined by scale from the map.

D. Divided lots. Where boundary of a zoning district divides a lot having frontage on a street in a less restricted district, the provisions of this bylaw covering the less restricted portion of the lot may extend not more than twenty-five (25) feet within the lot beyond the district boundary. Where the boundary of a district divides a lot having frontage on a street in a more restricted district, the provisions of this bylaw covering the more restricted portion of the lot shall extend to the entire lot. For the purposes of this section, the districts in descending order from more restricted to less restricted are: Floodplain, Agricultural, Low Density Residential, Residential - Small Enterprise, Neighborhood Business, Community Business, Business Enterprise Park and Industrial General.

E. District intents and purposes.

(1) Agricultural (A): to provide for agricultural and lowest density residential sites while at the same time encouraging open space, preserving or enhancing views, protecting the character of the historic rural and agricultural environs, preserving or enhancing visual landscapes, recognizing site and area limitations for on-site wastewater disposal systems in terms of drainage, soil suitability, proximity to surface and aquifer and other subsurface water resources, and slope.

(2) Low Density Residential (R-40): to provide sites for low-density residential development with respect to the existing character of the neighboring homes and properties, including compatible related home-oriented activities and pursuits in a rural environment.

(3) Residential - Small Enterprise (R-SE): to provide sites for a mixture of medium- and low-density residential uses and small-scale commercial and light industrial uses appropriate to an existing mill village.

(4) Neighborhood Business (NB): to provide sites for small-scale business development for local and transient services compatible with low- and medium-density residential development within village settings which, through landscaping and design or through preservation, enhance the natural landscaping and historic environs; at the same time protecting any existing views, minimizing the visibility of parked cars, avoiding the appearance of commercial strips as well as congestion in the abutting streets and ways, and retaining the character and the quality of life in the rural New England village.

(5) Community Business (CB): to provides sites for businesses that serve the entire Town and people and traffic passing through the Town, and which, through proper siting, landscaping and design, create amenities and avoid, to the maximum extent possible, the appearance of commercial strips, and adverse impacts on abutting streets and uses.

(6) Industrial - General (IG): to provide sites for industry which create employment opportunities and capitalizes on the use of Charlton's access and environmental conditions and labor force, while recognizing the limitations of Charlton to handle traffic, water runoff, sewage, and other environmental and neighborhood impacts.

(7) Business Enterprise Park (BEP) (replaced IP May 2003): to provide parcels of land zoned as industrial parks, where "compatible industries" are encouraged to locate in a parklike setting. Such industries shall be "abutter friendly"; that is, they shall impact abutting lands minimally as to sight, sound, odor and traffic. Allowed uses include a mix of manufacturing, research and development, office, distribution, and other compatible uses which offer an opportunity for employment growth and an expansion of the tax base in the Town of Charlton.

(8) Floodplain (FP): to insure the minimization of flood damage and to minimize any impediment to the natural flow of flood waters. This applies to all zones.

(9) Adult Entertainment (AE): to provide an area where adult entertainment uses are allowed and regulated.

(10) Wireless Telecommunication Facilities (WCF): to provide locations where wireless communication facilities are allowed, but regulated to minimize their aesthetic impacts as much as practicable.

(11) Village (V): to promote mixed-use development consistent with traditional New England villages, to provide pedestrian-scale amenities to encourage small-scale retail uses commercial services in harmony with a residential environment, and to offer flexibility in design standards that recognizes strict adherence to well-intended regulations can inhibit the

originality needed to preserve and create vigorous village environments.

§ 200-3.2.Use regulations.

A. General. Buildings and other structures shall be erected or used and premises shall be used only as set forth in the "Use Regulation Schedule" except as exempted by § 200-3.4 or by statute. Symbols employed on the "Use Regulation Schedule" shall mean the following:

Y A permitted use

P A use whose exercise is subject to regulation by means of a site plan review and approval.

N An excluded or prohibited use

SP A use permitted under special permit granted by the Planning Board

B. Use Regulation Schedule.

	Districts							
Principal Uses	**A**	**R-40**	**R-SE**	**NB**	**V**	**CB**	**IG**	**BEP**
(1) **Agricultural, Floriculture and Horticultural Uses**								
(a) Raising and keeping of livestock, including but not limited to horses, cattle, sheep, goats, swine, fur animals and poultry, on a parcel over five (5) acres	Y	Y	Y	Y	Y	Y	Y	Y
(b) Raising and keeping livestock, including but not limited to horses, cattle, sheep, goats, swine, fur animals and poultry, on a parcel of five (5) or fewer acres	Y	Y	P	P	P	P	N	N
(c) Raising of crops, whether for sale or personal consumption, on a parcel of any size	Y	Y	Y	Y	Y	Y	Y	Y
(d) Indoor commercial horticulture/floriculture establishments (e.g., greenhouses)	Y	Y	Y	Y	Y	Y	Y	Y
(2) **Residential Uses** [Amended 5-21-2012 ATM by Art. 28]								
(a) Dwellings, one-family	Y	Y	Y	Y	Y	Y	N	N
(b) Accessory apartments	Y	Y	Y	Y	Y	Y	N	N
(c) Dwellings, two-family	N	Y	Y	Y	Y	Y	N	N
(d) Multifamily dwellings (see § 200-5.1)	N	P	P	N	SP	N	N	N
(e) Lodging and/or boarding houses	P	P	P	P	P	P	N	N

Principal Uses	Districts A	R-40	R-SE	NB	V	CB	IG	BEP
(f) Mobile homes, mobile home parks or trailers for human habitation. (See special regulations in § 200-5.2.)	N	N	N	N	N	N	N	N
(g) Major residential development	P	P	P	P	P	P	N	N
(h) Dwelling units over first floor commercial uses	N	N	P	P	P	N	N	N
(i) In one- and two-family dwellings, a mix of residential and commercial uses	N	N	P	P	P	P	N	N
(3) **Public and Semi-Private Uses**								
(a) Public, private, sectarian or denominational schools (nonprofit)	P	P	P	P	P	P	P	P
(b) Day-care centers	P	P	P	P	P	P	P	SP
(c) Family day-care homes	P	P	P	P	P	P	P	P
(d) Religious uses	P	P	P	P	P	P	P	P
(e) Nursing and/or convalescent homes	P	P	P	P	P	P	N	N
(f) Hospitals and clinics for in- and out-patient care (nonprofit)	P	P	P	P	P	P	SP	SP
(g) Community and/or neighborhood centers	P	P	P	P	P	P	N	N
(h) Other institutional and philanthropic uses	P	P	P	P	P	P	N	N
(i) Cemeteries	P	P	P	P	P	P	N	N
(j) Other municipal uses voted by Town Meeting	P	P	P	P	P	P	P	P
(4) **Recreational Uses**								
(a) Standard golf and par-3 golf courses	Y	Y	P	P	N	P	N	N
(b) Golf driving ranges and miniature golf courses	P	N	P	P	N	P	N	N
(c) Other recreational facilities conducted for gainful profit, including indoor and outdoor theaters, physical fitness centers, health clubs and indoor and outdoor tennis and racquetball facilities	P	N	N	P	P	Y	SP	SP
(d) Massage parlors	N	N	N	N	N	N	N	N
(e) Private membership clubs	P	P	P	Y	Y	Y	SP	N
(f) Picnic and beach areas	Y	P	P	Y	Y	Y	N	N
(g) Riding stables and/or boarding, horse riding trails, and riding academies	P	P	P	N	N	P	N	N
(h) Camp grounds	Y	P	P	P	N	P	N	N
(i) Other private predominantly open recreational areas	Y	P	P	P	N	P	N	N

Principal Uses	Districts A	R-40	R-SE	NB	V	CB	IG	BEP
(j) Public recreational facilities	P	P	P	P	P	P	N	N
(5) **Business Uses** [Amended 5-21-2012 ATM by Art. 28]								
(a) Retail establishments serving the convenience goods needs of a local area, including but not limited to: grocery, delicatessen, baker, supermarket, drugstores and similar uses, having less than twenty thousand (20,000) square feet of gross building area	N	N	P	P	P	P	SP	N
(b) Retail establishments serving the convenience goods needs of a local area, including but not limited to: grocery, delicatessen, baker, supermarket, drugstores and similar uses, having twenty thousand (20,000) square feet or more of gross building area	N	N	N	N	SP	P	SP	N
(c) Auction galleries	P	P	Y	Y	N	Y	SP	N
(d) Flea markets	P	P	Y	Y	N	Y	SP	N
(e) Hotels or inns	N	N	N	P	P	Y	SP	SP
(f) Motel or motor courts	N	N	N	P	N	Y	SP	N
(g) Personal and consumer services establishments, including but not limited to: barber shops, shoe and leather repair, beauty shops, laundry or dry-cleaning establishments and laundromats	N	N	Y	Y	Y	Y	P	N
(h) Fast-food restaurants	N	N	N	N	N	P	P	N
(i) Restaurants	P	N	P	P	P	P	SP	N
(j) Other eating and drinking establishments, most notably known as bars and grills	N	N	P	P	SP	Y	SP	N
(k) Offices of licensed medical and dental practitioners limited to general outpatient care and diagnosis	N	N	P	P	P	Y	P	N
(l) Business, professional and general offices with less than twelve thousand (12,000) gross square feet of floor area per structure	N	N	Y	Y	P	Y	P	N
(m) Business, professional and general offices with twelve thousand (12,000) or more gross square feet of floor area per structure	N	N	Y	Y	SP	Y	P	P
(n) Gasoline service stations	N	N	N	N	N	P	P	N
(o) Fuel oil dealers and stations	N	N	N	N	N	P	P	N

Principal Uses	Districts A	R-40	R-SE	NB	V	CB	IG	BEP
(p) Car-wash establishments	N	N	N	N	N	P	P	N
(q) Banks	N	N	P	P	P	P	P	N
(r) Services most notably known as "automatic teller machine" (ATM), whether freestanding or accessory	N	N	N	P	P	P	P	P
(s) Funeral homes	P	P	P	P	N	Y	SP	N
(t) Animal kennels or animal hospitals	P	N	P	P	N	P	Y	N
(u) Schools (for profit)	N	N	P	P	P	Y	SP	N
(v) Hospitals and clinics for in- and outpatient care (for profit)	P	P	P	P	N	P	SP	N
(w) Storage trailers — units designed and used solely for storage not habitation; such trailers may be used as a nonconstruction site office	N	N	N	N	N	P	N	N
(x) Adult entertainment establishments as per § 200-5.9 of this bylaw								
[1] Adult bookstore	N	N	N	N	N	N	SP[1]	N
[2] Adult motion-picture theater	N	N	N	N	N	N	SP[1]	N
[3] Adult paraphernalia	N	N	N	N	N	N	SP[1]	N
[4] Adult video store	N	N	N	N	N	N	SP[1]	N
[5] Adult live entertainment establishment	N	N	N	N	N	N	SP[1]	N
(6) **Communications, Transportation and Public Utility Uses**								
(a) Communications tower for federally licensed amateur radio operator, limited to seventy-five (75) feet in height, and requiring a minimum distance between the base of the tower and the property boundary line and/or any residential structure to be equal to the height of the tower, including any aerials or antennas that may be mounted on the tower	SP[3]	SP[3]	SP[3]	SP[3]	SP[3]	SP[3]	SP[3]	SP
(b) Wireless communications facilities as per § 200-5.10 of this bylaw	SP[2]	SP[2]	SP[2]	SP[2]	N	SP[2]	SP[2]	SP
(c) Bus or railroad passenger terminals	N	N	N	N	N	N	P	SP
(d) Rail terminals, including rail freight yards or freight terminals	N	N	N	N	N	N	P	SP
(e) Truck terminals, truck freight yards or freight terminals	N	N	N	N	N	N	P	SP

Principal Uses	Districts A	R-40	R-SE	NB	V	CB	IG	BEP
(f) Commercial aircraft landing areas								
[1] Airport or aircraft landing area for fixed-wing flying craft	N	N	N	N	N	N	P	N
[2] Helicopter aircraft or gyroplane landing area	P	N	N	N	N	N	P	N
(g) New automobile sales and/or new truck sales and/or rental establishments	N	N	P	N	N	P	P	N
(h) Used automobile sales and/or used truck sales	N	N	P	N	N	P	P	N
(i) Independent storage areas or parking areas, automobile parking garages for five (5) or more automobiles	N	N	P	P	N	P	P	SP
(j) Electric generating facilities with less than or equal to fifty (50) megawatts of power output	N	N	N	N	N	P	P	N
(k) Electric generating facilities with more than fifty (50) megawatts of power output	N	N	N	N	N	N	N	N
(l) Gas/Gasoline transmission facilities	N	N	N	N	N	P	P	P
(m) Electric distribution stations or substations	P	P	P	P	N	P	P	P
(n) Wind energy conversion systems	P	P	P	P	N	P	P	P
(o) Taxi or limousine service and other vehicles for hire with drivers and having no more than three (3) vehicles and containing no more than nine (9) passengers in any one (1) vehicle	N	N	P	Y	P	Y	Y	N
(p) Taxi or limousine service and other vehicles for hire with drivers and having four (4) or more vehicles and containing no more than nine (9) passengers in one (1) vehicle	N	N	N	N	N	P	P	N
(q) Water storage tanks, for public water systems as defined by 310 CMR 22.02, provided that the height of the structure shall not exceed seventy-five (75) feet, that any portion of the structure shall not be less than three hundred (300) feet from any residential structure, and that the distance from the base at ground level of any tank to any property or street line be equal to twice the height of the tank. Neither the minimum lot size specified in § 200-3.2D nor any other minimum lot size shall apply to such use.	Y	Y	Y	Y	P	Y	Y	P
(r) Pumping stations, for public water systems as defined by 310 CMR, provided that any portion of the structure shall not be less than three hundred	Y	Y	Y	Y	P	Y	Y	P

Principal Uses	Districts A	R-40	R-SE	NB	V	CB	IG	BEP
(300) feet from any residential structure. Neither the minimum lot size specified in § 200-3.2D nor any other minimum lot size shall apply to such use, provided that the minimum setback from lot lines specified in § 200-3.2D or a setback equal to the height of the pumping station structure, whichever is greater, shall apply.								
(s) Natural gas distribution stations, substations, and piping, provided that any portion of the structure (not including dwelling service pipe) shall not be less than three hundred (300) feet from any residential structure and that the minimum lot size and setbacks shall not be less than required in § 200-3.2D. A variance may be granted by the Zoning Board of Appeals. All gas storage tanks in such facilities shall be subsurface.	P	P	P	P	N	P	P	P
(t) Large-scale ground-mounted solar photovoltaic installations	P	P	P	P	P	P	P	P
(7) **Industrial and Warehouse Uses** [Amended 5-21-2012 ATM by Art. 28]								
(a) Light manufacturing establishments. Storage of goods or materials shall not be permitted on any lot except in an appropriate enclosure and also in compliance with § 200-4.1E hereof.	N	N	P	N	N	N	P	P
(b) Biotechnology	N	N	N	N	N	N	N	SP
(c) Fiber optics facilities	N	N	N	N	N	N	N	SP
(d) Medical research and development	N	N	N	N	N	N	N	SP
(e) The following research and development or office uses:								
[1] Scientific or research laboratories	N	N	P	P	P	P	P	P
[2] Offices for technical, executive, professional or administrative uses	N	N	P	P	P	P	P	P
(f) Sawmills, lumber and building materials establishments	N	N	N	N	N	P	P	N
(g) Automobile and/or truck repair garages	N	N	P	N	N	P	P	N
(h) Scrap metal and other materials storage yards, including scrap automobiles and trucks	N	N	N	N	N	N	SP	N
(i) Land and water recreation vehicle (including boats) sales and service and storage yards	N	N	P	N	N	P	P	N

Principal Uses	Districts A	R-40	R-SE	NB	V	CB	IG	BEP
(j) Public storage areas or buildings such as those for road salt and sand and municipal vehicles	P	P	P	P	N	P	P	N
(k) Stone, sand and/or gravel processing operations	N	N	N	N	N	P	P	N
(l) Hazardous waste disposal sites	N	N	N	N	N	N	N	N
(m) Resource recovery plants	N	N	N	N	N	N	N	N
(8) **Accessory Uses** [Amended 5-21-2012 ATM by Art. 28]								
(a) Customary home occupations conducted as a gainful business, provided that all parking for such businesses shall be provided on the premises where the home occupations are conducted; and further provided that all products thereof are produced or sold on the premises. (See definition of "home occupation" in § 200-2.1.)	Y	Y	Y	Y	Y	Y	Y	N
(b) Accessory professional office in a dwelling conducted by the resident occupant, provided that all parking for such professional services shall be provided on the premises where the professional offices are located	Y	P	P	Y	Y	Y	Y	N
(c) Accessory buildings such as a private garage, playhouse, greenhouse, tool shed and private swimming pool	Y	Y	Y	Y	Y	Y	Y	N
(d) Trailers for office and storage use only during construction. The trailer for office/storage use shall not be used for habitation. These temporary on-site construction office/storage trailers may be located on the building site upon issuance of a building permit and must be removed within fourteen (14) days after an occupancy permit has been issued.	Y	Y	Y	Y	Y	Y	Y	Y
(e) Food services as accessory use to serve employees of and visitors to principal use	P	P	P	P	P	P	P	P
(f) Fitness centers as accessory use to serve employees of principal use	P	P	P	P	P	P	P	P
(g) Personal and consumer services as accessory use to serve employees of principal use	N	N	N	N	N	N	N	P
(h) Day-care center or any child-care facility including day care and family care as accessory use to serve employees of principal use	SP	SP	SP	SP	SP	SP	SP	SP
(i) Emergency power back up facility with less than	P	P	P	P	P	P	P	P

Principal Uses	Districts A	R-40	R-SE	NB	V	CB	IG	BEP
or equal to thirty (30) megawatts of power output								
(j) Helicopter or gyroplane landing area as accessory use to serve business and/or industries in district	N	N	N	N	N	N	N	SP

NOTES:

[1] Adult entertainment establishments are only allowed in locations identified in § 200-5.9 of this bylaw.

[2] Wireless communication facilities are only allowed in locations identified in § 200-5.10 of this bylaw.

[3] A federally licensed amateur radio operator may be allowed to construct a communications tower in this district, subject to a special permit issued by the Planning Board, upon application made by following the procedure in § 200-7.1H(2) of the Charlton Zoning Bylaw. Criteria for granting said special permit shall be based solely on that which is allowed under MGL c. 40A, § 3. [Amended 5-21-2012 ATM by Art. 28]

C. Special rules.

(1) Vehicle access to major residential developments shall be adequate to service the traffic that such developments will generate. Applicants for site plan approval and for special permits for such developments shall submit a traffic and engineering study showing the vehicle access conditions on Town of Charlton and private streets over which vehicles must travel, on the shortest route, to get to the development from a state highway. The study shall identify all conditions of road surface, curvature, grade, drainage, driver sight distance and roadway and pavement width on all such streets. The study shall also contain an evaluation by a professional engineer, registered in the State of Massachusetts, of the adequacy of the streets and access to handle the estimated vehicular traffic that will be generated with the development fully occupied.

(a) The Planning Board, in considering an application for site plan approval, and the Zoning Board of Appeals, in considering such an application for a special permit, may determine that such vehicle access to a major residential development is not adequate, and may use that determination as a reason to refuse to grant said site plan approval or special permit. In making its determinations, the Planning Board and Zoning Board of Appeals may seek the advice of other Town officials, such as the Superintendent of Highways, Fire Chief, and Police Chief, and may also seek advice from experts in traffic and roadway engineering.

(b) The Planning Board and Zoning Board of Appeals may make their approvals of site plans and special permits, respectively, contingent on the execution of the terms of written agreements, voluntarily entered into between the permit-issuing authority and applicants, that bind the applicants to remedy the substandard vehicle access conditions at their own expense. In addition to these provisions, all requirements of Charlton's Subdivision Regulations must be met in obtaining site plan approval and/or a special permit. [Amended 5-21-2012 ATM by Art. 28]

(2) Business Enterprise Park and Industrial - General buffers. In Business Enterprise Park and Industrial - General Zoning Districts, a landscaped strip twenty (20) feet in width shall be

created and maintained along the lot frontage on a road. In addition, a landscaped strip one hundred (100) feet in width shall be created and maintained along any lot boundary that abuts an R-40 or an Agriculture District, or an Historic District. The landscaping shall be of plant materials that provide a year-round screening of the view of any industrial or commercial buildings or their appurtenances from the abutting residential zoning district or historic district. Passive uses, such as recreation, septic systems and wells shall be allowed within the buffer area, provided that the year-round screening is maintained; however, detention ponds are not allowed.

(3) Outside bulk storage, contractor's yards, disposal areas or areas of open storage related to manufacturing, processing, warehousing, wholesale trade or a public utility facility shall be screened from an adjacent residential use, a residential district, and street by a solid stockade fence at least six (6) feet in height or densely planted trees or shrubs at least six (6) feet or more in height, or be equivalently obscured by natural vegetation on a year-round basis. No more than fifty percent (50%) of a lot may be used for outdoor storage. [Amended 5-21-2012 ATM by Art. 28]

(4) A home occupation shall not include the services of more than two (2) employees not resident on the premises.

(5) Uses customarily accessory to a residence shall include the occasional sale of used household goods, a motor vehicle, or a boat or trailer of a resident.

D. Intensity of Use Schedule.

Zoning District	**Minimum Lot Area (square feet)**	**Minimum Lot Width and Contiguous Street Frontage (feet)**	**Minimum Front Yard (feet)**	**Minimum Side Yard (feet)**	**Minimum Rear Yard (feet)**	**Maximum Building Coverage (% of lot)**	**Maximum Building Height (feet)**
Agricultural A	60,000	175	30	15	30	25	36
Low Density Residential R-40	40,000[1]	150	30	15	15	30	36
Residential - Small Enterprise R-SE	40,000[1,3]	150	30	15	15	30[4]	36
Neighborhood Business NB	20,000[1]	100	40	15	15	30	36

Village V[7]	10,000[8]	75	10[9]	10	10	60[10]	36
Community Business CB	40,000[1]	150	40	15	15	30	36
Industrial General IG	- 40,000	150	40	35[2]	35[2]	40	36
Business Enterprise Park BEP	80,000	260	50[5]	50[5]	50[5]	33	36[6]

NOTES:

[1] An additional twenty thousand (20,000) square feet of contiguous land area is required for each dwelling unit beyond the first dwelling unit and fifty (50) feet of additional lot frontage plus twenty (20) feet for each dwelling unit beyond two (2). This requirement shall apply to two-family and multifamily dwellings, but shall not apply to accessory apartments.

[2] Side and rear yards shall each be at least seventy (70) feet when abutting any residential or agricultural district.

[3] In an R-SE Zone, a twenty thousand (20,000) square foot lot requires a sewer connection. Without a sewer connection, the minimum lot size is forty thousand (40,0000 square feet.

[4] No building in an R-SE Zone may exceed twenty thousand (20,000) square feet in gross floor area.

[5] In Business Enterprise Park Districts, buildings shall be set back a minimum of fifty (50) feet from the front lot line. Parking lots shall be set back a minimum of twenty (20) feet from the front lot line, or a minimum of thirty (30) feet from the front lot line if the front lot line abuts a state-numbered route, and they shall not be located within the required side or rear yards, nor within the required buffer area.

[6] To accomplish the purposes of the Village District, the Planning Board may authorize by special permit a reduction of front, side and rear setback standards for new or preexisting structures. The Board must find that the required setbacks would result in, or have resulted in, construction of structures that are not in keeping with the area's scale and character. The Board must further find that the relaxation of said standards will not interfere or negatively impact abutting properties, particularly property used or zoned for residential purposes.

[7] In Village Districts, the minimum lot size is ten thousand (10,000) square feet for lots served by the municipal sewer system and twenty thousand (20,000) square feet for lots without a sewer connection.

[8] In order to maintain a strong sense of streetscape, in the Village District there is also established a maximum front setback of twenty-five (250 feet.

[9] The maximum impervious coverage of the lot (buildings, parking, access drives, etc.) shall not exceed eighty percent (80%).

§ 200-3.3.Intensity regulations.

A. General. Buildings or structures shall be erected or used and premises shall be used only as set forth in the "Intensity of Use Schedule" (§ 200-3.2D), except as exempted by statute.

B. Supplementary requirements.

(1) No building or structure shall exceed thirty-six (36) feet in height; except that spires, water tanks, communications towers, chimneys, flag poles, and other structures normally built above the roof and not devoted to human occupancy may be erected to such heights as are necessary to accomplish the purposes they are normally intended to serve. Towers for wireless communication facilities (WCF) may not exceed one hundred fifty (150) feet in height except as allowed in § 200-5.10, and a communications tower for a federal licensed amateur radio operator may not exceed seventy-five (75) feet in height. [Amended 5-21-2012 ATM by Art. 28]

(2) No fence, wall, hedge, shrubbery or other obstruction shall be permitted to block vision between two and one-half (2 1/2) feet and eight (8) feet above the street grade on a corner lot within a triangular area formed by the intersecting street lines and a straight line which joins points on such street lines twenty (20) feet from their intersection.

(3) No structure other than a dock or boathouse shall be located within thirty (30) feet of the normal bank of any river or stream having a year-round running flow of water, or of any lake or pond containing one thousand (1,000) square feet or more of water eleven (11) months of the year, or of mean high water.

(4) No accessory building shall be located within any required front or side yard. No accessory building shall be located within any required rear yard, except for a building accessory to a one- or two-family dwelling, and shall not be located closer than ten (10) feet to a lot line.

(5) Two-thirds (2/3) of the total land area of every building lot must be free from wetlands as defined in the Massachusetts Wetland Protection Act as most recently revised and other conditions which make building impossible or hazardous. However, where a building lot contains a contiguous upland area equal to two-thirds (2/3) of the minimum lot size required in that district, the lot shall be exempt from the provisions of this section. No such lot shall be further subdivided so that the contiguous upland area is reduced to less than two-thirds (2/3) of the minimum lot size required by this section.

(6) In districts where accessory apartments are permitted, no dwelling unit shall contain more than one (1) accessory apartment.

(7) Retaining walls on lots are required to have at least a five-foot setback from front, rear and side lot lines.

C. Special cases.

(1) Where two (2) or more principal structures are erected on the same lot, adequacy of access utility service, and drainage serving each structure shall be functionally equivalent to that required for separate lots in the Planning Board's adopted Subdivision Regulations; the minimum lot area, width, and frontage shall be the sum of the requirements for each structure; and the minimum distance between such structure shall be the height of the higher building.

(2) Where no street line has been established or can be readily determined, such line shall be assumed to be thirty (30) feet from the center of the traveled roadway for the purpose of applying these regulations.

(3) Projections of not more than three (3) feet are permitted in required yards for architectural features of a building, such as stairs, chimneys, cornices, eaves or canopies, but not for bay windows or other enclosed habitable projections.

(4) Any structure located on a corner lot shall be set back from all streets a distance equal to the front yard setback requirement in the district.

§ 200-3.4.Nonconforming conditions.

A. Lots. A lot that does not conform to the intensity requirements of this bylaw shall be governed by the following provisions:

(1) Such lot shall not be built upon unless it meets the criteria contained in MGL c. 40A, § 6, or Subsection A(2) herein.

(2) Any lot lawfully laid out by plan or deed duly recorded, as defined in MGL c. 41, § 81L, or any lot shown on a plan endorsed with the words "Approval Under the Subdivision Control Law Not Required" or words of similar meaning and import, pursuant to MGL c. 41, § 81P, which complies at the time of such recording or such endorsement, whichever is earlier, with the minimum area, frontage, width and depth requirements, if any, of the Charlton Zoning Bylaws in effect in the Town of Charlton where the land is situated, notwithstanding the amendment of provisions of the Zoning Bylaw imposing minimum area, frontage, width, depth or yard requirements, or more than one (1) such requirement, in excess of those in effect at the time of such recording or endorsement; (1) may thereafter be built upon for residential use if, at the time of adoption of such requirements or increased requirements, or while building on such lot was otherwise permitted, whichever occurs later, such lot was held in ownership separate from that of adjoining land located in the same district, or (2) may be built upon for residential use for a period of five (5) years from the date of such recording or such endorsement, whichever is earlier, if, at the time of the adoption of such requirements or increased requirements, such lot was held in common ownership with that adjacent land located in the same district; and further provided in either instance, at the time of building (A) such lot has an area of seven thousand five hundred (7,500) square feet or more and a frontage of fifty (50) feet or more in a district zoned for residential use, and conforms except as to area, frontage, width, and depth with the applicable provisions of the Charlton Zoning Bylaw in effect in the Town, and (B) any proposed structure is to be located on such lot so as to conform with the minimum requirements of front, side, and rear yard setback, if any, in effect at the time of such recording or such endorsement, whichever is earlier, and to all other requirements for such structure in effect at the time of building.

(3) The land shown on a definitive subdivision plan or a preliminary subdivision plan which is followed within seven (7) months by a definitive plan shall be governed by the zoning in effect when the plan is first submitted in accordance with MGL c. 40A, § 6. The use of land

shown on an Approval Not Required plan shall be governed by the zoning in effect when the plan is first submitted in accordance with MGL c. 40A, § 6.

(4) No such lot may be changed in size or shape so that a nonconformity with the provisions of this bylaw is increased in degree or extent, or a violation created, except by a public taking of a portion of the lot. [Amended 5-21-2012 ATM by Art. 28]

B. Structures. A lawfully existing structure which does not conform to the requirements of the bylaw may continue. Any reconstruction, extension, structural change or alteration of such structure shall be governed by the following:

(1) Any reconstruction, extension or structural changes to a lawfully nonconforming structure shall conform with the provisions of this bylaw and to any proposed amendment for which first notice of the public hearing has been published.

(2) If a nonconforming structure devoted to a conforming use is destroyed by fire or other catastrophe, it may be repaired or rebuilt, provided that the restoration is commenced within twelve (12) months, and completed within twenty-four (24) months of the catastrophe, and no nonconformity with the provisions of this bylaw is increased in degree of extent or a violation created. Otherwise, it may be repaired or rebuilt only in conformity with the provisions of this bylaw.

(3) Any alteration of a lawfully existing nonconforming structure shall conform with the provisions of this bylaw or to any proposed amendment to it if the alteration is begun after the first notice of the required public hearing has been published, when the alteration will provide for the use of the structure as follows:

(a) For a substantially different purpose;

(b) For the same purpose in a substantially different manner; or

(c) For the same purpose to a substantially different degree.

(4) Any alteration, reconstruction, extension or structural change to a single-family or two-family residential structure shall not be permitted if there will be an increase in the nonconforming nature of the structure.

(5) Changes in nonconforming structures devoted to nonconforming uses shall be governed by Subsection C of this section.

C. Uses. Any lawful existing use of a structure or land which does not conform to the provisions of this bylaw may continue. Any change or substantial extension of such use shall be governed by the following:

(1) Any change or substantial extension of a lawfully existing nonconforming use of a structure or land shall conform with the provisions of this bylaw and to any proposed amendment to it for which first notice of the required public hearing has been published. Such change or extension in an R-40 or an A District shall not exceed fifty percent (50%) of the land area occupied by the principal structure at the time such uses become nonconforming. Nor shall such change or extension cause the use to be more nonconforming in terms of the Intensity of Use Schedule (§ 200-3.2D).

(2) Any extension to the use of a nonconforming structure shall be governed by Subsection B(3) of this section.

(3) Any nonconforming structure or use which has been abandoned for a period of two (2) years shall not be reestablished except in conformance with this bylaw.

(4) If a structure or group of structures devoted to a nonconforming use is damaged or destroyed for fire or other catastrophe, it may be repaired or rebuilt and the use restored, provided that the restoration is commenced within twelve (12) months and completed within twenty-four (24) months of the catastrophe. Otherwise, it may be repaired or rebuilt only in conformance with the provisions of this bylaw.

(5) Preexisting nonconforming structures or uses may be extended, altered, or changed by special permit, provided that the Zoning Board of Appeals finds that the extension, alteration, or change will not be substantially more detrimental than the existing nonconforming use of the structure. Notwithstanding any other provisions of these bylaws, the alteration, reconstruction, extension or structural change (collectively "alteration") of a preexisting, nonconforming single-family or two-family residential structure will be deemed not to increase the nonconforming nature of such a structure, and shall be permitted as of right, if the structure is nonconforming solely because of insufficient frontage or lot area, or both, and the proposed change shall meet all dimensional requirements for front setback, side and rear setbacks, building coverage, lot coverage, maximum floors and maximum height.

SECTION 4
General Regulations

§ 200-4.1.Performance standards.

A. No land, building or structure shall be used or occupied in any district in the Town of Charlton except in conformance with the standards contained herein.

B. Except as herein provided, all use and conditions of land, buildings and structures shall be in conformance with the *Regulations as Amended for the Control of Air Pollution in Central Massachusetts Air Pollution Control District*, adopted by the Bureau of Air Quality Control, Division of Environmental Health, Department of Public Health, Commonwealth of Massachusetts, as amended to become effective September 1, 1972, and amendments thereto. Enforcement of the regulations is provided for in Regulation 52.1 and amendments thereto.

C. Heat, glare and vibration. No heat, glare or vibration shall be discernible from the outside of any structure. In no case shall vibration be permitted which is discernible to the human sense of feeling for three (3) minutes or more duration in any one (1) hour of the day between the hours of 7:00 a.m. and 7:00 p.m., or of thirty (30) seconds or more duration in any one (1) hour between the hours of 7:00 p.m. and 7:00 a.m.

D. Waste disposal, water supply and water quality. Massachusetts General Laws and Regulations of the State Department of Public Health shall be met and, when required, approval shall be indicated on the approved site plan. In no case shall discharge cause the waters or land of the receiving body to exceed the limits assigned by the Commonwealth of Massachusetts, Water Resource Commission, Division of Water Pollution Control as published and entitled "*Water Quality Standards*," filed with the Secretary of State on March 6, 1967, and amendments thereto, in its most recent edition, for streams and water bodies within the Town. Nor may any discharge exceed regulations established by the Charlton Board of Health.

E. Storage.

(1) All materials, supplies and equipment not intended for wholesale and retail sale shall be stored in accordance with Fire Prevention Standards of the National Fire Prevention

Association and shall be screened from view from public ways and abutting properties; excepting that farm and home materials, supplies and equipment need not be screened from public view when located on farms and residential property, and that building materials, supplies and equipment need not be so screened from public view when located on a construction site, during the period of their use in construction.

(2) The storage, utilization or manufacture of materials or products which decompose by detonation shall be in accordance with standards as adopted by the Massachusetts Department of Public Safety.

(3) The storage, utilization or manufacture of solid materials which are subject to intense burning or of flammable liquids or gasses shall be subject to conditions of a permit issued by the Board of Selectmen.

§ 200-4.2.Off-street parking and loading.

A. General. Sufficient off-street parking and loading shall be provided to serve all persons needing vehicular access to new structures and uses, and to enlarged, extended or changed structures and uses to the extent such need is increased by such enlargement, extension, or change. Minimum parking requirements are set forth below in the Off-Street Parking Schedule.

B. Off-Street Parking Schedule.

Use	Unit of Measure	Parking Spaces (required/unit or fraction thereof)
One- or two-family dwelling	Dwelling unit	2.0
Multifamily dwelling	Dwelling unit	2.25
Lodging house, hotel, motel, or motor court	Each guest room or suite	1.0
Nursing and/or convalescent home	2 employees, maximum shift, plus 3 beds	1.0
Restaurant	3 seats, plus each employee on the maximum shift	1.0
Other business use	250 square feet net floor area	1.0
Transportation, industrial, and utility use	500 square feet net floor area	1.0
School, assembly hall or other public building	200 square feet of gross area, excluding storage area	1.0
Amusement or other place of public assembly	300 square feet of gross area, excluding storage area	1.0

C. Location requirements.

(1) Parking and loading areas and garages shall be provided on the same lot as they are required to serve.

(2) No parking or loading area shall be located within ten (10) feet of a public right-of-way line. No parking area containing more than four (4) spaces or a loading area shall be located within

fifty (50) feet of a public right-of-way line in an Industrial District, nor within a required front yard in an R-40 District. No parking area or garage containing more than two (2) spaces or loading area shall be located in a front yard in an NB District.

(3) No parking area serving a multifamily dwelling shall be located in any required yard defined by required setback lines.

D. Other requirements.

(1) A parking area containing more than six (6) spaces of a required loading area shall be designed so that no vehicle need back onto or off a street or stand on a street while parking, loading, unloading or waiting to do so.

(2) No street access drive for parking areas containing six (6) or more spaces or a loading area shall exceed thirty (30) feet in width at the street line. The minimum distance between the sidelines of such drives and the sidelines of any intersecting street and any other street access drive, measured between where such street and driveway sidelines intersect the adjacent street line, shall be as follows:

	From Intersecting Streets (feet)	**From Other Drives (feet)**
Drives serving a dwelling	50	20
Drives serving a hotel, motel or motor court	50	60
Drives serving other permitted principal structures in a/an:		
NB and V Districts	50	50
I District	50 (200 on U.S. Rt. 20)	100
CB District	50	50
Other districts	50	60

(3) Egressing vehicles from drives serving more than twenty (20) parking spaces shall have two hundred (200) feet of driver visibility in each travel direction.

(4) Parking and loading areas shall be graded, surfaced with a non-dusting material, drained and suitably maintained to the extent necessary to avoid the nuisance of dust, erosion, or excessive water flow onto streets or adjoining property.

(5) Parking areas containing more than twenty-five (25) spaces shall include or be bordered within five (5) feet of the spaces by at least one (1) tree of two (2) inches in caliper for each five (5) spaces. Trees within parking areas shall be in curb or berm protective plots of at least sixty (60) square feet per tree. No such protective plot shall be paved with any impervious material. In the BEP District, all required parking areas shall be located to the side or rear of each building served. No required parking area shall be located in a required side or rear yard.

(6) No less than twenty-five percent (25%) of any lot area shall be retained as unoccupied space free of all buildings, parking, pavement including street access drives and walks or other conditions, precluding landscaping; such unoccupied area shall be landscaped or stabilized

with plant material [except for multifamily dwellings, see § 200-5.1B(4)].

(7) All commercial site plans shall show all proposed lighting on said site for exits and entrances and said lighting shall be erected and maintained by the owner of the property. In the BEP District, lighting shall be provided to secure pedestrian safety and comfort by the illumination of all walkways, parking areas, and other common areas with minimal overspill into the night sky or adjacent properties.

(8) A common driveway shall be allowed for nothing other than two (2), one-family dwellings. Nor shall any common driveway exceed five hundred (500) feet in length. Common driveways serving two (2) lots shall not be permitted except by special permit from the Planning Board.

(a) The Planning Board may grant a special permit for a common driveway provided that:

[1] Both lots to be served have the required frontage on a street as defined in § 200-2.1;

[2] The driveway shall have a minimum eighteen-foot-wide paved surface, and shall not exceed a grade of twelve percent (12%).

[a] The Planning Board may require the proposed driveway grade not to exceed seven percent (7%), upon a determination by the Fire Chief that said grade reduction is required to assure adequate fire apparatus response and mobility.

[b] The common driveway shall have a turning area at the end for fire apparatus, designed to one (1) of the following design standards:

[i] A cul-de-sac of a minimum seventy-five (75) feet in diameter; or

[ii] A turning area eighteen (18) feet wide by thirty-five (35) feet deep, art a grade of no less than two percent (2%) in any direction, situated no closer than fifty (50) feet and no further than one hundred (100) feet from the end of the driveway.

[3] The property owners permitted the common driveway shall execute an agreement as to responsibility for maintenance and as to mutual access over the driveway in a form acceptable to the Planning Board. The Planning Board, in reviewing the special permit application, shall consider, among other issues, public safety, sight line distances, topography and presence of wetlands. Common driveways permitted by this section shall not be considered private ways and shall not be further extended.

[4] Each such common driveway shall have a minimum twenty-five-foot-wide right-of-way easement across all properties upon which such driveway is to be located.

(b) In addition, common driveways shall meet all of the requirements of Charlton's Driveway Bylaws and Driveway Regulations.

SECTION 5
Special Regulations

§ 200-5.1.Multifamily dwellings.

A. Procedures.

(1) Application and plans. Applicants for site plan approval for multifamily dwellings shall submit applications and site plans as required by § 200-7.1D.

(2) Criteria. Approval of multifamily dwellings shall be granted upon Planning Board determination that the site plan complies with the requirements of this bylaw and that due regard has been given to the supply of water, the disposal of wastewater, sewage and surface waters, movements of vehicular traffic and accessibility for emergency vehicles, and that the use is in harmony with the general purpose and intent of this bylaw.

B. Requirements.

(1) Each building shall contain not more than six (6) dwelling units and shall not exceed one hundred forty (140) feet in any dimension.

(2) In R-SE Districts, each multifamily dwelling unit connected to a sewer line shall have at least twenty thousand (20,000) square feet of lot area.

In the R-40 District, the first dwelling unit in a multifamily development shall have forty thousand (40,000) square feet of lot area. In the R-40 District, each multifamily dwelling unit beyond the first shall have twenty thousand (20,000) square feet of lot area.

(3) The site plan shall be so designed that parking areas are screened from streets by building location, grading, or screening; lighting or parking areas shall avoid glare on adjoining properties; major topographic changes or removal of existing trees shall be avoided wherever possible; and water, wetlands, or other scenic views from streets shall be preserved wherever possible.

(4) Not less than fifty percent (50%) of the lot area shall be retained as unoccupied space free of all buildings, parking, pavement other than street access drives and walks, or other conditions precluding landscaping, and kept stabilized with plant material.

§ 200-5.2.Mobile homes, mobile home parks, and trailers.

A. Prohibited use.

(1) Not more than one (1) mobile home or trailer shall be placed or allowed to remain on any lot.

(2) No mobile home or trailer shall be occupied for dwelling purposes except that a mobile home may be occupied for such purposes by one (1) or more persons on temporary visits to the Town not exceeding thirty (30) days in any successive twelve (12) months.

(3) No mobile home or trailer shall be placed or allowed to remain on any land rented or leased for such purposes.

(4) No mobile home park shall be permitted within the Town after the effective date of this bylaw, except that existing trailer parks shall be allowed with their presently allowed number of trailers.

(5) No object originally designed as a mobile home or a trailer designed for residential use shall

be maintained on a lot for the purpose of the storage therein of materials, supplies or equipment of any type.

B. Nonconforming uses.

(1) Any lawful privilege as to a trailer or object originally designed as a mobile home in existence of the effective date of this bylaw shall not thereafter be lost by abandonment merely because of the failure to exercise such privilege for a period of less than two (2) consecutive years. The failure to exercise such privilege for a period of two (2) consecutive years or more shall be deemed to be an abandonment thereof.

(2) If a mobile home is lawfully in existence or is lawfully occupied for dwelling purposes on the effective date of this bylaw is damaged or destroyed by fire or other casualty, such mobile home may be restored or replaced within two (2) years after the occurrence of the casualty, provided that such restoration or replacing does not increase the nonconforming nature of the mobile home.

(3) The number of mobile homes located in any mobile home park lawfully in existence on the effective date of the bylaw shall not be increased over the number of such mobile homes allowed under a license issued by the Board of Health in effect on that date unless the Zoning Board of Appeals has issued a special permit therefor after making a finding that the increased number shall not be substantially more detrimental than the previous number in the neighborhood.

(4) This bylaw shall not prohibit the owners or occupiers of a residence which has been destroyed or rendered uninhabitable by fire or other natural catastrophe from placing a mobile home on the site of such residence for a period not to exceed twelve (12) months while the residence is being replaced or rebuilt. Such mobile home shall be subject to the provisions of the State Sanitary Code.

§ 200-5.3.Storage of unregistered motor vehicles.

A. Prohibition and special permit. Not more than two (2) unregistered motor vehicles, assembled or disassembled, shall be kept, stored or allowed to remain on a lot except upon the grant of a special permit for such use by the Board of Selectmen as per the Storage of Unregistered Motor Vehicles Zoning Bylaw.

B. Conditions to be met. The Board of Selectmen may grant a special permit for such use only if all of the following conditions are met:

(1) Such use will not nullify or substantially derogate from the intent and purpose of this bylaw;

(2) Such use will not constitute a nuisance; and

(3) Such use will not adversely affect the neighborhood in which the lot is situated.

C. Conditions, safeguard and limitations in permit. The Board of Selectmen shall specify in each special permit under Subsection A the maximum number of unregistered motor vehicles that may be kept, stored or allowed to remain on the lot and also the maximum period of time for which the permit shall remain in effect. The Board of Selectmen may impose in any such permit other conditions, safeguards and limitations on both time and use.

D. Exemptions. The provisions of Subsection A shall not apply to motor vehicles which are (1) stored within an enclosed building, (2) designed and used for farming purposes, or (3) kept, stored, or allowed to remain on the premises specified in a license issued by the Board of Selectmen under

MGL c. 140, § 59, as the premises to be occupied by the licensee for the purpose of carrying on the licensed business.

E. Special permit fee. Each special permit application submitted under Subsection A shall include an application fee in an amount established by majority vote of the special permit granting authority. [Amended 5-21-2012 ATM by Art. 28]

§ 200-5.4.Scenic roads.

Upon recommendation or request of the Planning Board, Conservation Commission, or Historical Commission of Charlton, the Town may designate any road in Charlton, other than a numbered route or state highway, as a scenic road. After a road has been designated as a scenic road, any repair, maintenance, reconstruction, or paving work done with respect thereto shall not involve or include the cutting or removal of trees of more than four (4) inches in diameter, measured two (2) feet above the ground, or the tearing down or destruction of stone walls, or portions thereof, by the Town or any other public agency, or by property abutters, except with the prior written consent of the Planning Board; after a public hearing has been held. The public hearing shall be duly advertised as per the requirements of § 200-7.2G of this bylaw. Designation of a road as a scenic road shall not affect the eligibility of Charlton to receive construction or reconstruction aid for such road pursuant to the provisions of Chapter 90 of the Massachusetts General Laws.

§ 200-5.5.Historic districts.

Article 25 of the Charlton Annual Town Meeting of May 14, 1977 established an Historic District Bylaw. With certain exceptions, as provided in Section 7 of that bylaw, no building or structure within an historic district shall be constructed or altered in any way that affects exterior architectural features, unless the Historic Districts Commission, established under that bylaw, shall first have issued a certificate of appropriateness, a certificate of nonapplicability, or a certificate of hardship with respect to such construction or alteration.

§ 200-5.6.Signs. [Amended 5-20-2013 ATM by Art. 22]

A. Purpose.

(1) It is the purpose of § 200-5.6 to protect the public health, safety, convenience and general welfare of the residents of the Town of Charlton by regulating signs that:

(a) Obstruct traffic visibility and cause traffic hazard;

(b) Pose a danger through disrepair and threat of collapse;

(c) Decrease property values due to incompatibility with the property that surrounds it;

(d) Protect the architecture, character and appearance of the various neighborhoods in the Town;

(e) Minimize lighting impacts from signs;

(f) Disrupt the aesthetic environment of the Town of Charlton;

(g) Enable the fair and consistent enforcement of these sign regulations; and

(h) Protect and improve the public health, safety, convenience and general welfare.

(2) Signs constitute a separate and distinct use of the land upon which they are placed and affect the use of adjacent streets, sidewalks and other public places, and adjacent private places open to the public. The unregulated construction, placement and display of signs constitute a

public nuisance detrimental to the public health, safety, convenience and welfare of the residents of the Town.

B. Definitions.

ADVERTISING BLIMP — An advertising blimp is an inflatable sign that by way of gas or other manner is caused to float above the structure it is attached to. Further, such inflatable sign is capable of moving from place to place and is not permanently affixed to the ground or structure.

ADVERTISING DEVICE — Any nonverbal device designed for advertising purposes, such as balloon signs, caricatures, animals, food items, etc.

ELECTRONIC MESSAGE CENTER - CHANGEABLE ELECTRONIC VARIABLE MESSAGE SIGNS (CEVMS) — A sign on which the characters, letters or illustrations can be changed automatically or through electronic or mechanical means. CEVMS exclude time and temperature signs.

MARQUEE — Any permanent roof-like structure projecting beyond a building or extending along and projecting from the wall of a building.

SIGN — A communication device, structure, or fixture that incorporates graphics, symbols, or written copy intended to promote the sale of a product, commodity, or service, or to provide direction or identification for a structure or area.

SIGN, ABANDONED — A sign which identifies or provides information pertaining to a business, lessor, lessee, service, owner, product or activity, which no longer exists at the premises where the sign is located, or for which no legal owner can be found.

SIGN, ACCESSORY — A sign which provides information pertaining to, but does not specifically identify, a business, product or activity; such as "OPEN," "CLOSED," "ATM," phone number, website, e-mail, etc.

SIGN, ATTACHED — A sign permanently erected or affixed to a building.

SIGN, CANOPY — A sign on or attached to a permanent overhanging shelter that projects from the face of a building and is supported only partially by the building.

SIGN, CHANGEABLE COPY — A sign on which the characters, letters, illustrations can be manually or electronically changed without altering the face or surface of the structure.

SIGN, CONSTRUCTION — A sign identifying an architect, builder, contractor, subcontractor, material supplier, financing entity or others participating in the design, construction or alteration of the premises on which the sign is located.

SIGN, DIRECTIONAL OR TRAFFIC SAFETY — A sign identifying entrances, exits, parking areas or other operational features of premises and the provision of directions for safe use of the same.

SIGN, FREESTANDING — A sign not supported by a wall or screening surface.

SIGN, GROUND — Any sign having as supports, wood or metal columns, pipes, angle iron framing, masonry, plastic or any combination of these materials, unattached to any building or other structure. This includes single-pole pylon-type signs.

SIGN, ILLUMINATED — A sign lighted or exposed to artificial light either by lights on or in the sign or directed toward the sign, including direct/external lighting, indirect lighting, illumination, flashing or intermittent lighting.

SIGN, MARQUEE — A sign on or attached to a permanent overhanging shelter that projects from the

face of a building and is supported entirely by the building.

SIGN, NONCONFORMING — A sign lawfully existing before the adoption of this ordinance which does not now conform to the regulations of the ordinance.

SIGN, OFF-PREMISES — A sign whose subject matter relates to products, accommodations, services or activities not exclusively located on the same premises as that sign and including billboards.

SIGN, ON-PREMISES — A sign which advertises activities, goods, products, etc., that are available within the building or on the lot where the sign is located.

SIGN, POLITICAL — A sign which pertain to the elective process or which constitute political speech.

SIGN, PROJECTING — A sign which extends from the wall of a building.

SIGN, PUBLIC SERVICE INFORMATION — A sign which exclusively promotes an activity or event of general interest to the community and which contains no advertising features.

SIGN, REAL ESTATE — A sign which is used for the sale, lease or rental of real property.

SIGN, STANDING — Any sign maintained on structures or supports that are placed on, or anchored in, the ground and that is independent from any building or other structure.

C. General regulations.

(1) These regulations shall apply to all signs and their supporting devices erected within the Town of Charlton.

(2) Lighting of a sign may only be by a white light of reasonable intensity shielded and directed solely at the sign. Internally illuminated signs are permitted on lots zoned for business and industrial uses directly abutting Route 20 or 169.

(3) No sign shall be erected or maintained that obstructs or interferes with the free and clear vision of or from any street or driveway, or obstructs or simulates official directional or warning signs erected or maintained by a governmental entity.

(4) Every standing sign shall be located a minimum of three (3) feet from any property line.

(5) No sign shall be erected or maintained in any street right-of-way, on utility poles or trees.

(6) No roof signs shall be erected nor shall any sign project above the peak of a roof. No sign attached to a building shall project more than twelve (12) inches from the edge of the building, except for awning signs. No sign shall exceed the maximum height set forth in Subsection F.

(7) Temporary signs are permitted in all districts with a sign permit from the Building Inspector as set forth in Subsection F. Temporary signs must be firmly attached to a supporting device and present no undue hazard to the public. See Subsection F for the maximum size of various types of temporary signs. Such signs are allowed for up to sixty (60) days. Temporary signs may be attached or lettered on the interior of the window. Such signs shall not be included in the aggregate sign area. The aggregate area of all signs in any window, either permanent or temporary, shall not exceed thirty percent (30%) of the area of such window. An applicant may obtain a permit for a temporary sign only twice in a twelve-month period. Temporary signs shall be removed within five (5) days after the reason for the sign has ended or on the day the permit expires, whichever is sooner.

(8) Pennants are prohibited in all zoning districts, except that they may be used one time only for

grand openings for thirty (30) days or less with a permit from the Building Inspector.

(9) For signs in the Village District, also see § 200-5.17F.

D. Sign permits and fees. Sign permits shall be obtained on forms provided by the Building Inspector; Board of Selectmen has the authority to set fees from time to time.

E. Prohibited signs.

(1) Any sign which may be confused with or construed as a public safety device or sign or traffic or emergency light because of its color, shape or design.

(2) Any sign which incorporates moving, flashing, undulating, swinging, rotating or the electronic, visual representation of motion or animation by intermittent or variable illumination. [Amended 10-15-2013 STM by Art. 5]

(3) Signs constructed, mounted or maintained upon the roof of any building.

(4) Off-premises signs.

(5) Exposed neon signs.

(6) Billboards.

(7) Signs emitting sound, except drive-through menu signs.

(8) Signs placed upon unregistered vehicles. No commercial or industrial sign shall be erected on or attached to any vehicle except for signs applied directly to the surface of the vehicle. The primary use of such vehicle shall be in the operation of a business and not in advertising or identifying the business premises. The vehicle shall not be parked in a public right-of-way for the purposes of advertising.

(9) No sign shall contain any moving, flashing, or animated lights or visible moving parts. Wind-driven, whirling, or spinning signs, or signs with so-called "whirligigs" are prohibited. Indicators of time and temperature are permitted on nonresidentially zoned lots directly abutting Route 20 or 169. Such signs shall be located no further than fifty (50) feet from Route 20 or 169 and shall comply with all other requirements of this section.

(10) Any sign not specifically allowed in this § 200-5.6.

(11) Exceptions.

(a) The following types of illuminated signs may be permitted in accordance with the standards listed herein:

[1] Changeable electronic variable message signs (CEVMS) consisting primarily of scrolling or changing text whereby no more than one (1) line of text scrolls at once, and is displayed for a period of at least four (4) seconds. The transition between each individual message or display shall be accomplished within two (2) seconds and occur without flashing.

[a] CEVMS shall contain a default mechanism that will freeze the display in a static mode if a malfunction occurs.

[b] The Town may require that "Amber Alerts" or emergency information messages be displayed on the CEVMS. Upon such notification, the sign operator shall display emergency information messages in appropriate sign

rotations, and maintain such messages in rotation according to the designated issuing agency protocols.

[2] Digital sign displays whereby each image is static with no flashing or motion depicted, and each image is displayed for a period of at least ten (10) seconds. The transition between each individual message or display shall be accomplished within two (2) seconds and occur without flashing.

[3] Public service signs such as those that customarily display time or temperature.

[4] Reader boards that display a consistently sized text and are not animated.

(b) Signs which may be permitted under this section are to be further restricted as follows:

[1] Direct illumination by incandescent light bulbs shall be restricted to light bulbs rated at twenty-five (25) watts or less.

[2] Spotlights providing direct illumination to the public and beacons of any type are prohibited.

[3] Illumination of attraction devices or signs which fluctuate in light intensity are prohibited.

[4] Display surface of projecting signs shall not exceed sixteen (16) square feet, shall be limited to one (1) sign per business and shall not be permitted on property which has a freestanding sign, whether or not it is a CEVMS.

[5] All illuminated signs shall provide shielding for the source of illumination in order to prevent a direct view of the bulb or other light source from a residence within one hundred (100) feet of said illuminated sign or device.

F. Area of signs.

(1) The area of a sign shall be considered to include all lettering, wording, and accompanying designs and symbols, together with the background on which they are displayed, any frame around the sign and any "cutouts" or extensions, but shall not include any supporting structure or bracing.

(2) The area of a sign consisting of individual letters or symbols attached to or painted on a surface, building, wall or window, shall be considered to be that of the smallest rectangle which encompasses all of the letters and symbols.

(3) The area of a sign which is other than rectangular in shape shall be determined as the area of the smallest geometric shape which encompasses all elements of said sign.

(4) The area of a sign consisting of a three-dimensional object shall be considered the area of the smallest rectangle that can encompass the area of the largest vertical cross-section of that object.

(5) Only one (1) side shall be counted in computing the area of a double-faced sign. All sides of a sign with more than two (2) sides shall be counted in calculation of sign area.

G. Permitted signs.

Allowed Signs and Conditions of Use

Sign Type	Permanent (P) or Temporary (T)	Permit Required (Y/N)	Time Limit	Maximum Size Restrictions	Maximum Height Above Grade	Notes	Number of Signs
Accessory sign	T or P	N		10% of the sign face to which it is attached to or nearest to			1 on-site accessory sign per business or establishment
Advertising device (excluding balloon signs)	P	Y		Total surface area of advertising device shall count as part of the allowed ground sign area	Maximum height 20 feet with a clearance to ground of 30 inches		1 per site
Awning sign	P	Y		Lettering no larger than 6 inches in height			
Banners or flags	T	N	During hours of operation	Total area not to exceed 12 square feet; individual banners or flags not to exceed 6 square feet			Not to exceed 2 banners/flags per business
Canopy sign	P	Y		Maximum size: the smaller of 10% of the facade area associated with the business or 60 square feet		Canopy signs shall be treated as wall signs	1 sign per canopy

Allowed Signs and Conditions of Use

Sign Type	Permanent (P) or Temporary (T)	Permit Required (Y/N)	Time Limit	Maximum Size Restrictions	Maximum Height Above Grade	Notes	Number of Signs
				Maximum height of 3 feet			
Changeable copy and CEVMS	P	Y		32 square feet The area of a CEVMS shall count towards the overall area of the sign to which it is attached or associated.		Sign face of CEVMS cannot change in less than 4 seconds	1 per site
Construction signs (6 square feet or less)	T	N	During construction and up to 7 days after the certificate of occupancy is issued	6 square feet		Signs may contain only the name of the contractor or subcontractor	1 per site
Construction signs (over 6 square feet)	T	Y	During construction and up to 7 days after the certificate of occupancy is issued	32 square feet		Signs may contain relevant information per the definition of construction signs	1 per site
Directional or traffic safety signs	P	N		2 square feet			
Drive-through menu sign	P	Y		32 square feet	Maximum height 20 feet with clearance		1 per site
Ground sign	P	Y		32 square	Maximu	Single- or	1 per site

Allowed Signs and Conditions of Use

Sign Type	Permanent (P) or Temporary (T)	Permit Required (Y/N)	Time Limit	Maximum Size Restrictions	Maximum Height Above Grade	Notes	Number of Signs
				feet	m height of 20 feet with clearance to ground not less than 10 feet	double-faced ground signs are authorized in addition to wall and projecting signs. One accessory sign not to exceed 10% of the area of the ground sign may be attached to the main sign.	
Government signs	T and P	N					
Historic or commemorative marker	P	N		6 square feet			
Home occupation	P	N		2 square feet			1 per business
Ladder sign	P	Y		32 square feet	Maximum height 20 feet with a clearance to ground of 30 inches		1 per site; shall be considered the ground sign for the property
Marquee sign	P	Y		Subject to wall sign restrictions			
Political signs					Not subject to regulation		
Projecting sign	P	Y		8 square	Minimum	Cannot	1 per

Allowed Signs and Conditions of Use

Sign Type	Permanent (P) or Temporary (T)	Permit Required (Y/N)	Time Limit	Maximum Size Restrictions	Maximum Height Above Grade	Notes	Number of Signs
				feet	of 10 feet clearance from ground to the bottom of the sign	extend within 24 inches of the curbline	business
Public service information sign	T	N	30 days	6 square feet		Sign may be located on premises other than those of the sponsoring entity	
Real estate sign on-premises and open house signs	T	N	The period while the property is being offered for sale or rent; during the hours of the open house	6 square feet		Allowed in right-of-way for duration of open house	1 per each property offered for sale or rent; up to 3 open house signs are permitted
Regulatory or safety sign	P	N		6 square feet			
Residential decorative sign	P	N		2 square feet			1 per residence
Residential complex or subdivision identification sign	P	Y		24 square feet	Not more than 8 feet in height and not less than 30 inches from the ground	Sign shall include only the name of the subdivision or complex and shall be prohibited from containing the name of the	1 per subdivision or complex

Allowed Signs and Conditions of Use

Sign Type	Permanent (P) or Temporary (T)	Permit Required (Y/N)	Time Limit	Maximum Size Restrictions	Maximum Height Above Grade	Notes	Number of Signs
						developer, owner or property management company	
Sandwich board sign	T	N	During hours of operation	6 square feet	4 feet in height	No associated lighting	1 per business
Special purpose sign	P	N		2 square feet			
Standing sign	P	Y		32 square feet; multi-tenant signs may go up to 90 square feet and 1 standing sign may be erected at each roadway intersection located wholly within the property. Such standing sign shall not exceed 16 square feet in area.	Up to 20 feet in the CB District and 36 feet in the IG and BEP Districts	Area may be increased to 50 square feet with a special permit pursuant to § 200-5.6J	1 per business
Subdivision lot plan sign	T	Y	During the sale of subdivision lots; must be removed 7 days after last lot is sold	32 square feet	Maximum height of 15 feet with clearance to ground of 30 inches		1 per subdivision

Allowed Signs and Conditions of Use

Sign Type	Permanent (P) or Temporary (T)	Permit Required (Y/N)	Time Limit	Maximum Size Restrictions	Maximum Height Above Grade	Notes	Number of Signs
Time and temperature sign	P	Y		Counts as part of the sign area for the projecting or ground sign to which it is attached	For ground signs, the maximum height is 20 feet with a clearance to ground of 30 inches	For projecting signs, the clearance to ground is at least 8 feet	1 per site
Wall sign	P	Y		Maximum size is the lesser of 10% of the facade associated with the business being advertised or 60 square feet, whichever is smaller		Any business that has no street frontage may have 1 sign facing the parking area	1 wall sign per business established in the structure; in addition, 1 secondary wall or window sign not to exceed in area 50% of the primary wall or window sign is permitted by special permit issued pursuant to § 200-5.6F
Wayfinding sign	P	Y if not a government agency		15 square feet	Maximum height of 10 feet with a clearance from ground of 30 inches	Advertising is prohibited and these signs are allowed off-premises signs	
Window or door sign	T	N		Not to cover more		Not allowed on the	

Allowed Signs and Conditions of Use

Sign Type	Permanent (P) or Temporary (T)	Permit Required (Y/N)	Time Limit	Maximum Size Restrictions	Maximum Height Above Grade	Notes	Number of Signs
				than 30% of door or window area		exterior of windows or doors	

H. Exceptions. The following signs are exempt from the requirements of this section:

(1) Flags and insignia of any government except when displayed in connection with commercial promotion.

(2) Temporary devices erected for a charitable or religious cause, provided they are removed within five (5) days of erection.

(3) Temporary displays inside windows, covering not more than thirty percent (30%) of window area, illuminated by building illumination only.

(4) Integral decorative or architectural features of a building, including letters, logos and trademarks.

(5) Devices identifying a building as distinct from one (1) or more of its occupants, such device being carved into or attached in such a way as to be an integral part of the building, not illuminated separate from building illumination, without color contrasting with sign background, and not exceeding four (4) square feet in area.

(6) Address identification through numerals or letters.

(7) "For Sale," "For Rent" or political signs.

(8) Window displays of merchandise or signs incidental to the display of merchandise.

(9) Gasoline station signs required by local, state or federal regulations.

(10) Signs erected by municipal, county, state or federal government, as may be deemed necessary for their respective functions, in accordance with the standards of this section.

(11) Signs not exceeding five (5) square feet in area indicating "entrance," "exit," "parking," "no trespassing," or the like, erected on a premises for the direction of persons or vehicles.

(12) Youth athletic league sponsor ads or banners, affixed during active league season schedule onto a fence at public recreational facilities.

I. Nonconforming signs.

(1) Any sign not conforming to the terms of this section is hereby declared a nonconforming sign. Nonconforming signs may continue to be maintained; provided, however, that no such sign shall be permitted if, after the date the zoning bylaw was adopted, it is enlarged, or altered in any substantial way, except to conform to the requirements of the bylaw. Notwithstanding this, the panels of such sign may be changed to reflect a changed product

line.

(2) Further, any such sign which has deteriorated to such an extent that the cost of restoration would exceed thirty-five percent (35%) of the replacement cost of the sign at the time of the restoration shall not be repaired or rebuilt or altered except to conform to the requirements of the bylaw.

(3) Any exemption shall terminate with respect to any sign that shall have been abandoned; advertise or calls attention to any product, businesses or activities which are no longer sold or carried on, whether generally or at the particular premises; shall not have been repaired or properly maintained within thirty (30) days after notice to that effect has been given by the Building Inspector.

(4) A sign damaged by vandalism, accident or Act of God may be repaired or re-erected without a permit within sixty (60) days in the same location but should conform to the standards set forth in this section. Such sign shall not be any more nonconforming than the previous sign.

(5) Any sign that is located upon property which becomes vacant and is unoccupied for a period of sixty (60) days shall be deemed to have been abandoned. An abandoned sign is prohibited hereby and shall be removed by the owner of the premises forthwith.

(6) Any sign under permit by the Outdoor Advertising Board on the effective date of this bylaw may continue to be maintained without conforming to the area and height requirements of this section. The Board of Selectmen shall refer to the Planning Board, for its review and recommendation, any notices issued by the Outdoor Advertising Board as to applications for authority to maintain or install billboards or other signs in Charlton.

J. Administration and enforcement.

(1) Unless indicated otherwise, no sign shall be erected in the Town without a permit from the Building Inspector. Every application for a sign permit shall be accompanied by a scaled, dimensioned drawing showing the size and location of the sign on the property or building. The Building Inspector shall review the permit application, the drawing and any related materials and shall issue a permit if the sign set forth in said application is in full compliance herewith. The Building Inspector shall approve or deny an application within thirty (30) days of his/her receipt thereof, or as to signs located within an historic district, within sixty (60) days of receipt. Signs to be erected on Town property shall require an additional permit from the Board of Selectmen.

(2) However, a sign located within an historic district as defined by MGL c. 40C shall be permitted only after certification by the Historic District Commission that the sign complies in full with the bylaws, rules, regulations, and operative guidelines of the Commission, with the provisions of MGL c. 40C, and with all rules and regulations promulgated thereunder. The Commission shall transmit its decision to the Building Inspector in this regard within forty-five (45) days of its receipt of the application, but neither approval nor disapproval shall be inferred from the failure of the Commission to act within the time provided hereby.

(3) Signs located along or designed to be visible from a roadway designated as a scenic road shall be reviewed by the Planning Board prior to the issuance of a sign permit hereunder. In its review, the Board shall determine compliance of the sign with all provisions of state law and Town bylaw applicable to scenic roads. It shall transmit its recommendations thereon to the Building Inspector within twenty-one (21) days of its receipt of the application.

(4) The Planning Board shall be the special permit granting authority for the purposes of this

section. The Board shall grant special permits hereunder if it determines that:

(a) The sign requested pursuant to the special permit application is necessary due to topography or site conditions unique to its proposed location; or

(b) A unique and particular type of use requires additional signage in order to identify the premises adequately.

(5) The Zoning Board of Appeals shall have the authority to issue a variance from the provisions of this section in accordance with § 200-7.3B(1) hereof.

(6) Every sign shall be maintained in sound structural condition satisfactory to the Building Inspector at all times. The Building Inspector shall inspect a sign when and as the Building Inspector deems appropriate. The Building Inspector shall have the authority to order the repair, alteration or removal of a sign which constitutes a public health and/or safety problem by reason of improper or inadequate maintenance, design, construction, condition or dilapidation.

§ 200-5.7.Flexible development.

A. Purpose. The purpose of the flexible development option is to provide for the most efficient use of services and infrastructure, to maintain the Town's traditional New England rural character and land use patterns and to encourage the permanent preservation of open space.

B. Applicability. Flexible development special permit shall be permitted on parcels of ten (10) acres or more in A, R-40 and R-SE Districts upon the issuance of a special permit for flexible development from the Planning Board upon a finding that the proposed flexible development will be superior to a conventional subdivision plan in: allowing for greater flexibility and creativity in the design of residential developments; encouraging the permanent preservation of open space, agricultural land, forests and woodland, historic or archaeological sites, or other natural resources; maintaining the Town's traditional New England rural character and land use patterns in which small villages contrast with open spaces, farmland and forests; preserving scenic vistas; providing for the most efficient use of municipal and other services; preserving unique and significant natural, historical and archaeological resources; and encouraging a less sprawling form of development, but not to the extent that such development will visually and environmentally overwhelm the land. [Amended 5-21-2012 ATM by Art. 28]

C. Standards.

(1) Building lots within flexible developments shall conform to the following standards:

Zoning District	Minimum Lot Area (square feet)	Frontage (feet)	Setback Front (feet)	Setback Side (feet)	Setback Rear (feet)	Maximum Building Coverage
A	45,000	100	30	15	30	30%
R-40	30,000	100	30	15	15	30%
R-SE	30,000[1]	100	30	15	15	30%

NOTES:

[1] Building lots may contain 20,000 square feet if connected to a sewer system.

(2) The lots within the flexible development used for residential structures shall be grouped,

where each lot shall be contiguous. Every group shall be separated from every other group within any flexible development by a distance determined by the Planning Board.

(3) A strip of permanently restricted open space, the width of which shall be at the discretion of the Planning Board, shall be provided between every group and the exterior property lines of the flexible development parcel.

(4) A minimum of twenty-five percent (25%) of the land area in the flexible development shall be permanently restricted open space and shall be suitable for recreational, agricultural or cultural uses. The Planning Board may require that at least fifty percent (50%) of the permanently restricted open space shall be free from wetlands as defined in the Wetlands Protection Act. However, such open space may contain more than fifty percent (50%) wetlands if the additional open space consists of bodies of water.

(5) The number of building lots proposed may exceed the number that would normally be allowed by a conventional subdivision plan in full conformance with zoning, subdivision regulations, health codes, wetlands bylaws and other applicable requirements by ten percent (10%) if the Planning Board finds that the character of the surrounding area would not be adversely affected thereby and that all other requirements of this section are met. Three (3) copies of a preliminary conventional subdivision plan are required to be submitted as part of the flexible development preliminary subdivision plan application for use by the Planning Board in determining preference of either flexible or conventional subdivision design. [Amended 5-21-2012 ATM by Art. 28]

(6) No lot shown on an approved flexible development plan shall be further subdivided and the plan shall be so noted. Relocation of lot lines, street layout and open space layout may be allowed after approval, provided that no increase in the number of building lots results thereby and provided further that approval of the Planning Board is given. If the Board determines that a proposed revision constitutes a substantial change, a public hearing shall be held at the expense of the applicant.

(7) Streets constructed within the flexible development shall conform to the applicable requirements of the Rules and Regulations Governing the Subdivision of Land.

D. Open space.

(1) Ownership.

(a) The open space to be permanently restricted shall be conveyed to one (1) of the following:

[1] The Town of Charlton for conservation, recreation, agricultural or park purposes if accepted by a Town Meeting;

[2] A nonprofit organization the principal purpose of which is the conservation of open space;

[3] A corporation or trust owned or to be owned by the owners of lots or residential units within the flexible development.

(b) The Board may also require that scenic, conservation or historic easements be deeded to the Town or other nonprofit organization.

(2) The special permit shall state any restrictions on the use of the open space. Where such land is not conveyed to the Town, it shall be covered by a restriction, enforceable by the Town or

a nonprofit organization, running with the land, which provides that such land shall be used only for the purposes specified in the special permit. Such restrictions may provide easements for underground utilities but they shall not permit wells or septic systems upon the land. The open space may not be developed for uses accessory to the residential use such as parking or roadways. Wherever practical, the open space shall be contiguous to other protected open space or bodies of water.

(3) If the open space subject to the restrictions established by the special permit is to be owned by a corporation or trust in accordance with Subsection D(1)(a)[3], maintenance of the common land shall be permanently guaranteed through the establishment of an incorporated homeowners' association which provides for mandatory membership by the lot or unit owners, assessments for maintenance expenses, a general liability insurance policy covering the open space, and a lien in favor of the Town of Charlton in the event of the lack of maintenance. The terms of the lien shall provide that the Town may, if it determines that required maintenance has not been accomplished as required by the conditions of the special permit, perform the required maintenance and assess the members of the corporation or trust, or the corporation or trust itself, for the cost of such maintenance. Copies of the documents creating the corporation or trust of the general liability insurance policy, and of the lien, shall be submitted to the Planning Board for review and Planning Board acceptance and shall be recorded in the Worcester District Registry of Deeds, in the form and with content as approved by the Planning Board, as a condition of the special permit. [Amended 5-21-2012 ATM by Art. 28]

(4) The open space shall not be leased, sold or used for purposes other than those authorized by the special permit. Any proposed change to the use of the open space shall be approved by a majority of the Planning Board present and voting, provided that the proposed use is consistent with the intent of this section, and it will not adversely impact abutters and the use of surrounding open space by bright lights, noise or other nuisances. The Board may impose conditions on such proposed uses.

E. Procedure.

(1) A pre-application meeting with the Planning Board and other relevant boards for review and discussion of a preliminary or conceptual plan is recommended prior to a formal submission of an application for a special permit. Preliminary sketches of a flexible development plan and a conventional subdivision plan are encouraged to be submitted.

(2) No application shall be deemed complete, nor shall any action be taken, until all required materials have been submitted. Plans and other submission materials conforming to the Planning Board's adopted "*Procedures for Applications for a Special Permit for Flexible Development*", as filed with the Town Clerk, shall be submitted to the Planning Board and Town Clerk as required by such procedures.

(3) The Planning Board shall, within fifteen (15) days of submission, distribute one (1) copy of the submission materials each to the Conservation Commission, Board of Health, Sewer Commission, Building Inspector, Fire Department and Board of Selectmen for review and comment. The Planning Board shall not take final action on the plan within thirty-five (35) days of such distribution unless such comments are sooner received.

(4) The Planning Board shall hold a public hearing and make its decision in accordance with applicable provisions of MGL c. 40A, § 9, unless otherwise required by Massachusetts law; the Board shall hold a public hearing within sixty-five (65) days of the filing a complete of the application with the Town Clerk; the Board shall file its decision with the Town Clerk

within ninety (90) days following the date of the public hearing; and the granting of a special permit shall require a four-fifths (4/5) vote of the Planning Board. The cost of advertising the hearing and notification of abutters shall be borne solely by the applicant. The time limits hereunder may be extended by written agreement between the petitioner and the Planning Board and any such agreement shall be filed with the Town Clerk. [Amended 5-21-2012 ATM by Art. 28]

(5) The granting of a special permit for flexible development shall not be construed as definitive subdivision approval under the Subdivision Control Law. The approval of a definitive subdivision plan showing a flexible development shall not be construed as the granting of a special permit. However, the applicants are encouraged to request a simultaneous public hearing for both plans, if required.

(6) The special permit shall not be valid until recorded in the Registry of Deeds and no work may commence until evidence of such recording has been received by the Planning Board and the Building Inspector. Such recording shall be the responsibility of the petitioner.

F. Definitions. The following terms shall have the following meanings for the purposes of this section:

FLEXIBLE DEVELOPMENT — A residential development in which single-family dwelling units are clustered together into one (1) or more groups on the lot and the groups are separated from each other and adjacent properties by permanently protected open space.

§ 200-5.8.Development standards for BEP Districts.

A. Roads and utilities.

(1) Access to the site. Vehicular access shall be only from a major street or collector street (as defined in the Rules and Regulations Governing the Subdivision of Land), except where unusual circumstances make secondary accesses from minor streets practicable without adverse effects on property along such minor streets. Principal vehicular access points shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to vehicular or pedestrian traffic. Left-hand storage and right-hand turn lanes and/or traffic dividers shall be required where existing or anticipated heavy traffic flows indicate need.

(2) Internal circulation. Uses within an industrial or office park shall be served by a separate internal road system to the maximum extent possible.

(3) Construction standards. Site development shall be in accordance with the applicable provisions of the Rules and Regulations Governing the Subdivision of Land regarding utilities, drainage and roadways; roadways shall be designed to the standards for nonresidential subdivisions in said Rules and Regulations. Upon the written request of the applicant, the Planning Board may waive strict compliance with such regulations where it is demonstrated that such waiver or modification is in the public interest and is consistent with this section, with § 210-8.1 of the Rules and Regulations and with the Subdivision Control Law (MGL c. 41, § 81R).

(4) Roadway maintenance. All internal roadways in the site that are privately maintained may be required by the Planning Board to have a covenant or agreement executed by the owner or owners of record running with the land, and duly recorded at the Worcester District Registry of Deeds to insure that the roadway will be adequately and safely maintained. If the ways and utilities are proposed to be accepted by the Town, the Planning Board may require the applicant to ensure that the roadways meet all requirements of its Rules and Regulations

Governing the Subdivision of Land or to make repairs to the facilities proposed for acceptance, as a pre-condition to such acceptance. [Amended 5-21-2012 ATM by Art. 28]

(5) Performance security. The Planning Board may require sufficient security to insure completion of the roads and utilities to its subdivision standards. The form of security selected, and procedures for reducing or releasing said security, shall comply with the Rules and Regulations Governing the Subdivision of Land and with the Subdivision Control Law (MGL c. 41, § 81U).

(6) Stopping sight distance. Any street which provides access to a Business Enterprise Park shall have the minimum stopping sight distance at the entrance to the Park as specified in the following table:

Design Speed (mph)	**Stopping Sight Distance (feet)**
30	200
35	250
40	325
45	400
50	475
55	550

B. Landscaping requirements. In addition to § 200-3.2C(2), industrial park buffers, and § 200-3.2C(3), outside bulk storage, the following landscaping and screening requirements shall apply. [The requirements of § 200-4.2D(5) shall not apply to industrial and office parks.]

(1) The front yard setback area of each lot, except for driveways and walkways, shall be landscaped with an effective combination of trees, ornamental trees, ground cover, shrubbery, and lawn.

(2) Within parking lots, there shall be provided one tree for every ten (10) spaces. A minimum of five percent (5%) of the parking lot area having twenty-five (25) or more spaces shall be maintained with landscaping.

(3) Removal of healthy trees over five (5) inches in diameter at breast height (dbh) shall be minimized along roadways to the maximum extent practicable. Any such trees as are removed shall be replaced. New or replacement trees must be at least two (2) inches dbh. [Amended 5-21-2012 ATM by Art. 28]

(4) All landscaped areas shall be properly maintained. Shrubs or trees which die shall be replaced within one (1) growing season by the property owner.

C. Lighting. Exterior illumination shall be only as necessary for safety and lighting of buildings, walks and roads. All lighting shall be arranged and shielded so as to prevent glare from the light source onto any public way or any other property. No light standard shall be taller than twenty-five (25) feet. All light standards shall be in a style approved by the Planning Board.

D. Utility areas. The Planning Board may require exposed storage areas, dumpsters, machinery, service areas, utility buildings and/or other unsightly use to be screened from view from neighboring properties and streets through the use of berms, fences or landscaping.

E. Utility services. All on-site utilities shall be placed underground, unless permission is otherwise granted by the Planning Board.

F. Procedures. If new lots are created that require the approval of the Planning Board under the Subdivision Control Law, the applicant shall submit a definitive plan and seek approval of a subdivision. Development on individual lots, or development of an office or industrial park on a single lot, or on multiple lots, requires approval of a site plan under § 200-7.1D of this Zoning Bylaw. The applicant may submit the materials required for both applications simultaneously in order to expedite the review process.

§ 200-5.9.Special permits for adult uses.

A. Purpose and intent. It has been documented in numerous other towns and cities throughout the Commonwealth of Massachusetts and elsewhere in the United States that adult entertainment uses are distinguishable from other business uses and that the location of adult entertainment uses degrades the quality of life in the areas of a community where they are located, with impacts including increased levels of crime, blight, and late hours of operation resulting in noise and traffic late into the night. Therefore, this bylaw is enacted pursuant to MGL c. 40A, §§ 9 and 9A to serve the compelling Town interests by regulating and limiting the location of adult entertainment enterprises as defined herein. This regulation will promote the Town of Charlton's great interest in protecting and preserving the quality of its neighborhoods, commercial districts, and the quality of life through effective land use planning.

B. General. Special permits shall be required to authorize the establishment of adult bookstores, adult video stores, adult paraphernalia stores, adult live entertainment establishments or adult motion-picture theaters as hereinafter defined. Such permit shall require specific improvements, amenities and locations of proposed uses for which such permit may be granted. All proposals for special permits under this section shall also require site plan review under § 200-7.1D of the Charlton Zoning Bylaw.

C. Definitions. As used in this section, the following words shall have the following meanings:

ADULT BOOKSTORE — An establishment having as a substantial or significant portion of its stock-in-trade, books, magazines, and other matter which are distinguished or characterized by their emphasis on depicting, describing, or relating to sexual conduct or excitement as defined in MGL c. 272, § 31. For purposes herein, "substantial or significant portion of stock" shall mean more than twenty-five percent (25%) of the subject establishment's inventory or more than twenty-five percent (25%) of the subject premises' gross floor area.

ADULT ENTERTAINMENT ESTABLISHMENT — Any building, stage, structure, prop, vehicle or trailer that is utilized for the substantial purpose(s) of depicting or describing sexual conduct or offering sexual excitement, each as defined in MGL c. 272, § 31.

ADULT LIVE ENTERTAINMENT ESTABLISHMENT — Any establishment which displays live entertainment which is distinguished or characterized by its emphasis on depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31, and which excludes minors by virtue of age.

ADULT MOTION-PICTURE THEATER — An enclosed building used for presenting videos, movies or other film materials distinguished by an emphasis on matters depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31.

ADULT PARAPHERNALIA STORE — An establishment having as a substantial or significant portion of its stock devices, objects, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in MGL c. 272, §31. For purposes herein, "substantial or significant portion of stock" shall mean more than twenty-five percent (25%) of the subject establishment's inventory or more than twenty-five percent (25%) of the subject

premises' gross floor area.

ADULT VIDEO STORE — An establishment having as a substantial or significant portion of its stock-in-trade, videos, movies or other film material which is distinguished or characterized by its emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31. For purposes herein, "substantial or significant portion of stock" shall mean more than twenty-five percent (25%) of the subject establishment's inventory or more than twenty-five percent (25%) of the subject premises' gross floor area.

D. Allowable locations for adult entertainment uses:

(1) Adult entertainment uses are allowed only within certain boundaries within the Town's Industrial - General (IG) District, described as follows:

INDUSTRIAL-GENERAL ZONE (WEST): Beginning at a point on the southerly side of Sturbridge Road (U.S. Route 20) at the Sturbridge Town line; thence southerly on Sturbridge line until it comes to a point in the northerly line of the abandoned road known as Major Hill Road; thence easterly on the northerly line of Major Hill Road until it comes to a point 50 feet west of Globe a.k.a. McKinstry Brook; thence northerly 50 feet west of and parallel to the west bank of the brook until it comes to the southerly line of Sturbridge Road; thence westerly by the southerly side of said road to the point of beginning.

(2) All of the provisions of other sections of this Zoning Bylaw shall continue to so apply except when such provisions conflict with the provisions of this section; in case of such conflict, the provisions of this section shall control.

E. Rules and application requirements.

(1) The special permit granting authority, the Charlton Planning Board, shall adopt and from time to time amend rules relative to the issuance of the permits, and shall file a copy of said rules in the Office of the Town Clerk.

(2) No special permit shall be granted by the Planning Board for an Adult entertainment establishment, adult bookstore, adult video store, adult paraphernalia store, adult motion-picture theater or adult live entertainment establishment unless the following conditions are satisfied:

(a) When submitting a proposal for a special permit under this bylaw, the applicant shall obtain a copy of the application and procedures from the Charlton Planning Board, the special permit granting authority. The applicant shall file one (1) copy of the application with the Town Clerk and deliver a second, date-stamped copy of the application form to the Office of the Planning Board. All applications shall be accompanied by fifteen (15) copies of the permit applied for.

(b) Dimensional requirements. The proposed use, and the building or structure containing it, shall meet minimum distance separations from the property line of other types of uses as outlined below: [Amended 5-21-2012 ATM by Art. 28]

[1] A minimum of two hundred fifty (250) feet from any residential district designated by Charlton Zoning Bylaws.

[2] A minimum of one thousand (1,000) feet from the property line boundary of any public school, public library, day-care facility, or religious facility;

[3] A minimum of five hundred (500) feet from the property line boundary of any public playground, park, or recreational area where minors regularly travel or congregate;

[4] A minimum of one thousand (1,000) feet from any other adult bookstore, adult video store, adult paraphernalia store, adult entertainment establishment, or adult motion-picture theater and from any establishment licensed under the provisions of MGL c. 138, § 12.

[5] Building line setback required for the proposed use, and for the building or structure containing it, shall be a minimum of fifty (50) feet from any public or private way.

(c) No pictures, publications, videotapes, movies, covers, merchandise or other implements, items, or advertising that fall within the definition of adult entertainment establishment, adult bookstore, adult video store, adult paraphernalia store, adult motion-picture theater or adult live entertainment establishment merchandise or which are erotic, prurient or related to violence, sadism or sexual excitation or exploitation shall be displayed in the windows of, or on the building of, any adult entertainment establishment, adult bookstore, adult video store, adult paraphernalia store, adult motion-picture theater establishment, or be visible to the public from the pedestrian sidewalks or walkways or from other areas, public or semi-public, outside such establishments.

(d) No special permit shall be issued to any person convicted of violating the provisions of MGL c. 119, § 63, or MGL c. 272, § 28.

(e) Adult use special permits shall only be issued following public hearings held within sixty-five (65) days after filing of an application with the Charlton Planning Board, a copy of which shall forthwith be given to the Town Clerk by the applicant. The special permit granting authority shall act within ninety (90) days following a public hearing for which notice has been given by publication or posting as provided by MGL c. 40A, § 11, and by mailing notice of said public hearing by registered or certified mail, return receipt requested, to all owners of abutting properties, and owners of properties within one thousand (1,000) feet of the property line boundary of the proposed facility, and to all other parties in interest. Failure by a special permit granting authority to take final action upon an application for a special permit within said ninety (90) days following the date of pubic hearing shall be deemed to be a grant of the permit applied for unless such period is extended at the request of the applicant. Special permits issued by a special permit granting authority shall require a two-thirds vote of boards with more than five (5) members, a vote of at least four (4) members of a five-member board and a unanimous vote of a three-member board.

(f) A special permit granted under this bylaw shall lapse at the expiration of six (6) months from its issuance (or from the date on which it is deemed to have issued, whichever is sooner), if no appeal is made during the statutory appeal period, such time as is required to pursue or await the determination of an appeal referred to in MGL c. 40, § 17, from the grant thereof to be excluded from the computation of such six-month period, if a substantial use thereof has not sooner commenced except for a good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause. Any request for extension of the special for good cause shall be made in writing to the Planning Board establishing such cause before the end of the six-month period; all extensions may be granted or denied at the sole discretion of the

Charlton Planning Board.

(g) The granting of a special permit for adult uses shall not be construed as approval for site plan review under § 200-7.1D of the Charlton Zoning Bylaw. Said site plan review is required of any proposed new adult entertainment establishment, adult bookstore, adult video store, adult paraphernalia store, adult motion-picture theater, and adult live entertainment establishment. Applicants who wish to shorten the permit timeline are encouraged to request a joint permitting process covering both the special permit and site plan review.

(h) Existing adult entertainment uses. Any existing adult entertainment establishment, adult bookstore, adult motion-picture theater, adult paraphernalia store, or adult video store or adult live entertainment establishment shall apply for such permit within ninety (90) days following the adoption of this Zoning Bylaw; along with a written request to waive the site plan review requirements under § 200-7.1D of the Charlton Zoning Bylaw.

F. Severability. If any section of this bylaw is ruled invalid by a court of competent jurisdiction, such ruling will not affect the validity of the remainder of the bylaw.

§ 200-5.10.Special permits for wireless telecommunication facilities.

A. Purpose. The purpose of these regulations is to minimize adverse impacts of wireless communications facilities, satellite dishes and antennas on adjacent properties and residential neighborhoods; minimize the overall number and height of such facilities to only what is essential; promote shared use of existing facilities to minimize the need for new facilities; and deal effectively with aesthetic concerns and to minimize adverse visual impacts.

B. Definitions.

COMMUNICATION DEVICE — Any antenna, dish or panel mounted out of doors on an already existing building or structure used by a commercial telecommunications carrier to provide telecommunications services. The term "communications device" does not include a tower.

STEALTH COMMUNICATION FACILITIES — Any newly constructed or installed building, building feature, or structure designed for the purpose of hiding or camouflaging a WCF, tower(s), and communications device(s) installed therein or thereon, including but not limited to church steeples, flag poles, historic-replica barns, silos, water towers, bell towers, etc.

TOWER — Any equipment mounting structure that is used primarily to support reception or transmission equipment and that measures twelve (12) feet or more in its longest vertical dimension. The term "tower" is limited to monopoles.

WCF ACCESSORY BUILDING — A structure designed to house both mechanical and electronic equipment used in support of wireless communications facilities.

WIRELESS COMMUNICATIONS FACILITIES (WCF) — Any and all materials, equipment, storage structures, towers, dishes and antennas, other than customer premises equipment, used by a commercial telecommunications carrier to provide telecommunications or data services. This definition does not include facilities used by a federally licensed amateur radio operator.

C. Compliance with federal and state regulations. All wireless communications facilities shall be erected, installed, maintained and used in compliance with all applicable federal and state laws, rules and regulations, including radio-frequency emission regulations as set forth in Section 704 of the 1996 Federal Telecommunications Act, as the same may be amended from time to time.

D. Location. After a review of the existing technological needs of the telecommunications providers, the topography of Charlton, the requirements of the Telecommunications Act of 1996 and the impact on Town residents, the Town finds that wireless communications facilities may be allowed as follows:

(1) New towers. A wireless telecommunications tower overlay district is hereby established, superimposed on existing zoning districts. All requirements of the underlying zoning districts shall remain in full force and effect, except as may be specifically superseded herein. The following areas are included in the overlay district:

(a) New towers may be allowed subject to a grant of a special permit by the Planning Board at the following geographic locations:

[1] The area of land bounded on the south by Route I-90 (Mass. Turnpike); on the west by Route 49, on the north by the Town of Sturbridge, and on the east by the easternmost boundary of the Parcel 7 on Tax Assessor's Map 31, Block B;

[2] The area of land known as the Massachusetts Turnpike Service Area, 6W, a/k/a Charlton Plaza, bounded on the north by Hammond Road, and on the south by the Massachusetts Turnpike, as shown on Charlton Assessor Map 19, Block C, Parcel 2.

[3] The area of land shown on Charlton Assessors' Map 30, Block C, Parcels 4, 16, and 17.

[4] The area of land shown on Charlton Assessors' Map 26, Block D, Parcel 13, excluding the southwest portion of the parcel bounded by a straight line extending southerly from the southeast corner or Parcel 9.1 to a point on the northerly side of Worcester Road a/k/a Route 20 four hundred twenty (420) feet easterly of the northeasterly corner of the intersection of Putnam Lane and Worcester Road a/k/a Route 20.

[5] The area of land shown on Charlton Assessors' Map 24, Block A, bounded as follows: beginning at a point on the southern boundary of Map 24, Block A, Lot 6, two hundred (200) feet easterly from the southwestern corner of said Lot 6, thence extending northerly and northeasterly a uniform two hundred (200) feet easterly and southerly of and parallel to the boundary of the Northside Historic District — South, through Lots 6.1 and 4.3A in said Map and Block, thence continuing easterly, southerly and easterly a uniform two hundred (200) feet southerly, westerly and southerly of, and parallel to, the boundary line of the Northside Historic District — South which runs along the southerly lines of Lots 4, 4.4, and 4.1 in said Map and Block, to the easterly line of said 4.3A and Lot 6 to the southeast corner of said Lot 6, thence westerly along the southern boundary of Lot 6, to the point of the beginning, excluding therefrom so much of Map 24, Block A, Lot 6.1 as would otherwise be located therein.

(2) Stealth communications facilities, communication devices and WCF accessory buildings. Stealth communications facilities, communication devices and WCF accessory buildings may be allowed in any zoning district subject to a grant of a special permit by the Planning Board, provided that they are properly screened and conform to the requirements set forth in this bylaw.

(3) Reconstruction, extension and alteration of preexisting towers. Existing towers may be reconstructed, expanded and/or altered in all zoning districts subject to a special permit

granted by the Planning Board, provided that they conform to all of the requirements set forth in this Zoning Bylaw.

(4) New antennas within existing buildings. Communications devices and WCF accessory buildings may be located totally within existing buildings and existing structures in all zoning districts, subject to a special permit granted by the Planning Board.

E. General requirements.

(1) No wireless communications facility may be erected except upon the issuance of a special permit by the Planning Board and approval under site plan review as set forth in § 200-7.1D of the Zoning Bylaw and subject to all of the provisions of this section. It is recommended to the applicant to undertake both the special permit and site plan review procedures concurrently in order to expedite the permitting process. Multiple applications for the same site/facility are also encouraged, provided there is one (1) lead applicant responsible for all submissions; and further provided that no submission will be officially received until the Planning Board is satisfied that all submission requirements for all the applicants have been met, as described under Subsection G.

(2) The only wireless communication facilities allowed are: (a) newly constructed freestanding towers, and stealth communications facilities/structures, with their associated communications devices, and WCF accessory building(s); (b) communications devices and WCF accessory buildings mounted on, or supported, in whole or in part, by any existing building or structure; (c) and any WCF located wholly within any existing building or structure. Lattice-style towers and similar facilities that require guy wires for support are not allowed.

(3) All owners and operators of land used in whole or in part for a wireless communications facility and all owners and operators of such wireless communications facility shall, as a continuing condition of installing, constructing, erecting and using a wireless communications facility, permit other FCC-licenses commercial entities seeking to operate wireless communications facility, to install, erect, mount and use compatible wireless communications equipment and fixtures on the equipment mounting structure on reasonable commercial terms, provided that such co-location does not materially interfere with the transmission and/or reception of communication signals to or from the existing wireless communications facility, and provided that there are no structural or other physical limitations that make it impractical to accommodate the proposed additional wireless communication's equipment or fixtures.

(4) Each proposed construction of a new WCF, tower, communications device, stealth communications facility, or WCF accessory building shall require an initial special permit. Any extension in the height of, addition of WCF accessory buildings, communications devices to, or replacement of any WCF shall require an amendment to the special permit previously issued for that facility; or in the case where there is no special permit, an initial special permit.

(5) New facilities shall be considered by the Planning Board only upon a finding by the Planning Board that: (a) the applicant has used reasonable efforts to co-locate its proposed wireless communications facilities on existing or approved facilities; and (b) that the applicant either was unable to negotiate commercially reasonable lease terms with the owner of any existing or approved facility that could accommodate the proposed facilities from both structural engineering (i.e., the height, structural integrity, weight-bearing and wind-resistant capacity of the existing or approved facility), and radio frequent engineering (i.e., height, coverage

area, etc.) perspectives; or there neither exists nor is there currently proposed any facility that could accommodate the proposed facilities from structural and radio frequent engineering perspectives. A report discussing this information, entitled "New Wireless Communications Feasibility Study," is to be submitted to the Planning Board as part of any special permit submission as outlined in Subsection G(4) below.

(6) The Town, acting through its Planning Board, may require the applicant to pay required fees for professional peer review of the applicant's proposal by a professional or radio frequency engineer, attorney or other qualified professional. [Amended 5-21-2012 ATM by Art. 28]

(7) Co-existence with other uses. A wireless communications facility may be located on the same lot by special permit with any other structures or uses lawfully in existence and/or lawfully undertaken pursuant to this Bylaw.

F. Design requirements and performance standards. All wireless communications facilities erected, installed and/or used shall comply with the following design requirements and performance standards:

(1) Shared use of towers by commercial telecommunications carriers is required unless such shared use is shown by substantial evidence to not be feasible.

(2) It is presumed that the maximum allowed height of towers is one hundred fifty (150) feet, unless the applicant demonstrates that a greater height is essential to the proper functioning of the wireless communications services or unless the Planning Board finds that co-location on said tower is both practical and preferable. Stealth facilities must meet all dimensional restrictions for buildings and structures as required in the applicable sections of the Town of Charlton Zoning Bylaw.

(3) In the event that the Planning Board finds that in order to conform to the intent and purpose of this bylaw co-location is preferable, then towers shall be designed to accommodate the maximum number of presently interested users which is technologically practical. In addition, if the number of proposed users is less than four (4), the applicant shall provide a plan showing how the proposed tower can be expanded to accommodate up to four (4) users. In the event that the Planning Board finds that co-location is preferable, the applicant must agree to allow co-location pursuant to commercially reasonable terms to additional users.

(4) Towers shall be located a minimum of five hundred (500) feet from an existing residential dwelling or proposed dwelling in a permitted submission. This distance may be reduced by the Planning Board if it finds that the visual and aesthetic impact(s) on a residential neighborhood or dwelling would not be significantly more detrimental by doing so.

(5) A tower shall be set back from the property lines of the lot on which it is located by a distance equal to the overall vertical height of the tower and any attachments.

(6) Clustering of several wireless communications facilities on an individual lot may be allowed if the Planning Board finds that the visual and aesthetic impact(s) on surrounding residential neighborhoods or dwellings would not be significantly more detrimental than having only a single wireless communications facility. Such a proposal shall require three (3) additional visual depictions of the proposed grouping of facilities as described in Subsection G(2).

(7) Communications devices located on a structure shall not exceed ten (10) feet in height above the roof-line of the structure, unless the Planning Board finds that a greater height is essential to the proper functioning of the wireless communication services to be provided by the applicant at such location. For structures where it is difficult to determine the roof line, such

as water tanks, the height of the communications devices shall not exceed ten (10) feet above the highest point of the structure.

(8) Screening requirements. All exterior wireless communications facilities equipment and fixtures shall be painted or otherwise screened or colored to minimize their visibility to abutters, adjacent streets and residential neighborhoods. Wireless communications facilities, equipment and fixtures visible against a building structure shall be colored to blend with such building or structure. Wireless communications facilities, equipment and fixtures visible against the sky or other background shall be colored or screened to minimize visibility against such background A different coloring scheme shall be used to blend the structure with the landscape below and above the tree or building line. Existing on-site vegetation shall be preserved to the maximum extent feasible.

(9) Communication devices shall be situated on or attached to a structure in such a manner that they are screened, preferably not being visible from abutting streets. Freestanding dishes or communications devices shall be located on the landscape in such a manner so as to minimize visibility from abutting streets and residences, and to limit the need to remove existing vegetation. All equipment shall be screened, colored, molded and/or installed to blend into the structure and/or the landscape.

(10) Fencing shall be provided to control access to wireless communications facilities and shall be compatible with the scenic character of the Town and shall not be of razor wire. Any entry to the proposed access road shall be gated (and locked) at the intersection of the public way, and a key to the lock provided to the emergency response personnel designated by the Planning Board.

(11) Night lighting of towers shall be prohibited unless required by the Federal Aviation Administration. Lighting shall be limited to that needed for emergencies and/or as required by the FAA.

(12) There shall be a minimum of one (1) parking space for each facility, to be used in connection with the maintenance of the site, and not be used for the permanent storage of vehicles or other equipment.

(13) For proposed tower sites, the width, grade, and construction of the access road shall be designed so that emergency response vehicles can get to the tower and WCF accessory buildings, and shall be designed to provide proper storm drainage.

G. Procedure for a special permit and site plan review. All applications for wireless communications facilities, and/or communications devices shall be made and filed on the applicable application forms for site plan and special permit in compliance with § 200-7.1D, § 200-7.1H(2), and § 200-7.2G of the Zoning Bylaw, and also with the following additional requirements:

(1) A locus plan of the site at a scale of one (1) inch equals two hundred (200) feet (1" = 200') which shall show all property lines, zoning, the exact location of the proposed structure(s), streets, landscape features, residential dwellings and neighborhoods and all buildings within five hundred (500) feet of the wireless communications facilities.

(2) No less than eight (8) color photographs and/or renditions to be submitted of the proposed WCF with its tower, communications devices, etc., showing the impact of the proposed facility on abutting streets, adjacent property owners and residential neighborhoods; said visuals are to be labeled with their locations. For satellite dishes or antennas, a color photograph or rendition illustrating the dish or antenna at the proposed locations is required.

(3) For new towers, and for reconstruction, alteration, or extension of existing towers, the applicant shall arrange to either fly a balloon of at least three (3) feet in diameter, or conduct a crane test at the maximum height of the proposed tower at least once before the first public hearing. The date, time and location of the test shall be advertised by the applicant at least fourteen (14) days, but no more than twenty-one (21) days, before the flight in a newspaper of general circulation.

(4) Feasibility study. For proposed new wireless communication facilities, a feasibility study in report form is required to be completed by the applicant's professional or radio frequency engineer and local senior technical manager, showing documentation of an extensive and complete search of existing towers and WCF. The study requires answers to technical questions such as identifying existing towers in the applicant's search ring; coverage diagrams/percentages from available heights at these locations; RF interference conflicts; physical capacity of towers available in search ring and the requirements for retrofitting such facilities; existing tower contact information and contact dates; results of co-location efforts; proposed new tower weight/user capacity; available height locations for co-location users; and available ground area for WCF accessory buildings. Feasibility study forms are available from the Planning Board.

(5) If applicable, a written statement that the proposed facility complies with, or is exempt from, applicable regulations administered by the Federal Aviation Administration (FAA), Federal Communications Commission (FCC), Massachusetts Aeronautics Commission and the Massachusetts Department of Public Health.

H. Criteria for granting special permit.

(1) Applications for special permits may be denied if the Planning Board finds that the petitioner does not meet or address the requirements of this § 200-5.10 and MGL c. 40A, § 9.

(2) When considering an application for a wireless communication facility, the Planning Board shall take into consideration the proximity of the facility to residential dwellings and its impact on these residences. New towers shall only be considered after a finding that existing (or previously approved) towers suitable for and available to the applicant on commercially reasonable terms cannot accommodate the proposed use(s), taking into consideration radio frequency engineering issues and technological constraints.

(3) When considering an application for a proposed communications device to be placed on a structure, or for a proposed stealth communications facility, the Planning Board shall take into consideration the visual impact of the unit from the abutting neighborhoods and street(s).

I. Conditions. The Planning Board shall also impose, in addition to any reasonable conditions supporting the objectives of the Zoning Bylaw, such applicable conditions as it finds appropriate to safeguard the neighborhood or otherwise serve the purpose of this § 200-5.10, including, but not limited to, screening, buffering, lighting, fencing, modification of the external appearance of the structures, limitation upon the size, method of access or traffic features, parking, removal or cessation of use, or other requirements. Such conditions shall be imposed in writing with the granting of a special permit. As a minimum, the following conditions shall apply to all grants of special permits pursuant to this section:

(1) Annual certification demonstrating continuing compliance with the standards of the Federal Communications Commission, Federal Aviation Administration and required maintenance shall be filed with the Inspector of Buildings by the special permit holder, with a copy received by the Planning Board no later than January 31 of each year.

(2) Removal of abandoned towers and facilities. Any WCF that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such tower and facility shall remove same within ninety (90) days of receipt of notice from the Planning Board notifying the owner of such abandonment. If such tower or facility is not removed within said ninety (90) days, the Planning Board may cause such tower or facility to be removed at the owner's expense. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

(3) For all towers, a performance bond must be issued to the Town from a surety authorized to do business in Massachusetts and satisfactory to the Town of Charlton, in an amount equal to the cost of removal of any and all WCF from the premises and for the repair of such premises and restoration to the condition that the premises were in at the onset of the lease, said amount to be determined at the discretion of the Planning Board by either the applicant's engineer or professional hired by the Planning Board at the applicant's expense. The amount of the bond shall be the total estimate of restoration costs and anticipated fees (in today's dollars) by the applicant's engineer, plus an annual increase of three percent (3%) for the term of the lease. The term of the bond shall be for the full term of any lease plus twelve (12) months. The Town must be notified of any cancellation or change in the terms or conditions in the bond.

(4) For all towers, an agreement must be executed whereby the user will allow the installation of municipal communications devices at no cost to the Town of Charlton, and which will allow other carriers to lease space on the tower so long as such use does not interfere with the user's use of the tower, or with any Town-controlled communications devices.

(5) For all towers located on non-municipal property, a clause must be inserted in any lease that unconditionally permits the Town or contractors hired by the Town to enter the premises, at any time, whereupon towers are located, if any Town-wide or Town-controlled telecommunications are located thereon.

(6) For all towers located on municipal property, a certificate of insurance for liability coverage in amounts determined by the Board of Selectmen must be provided naming the Town as an additional insured.

(7) For all towers located on municipal property, an agreement must be executed whereby the user indemnifies and holds the Town harmless against all claims for injury or damage resulting from or arising out of the use or occupancy of the Town-owned property by the user.

(8) All permittees shall be required to file annually on or before February 1st with the Charlton Planning Board a complete list of all WCF locations in the Town then used by the permittee, including communications devices mounted on the interior of a building or structure.

(9) The special permit shall lapse in two (2) years unless substantial use or construction has commenced by such date, unless for good cause shown a written request for an extension of time is made to the Planning Board. Such construction, once begun, shall be actively and continuously pursued to completion within a reasonable time. This two-year period does not include such time as required to pursue or await the determination of an appeal from the granting of this special permit.

(10) Any future extension, addition of WCF, or construction of new or replacement towers or stealth facilities shall be subject to an amendment of the special permit, following the same procedure as for an original grant of a special permit.

J. Severability. If any section of this bylaw is ruled invalid by any authority or a court of competent jurisdiction, such ruling will not affect the validity of the remainder of the bylaw.

§ 200-5.11.Special permits for senior living facilities.

A. Purpose. The purpose of the Senior Living Bylaw is to encourage residential development that provides alternative housing choices for people that are fifty-five (55) years of age and older. For the purposes of this bylaw, housing units are intended for occupancy by persons fifty-five (55) or over within the meaning of MGL c. 151B, § 4, Subsection 6, and shall comply with the provisions set forth in 42 U.S.C. § 3601 et seq. This bylaw is also intended to promote affordable housing, efficient use of land and public infrastructure, and to preserve open space.

B. Applicability. In order to be eligible for a special permit for a senior living development, the property under consideration must be a parcel or set of contiguous parcels held in common ownership, totaling at least ten (10) acres in size and located entirely within the Agricultural (A), Low Density Residential (R-40), Village (V), or Residential - Small Enterprise (R-SE) Zoning Districts as set forth on the Zoning Map. In a senior living development, notwithstanding the provisions of the Table of Use Regulations (§ 200-3.2, Use Regulations), only those uses specified in this § 200-5.11 shall be allowed.

C. Types of dwellings, facilities, and uses permitted. The following uses are allowed as of right, subject to the dimensional and other requirements of this § 200-5.11: detached one-family dwellings. The following uses, facilities and structures shall be permitted only upon a special permit granted by the Planning Board: detached or attached dwellings of any combination [other than the aforementioned use(s) permitted as of right)] restorative care center, skilled nursing facility, clinic, congregate housing, assisted-living facility, and accessory uses for in-house resident services such as exercise and recreational rooms or areas, a swimming pool, small convenience store, hairdressing shop, massage service, instruction in physical exercise or arts or crafts, a small theater for visiting live theater performances. Such in-house resident services accessory uses shall only be provided to residents and their guests and shall not display exterior advertising. The program of and facilities for in-house services offered by the senior living development shall be specified in the special permit application and the scale of each service shall be in proportion to the number of dwelling units in the senior living development and subject to approval by the Planning Board. All facilities shall fully comply with standards of the Architectural Access Board. Enclosed or nonenclosed walkways connecting buildings shall be permitted.

(1) Independent living retirement housing. As used in this bylaw, "independent living retirement housing" means private residential dwelling units, individually equipped with a minimum of a kitchen, bedroom, bathroom and living area. Geared toward independently functioning adults, this housing typically does not offer on-site supportive services but is designed to be barrier-free and may include emergency call features complemented by housing management and maintenance services.

(2) Congregate housing. As used in this bylaw, "congregate housing" means private dwelling units/apartments which may have kitchen facilities within a complex containing central dining and other common areas and is designed for an adult population requiring some supportive services including but not limited to meals, housekeeping, home health, and other supportive services. Congregate housing under this section of the bylaw must obtain all required permits and/or licenses that are required to operate such facility by any department of the United States of America, the Commonwealth of Massachusetts and the Town of Charlton.

(3) Assisted-living facility. As used in this bylaw, an "assisted-living facility" means a twenty-

four-hour staff along with private dwelling units which may contain independent efficiency kitchens, but which contain common kitchen, dining and other activity areas. Assisted-living facilities are geared to an adult population which may have difficulty functioning independently and may require oversight including, but not limited to, the provision of a full meal plan, transportation services, personal care and assistance with medications. Special care programs specifically designed for adults with memory loss are included in this category. Assisted-living facilities under this section of the bylaw must obtain all required permits and/or licenses required to operate such facility by any department of the United States of America, the Commonwealth of Massachusetts, including certification by the Executive Office of Elder Affairs pursuant to MGL c. 19D, and the Town of Charlton.

(4) Restorative care/skilled nursing facility: includes any institution which provides services primarily to three (3) or more individuals admitted thereto and which provides such individuals with the following long-term nursing, convalescent or rehabilitative care; supervision and care incident to old age; or retirement home care for elderly persons. This includes services provided by nursing homes, convalescent homes, long-term care facilities, rest homes, infirmaries for older adults, and charitable homes for the aged. Restorative care/skilled nursing facilities under this section of the bylaw must obtain all applicable permits and licenses required by any agency of the United States of America, the Commonwealth of Massachusetts and the Town of Charlton.

(5) Dwelling unit. As used in this § 200-5.11, and notwithstanding the definition of "dwelling unit" set forth in § 200-2.1 of this Zoning Bylaw, the term "dwelling unit" shall mean one (1) or more living or sleeping rooms arranged for the use of one (1) or more individuals living as a single housekeeping unit with individual or congregate cooking, living, sanitary and sleeping facilities, excluding mobile homes and trailers. The intent of this definition is to define a "home" with private sleeping rooms rather than a dormitory arrangement of sleeping quarters.

D. General requirements. An application for a senior living development special permit must conform to the following standards:

(1) Occupancy of dwelling units shall be limited to persons fifty-five (55) years of age or older.

(2) The minimum tract size shall be ten (10) acres.

(3) All dwelling units must be served with public water service and be connected to the public sewerage system. Subject to all other applicable bylaws, rules and regulations of the Town, including, without limiting the foregoing, those of the Board of Health and the Water and Sewer Commission, an on-site waste treatment facility (package treatment plant), approved by the Mass. Department of Environmental Protection (DEP), may be substituted for public sewer, and an on-site water supply system may be substituted for public water, if the Town Water and Sewer Commission deems the connection to public water service or public sewer service to be infeasible.

(4) A minimum of thirty percent (30%) of the parcel shown on the development plan shall be contiguous open space, excluding required yards and buffer areas. Not more than twenty-five percent (25%) of the open space shall be wetlands, as defined pursuant to MGL c. 131, § 40. The open space shall be subject to the conditions set forth in § 200-5.7, Flexible development, provided that the term "senior living development" shall be substituted for the term "flexible development" in said conditions.

(5) A minimum of ten percent (10%) of the total units shall be affordable in perpetuity. For the

purposes of this section, "affordable units" shall be defined as units affordable to people or families with incomes as set by the Department of Housing and Community Development (DHCD) for this purpose. Affordable units shall be dispersed throughout the development and shall be indistinguishable from market-rate units. The Charlton Housing Authority shall be responsible for choosing purchasers or tenants, and monitoring and ensuring the long-term affordability of the units.

(6) The maximum number of permitted housing units within all permitted senior living developments in the Town of Charlton shall be limited to a number equivalent to ten percent (10%) of all existing residential units (excluding senior living development units) located in the Town of Charlton. The Board of Assessors shall establish the number of residential housing units as of January 1 of each calendar year.

(7) No single structure containing independent living retirement housing shall contain more than four (4) dwelling units.

(8) The total number of dwelling units in a senior living development shall not exceed four (4) units per acre of buildable land unless a density bonus is granted under the following section. Buildable acreage shall be calculated by a registered land surveyor or civil engineer and shall not include any of the following:

(a) Land within a floodway or floodplain district as defined under Section 6, Floodplain District.

(b) Freshwater wetlands as defined by MGL c. 131, § 40.

(c) Land having slopes greater than twenty percent (20%).

(d) Land subject to a conservation restriction which prohibits development.

(e) Land subject to any local, state, or federal law or regulation, right-of-way, public or other restriction, which prohibits development.

(9) The Planning Board may grant density bonuses under the following provisions; provided, however, that at no time shall there be more than six (6) units per buildable acre of land in the development:

(a) Affordability. For each affordable housing unit provided above the minimum required ten percent (10%), one (1) additional housing unit may be permitted.

(b) Open space. For each acre of preserved open space in addition to the minimum required, two (2) additional housing units may be permitted.

(10) Public bikeways, pedestrian walkways or walking trails may be required by the Planning Board to provide circulation or access to schools, playgrounds, parks, shopping, transportation, open space and/or community facilities or such other purposes as the Board may determine to be appropriate to serve the needs of the development.

(11) Any structure proposed in a historic district or on a parcel immediately adjacent to a historic district shall be submitted for review and approval to the Historical Commission.

E. Dimensional requirements.

(1) Lot area. Individual independent living retirement housing residential lots shall have a minimum lot area of ten thousand (10,000) square feet.

(2) Lot frontage. Individual independent living retirement housing lots within a senior living development shall have a minimum of one hundred (100) feet of frontage on a public way or an approved subdivision way.

(3) Setback requirements. All structures shall be located no less than twenty-five (25) feet from the front lot line and no less than fifteen (15) feet from the side and rear lot lines.

(4) Building separation. Distance between structures shall not be less than thirty-six (36) feet.

(5) Buffer areas. All dwellings and structures shall be located a minimum of fifty (50) feet from adjacent properties. Buffer areas shall be retained in their natural vegetative state to the maximum extent feasible, except where adjacent to property used for agriculture purposes.

(6) Building height. No building shall exceed thirty-six (36) feet in height, exclusive of basements.

(7) Parking. The development shall comply with the driveway and parking provisions of § 200-4.2, Off-street parking and loading.

F. Procedures. The Planning Board shall be the granting authority for senior living development special permits.

(1) Pre-application. Applicants are required to present a conceptual development plan prepared by a registered professional architect, register professional landscape architect or registered professional engineer at a regularly scheduled Planning Board meeting. The plan shall include a detailed analysis of site topography, wetlands, unique land feature, and soil types. The purpose of this requirement is to help applicants and officials develop a better understanding of the property and to help establish an overall design approach that respects the intent of this bylaw, which is to provide alternative housing choices, protect open space, and promote efficient use of the land and infrastructure.

(2) Application. Applicants are required to submit a special permit application and development plan, conforming to the requirements of this bylaw, to the Planning Board for approval under the provisions of § 200-7.2, Granting authority.

(a) The development plan shall include a site plan under § 200-7.1D, Site plan review.

(b) If the development plan shows a subdivision of land as defined under MGL c. 41, § 81L, the applicant is required to also submit a preliminary subdivision plan and applications under the applicable Planning Board Subdivision Rules and Regulations at the time of application for a senior living development, and must obtain approval of the preliminary subdivision plan prior to submitting a definitive plan and application. All road networks and accompanying infrastructure shall be retained by the applicant and not accepted by the Town as public ways.

(3) The Planning Board may grant a special permit for a senior living development if the Board determines that all requirements under the bylaw have been met and that the benefits of the proposed use outweigh the detriments to the neighborhood or Town.

(4) The Planning Board may impose such additional conditions as it finds reasonably appropriate to safeguard existing neighborhoods or otherwise serve the purposes of this bylaw.

G. If any provision of this bylaw is determined to be invalid, it shall not affect the validity of the remaining provisions.

§ 200-5.12.Phased growth.

A. Purposed and intent. This section of the Charlton Zoning Bylaw is adopted pursuant to Article 89 of the Massachusetts Constitution in order to ensure that the issuance of building permits for new residential construction in the Town of Charlton is consistent with the Town's ability to provide infrastructure necessary to accommodate the new growth. This section establishes a phased growth rate limitation consistent with historic growth rates experienced in Charlton, as described in the Master Plan for the Town of Charlton. The Master Plan demonstrates that the Town is unable to provide services and facilities at a pace equivalent to the rate of development and population growth experienced in the Town in the past decade. The Town seeks to ensure that growth occurs in a manner that can be supported by Town services, particularly adequate public safety, schools, roads, water, sewer, and human services at a level of quality expected by the citizenry and affordable to the Town.

B. Applicability. Beginning on the date when this section of the bylaw was approved by Town Meeting, no building permit for a new dwelling unit or units shall be issued unless in accordance with the schedule set forth in this section, unless exempted pursuant to Subsection E of this section. This section shall apply to all definitive subdivision plans, as well as to all flexible development projects proposed pursuant to § 200-5.7 of this bylaw. Dwelling units shall be considered as part of a single development, for the purposes of development scheduling, if located either on a single parcel or contiguous parcels of land that have been held in common ownership at any time on or subsequent to the date of adoption of this bylaw.

C. Zoning change protection. The protection against zoning changes as granted by MGL c. 40A, § 6, shall, in the case of a development whose completion has been restrained by this bylaw, be extended to the minimum time for completion allowed under this bylaw.

D. Development rate timetable.

(1) Building permits for new dwelling units shall be authorized only in accordance with the following schedule. This applies to all definitive subdivision plans, as well as to all flexible development projects proposed pursuant to § 200-5.7 of this bylaw, which will result in the creation of new dwelling units.

(2) The Planning Board shall not approve any development schedule that would result in the issuance of building permits that exceed the phased growth rate limitation set forth in this section of the Charlton Zoning Bylaw.

(3) Building permits shall be issued as follows:

Number of New Dwelling Units	**Percentage of Total Dwelling Units per Year***
1 to 4	100%
5 to 10	75%
11 to 20	50%
21 to 40	25%
41 or more	20%

* Percent of new dwelling units in the development for which building permits may be authorized per calendar year. The yearly schedule designated above commences from the date the Planning Board approves and signs the definitive subdivision plan or approval for the flexible development project.

(4) If the maximum number of building permits allowable for a particular development in a given calendar year pursuant to the schedule in Subsection D(3) immediately above are not actually issued during said year, those which would have been allowed but which did not in fact issue said year may be carried forward to the immediately following calendar year and may be added to those normally allotted for the project during said immediately following year, but shall not be carried forward to any subsequent calendar year.

E. Procedures.

(1) As a condition for approval, applicants shall submit a proposed development schedule with their application for all definitive subdivision plans as well as for all flexible development projects proposed pursuant to § 200-5.7 of this bylaw, that will result in the creation of new dwelling units.

(2) Approved development schedules shall be incorporated as part of the decision filed with the Town Clerk in accordance with applicable procedures for the permit sought and shall be properly recorded at the Worcester District Registry of Deeds. One copy of the approved development schedule shall be filed with the Building Commissioner's Office.

F. Exemptions. The following types of development are exempt from this section of the Charlton Zoning Bylaw. The issuance of building permits for these types of development are exempted from the phased growth rate limitation in order to further the goals and objectives of the Charlton Master Plan. In any such instance, issuance of any and all applicable permits pursuant to the Charlton Zoning Bylaw shall be conditioned upon the recording of a restriction enforceable by the Town that ensures that the dwelling units shall only be used for residents as described below.

(1) All developments restricted to use for senior citizen housing.

(2) All developments restricted to use for housing for the disabled.

(3) Housing that is eligible for inclusion on the Mass. DHCD Subsidized Housing Inventory (SHI) listing. [Added 5-21-2012 ATM by Art. 28]

(4) Affordable housing created in accordance with § 200-5.15, Inclusionary zoning special permit, of the Charlton Zoning Bylaw. [Added 5-21-2012 ATM by Art. 28]

§ 200-5.13.Reduced frontage lots.

A. Reduced frontage lots may be created and excluded from existing minimum frontage requirements, providing that the Planning Board authorizes the creation of the lot by special permit for reduced lot frontage, in accordance with the regulations and requirements set forth below. Such lots shall only be permitted in the Agricultural (A) and Low Density Residential (R-40) Zoning Districts.

B. General requirements.

(1) The minimum lot area required for each reduced frontage lot shall be five (5) acres.

(2) The minimum frontage length and lot width shall be fifty (50) feet.

(3) The building setback line shall be a minimum of two hundred (200) feet.

(4) The reduced frontage access strip portion of the lot cannot exceed six hundred (600) feet in length.

(5) The plan showing a reduced frontage lot submitted to the Planning Board for endorsement under MGL c. 41S, 81P or 81U shall clearly identify the lot as a reduced frontage lot and bear

a statement to the effect that such reduced frontage shall not be further divided to reduce its area or to create additional building lots. Further, such plan shall show the proposed dwelling location.

(6) Reduced frontage lots shall meet the requirements of § 200-3.3B(5) of the Charlton Zoning Bylaw [two-thirds (2/3) upland area].

§ 200-5.14.Flexible business development.

A. Purpose. The purposes of this section, Flexible business development, are:

(1) To promote more sensitive siting of commercial and industrial buildings and better overall site planning;

(2) To perpetuate the appearance of the Town's traditional New England landscape;

(3) To facilitate the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner; and

(4) To offer an alternative to standard commercial and industrial development.

B. Definitions. The following terms shall have the following definitions for the purposes of this section:

CONTIGUOUS OPEN SPACE — Open space suitable, in the opinion of the Planning Board, for the purposes set forth herein. Such open space may be separated by the road(s) constructed within a FBDP. Contiguous open space shall not include required yards.

FLEXIBLE BUSINESS DEVELOPMENT PROJECT (FBDP) — A commercial and/or industrial development authorized by special permit as set forth in this § 200-5.14.

C. Applicability. A FBDP may be created, whether a subdivision or not, from any parcel or set of contiguous parcels held in common ownership and located entirely within the Business Enterprise Park District as defined in the Zoning Bylaw, subject to the conditions and specifications set forth herein.

D. Procedures. A FBDP may be authorized upon the issuance of a special permit by the Planning Board. An applicant for a FBDP special permit shall file with the Planning Board ten (10) copies of the following:

(1) A development plan conforming to the requirements for a preliminary plan as set forth in the Subdivision Rules and Regulations of the Planning Board.

(2) Wetland delineation; where such is in doubt or dispute, the Planning Board may require appropriate documentation.

(3) Data on proposed wastewater disposal, which shall be referred to a consulting engineer for review and recommendation. The applicant shall pay for the cost of such review, per procedure established by the Planning Board.

(4) The Planning Board may also require as part of the development plan any additional information necessary to make the determinations and assessments cited herein. The applicant shall pay the cost of such review required of the additional information, per procedure established by the Planning Board.

E. Modification of lot requirements. Applicants for a FBDP special permit may modify lot shape and other dimensional requirements for lots, subject to the following limitations:

(1) Lots having reduced frontage shall not have frontage on a street other than a street created by the FBDP; provided, however, that the Planning Board may waive this requirement where it is determined that such reduced lots are consistent with existing development patterns in the existing neighborhood.

(2) Side and rear yards shall not be reduced to less than fifty percent (50%) of distances otherwise required.

F. Standards. The following design standards shall apply to a FBDP:

(1) Types of buildings. The FBDP may consist of any combination of structures on one (1) lot or a subdivision of land; provided, however, that no single office buildings may be constructed unless such single office exceeds twelve thousand (12,000) square feet in gross floor area.

(2) Architectural style. The architecture of all buildings is of interest to the Planning Board, and as such the Planning Board shall determine that the design and appearance of all buildings will not be injurious to the established or future character of the vicinity and the neighborhood and that it shall be in harmony with the general purpose and intent of this bylaw. Structures shall be oriented toward the street serving the premises and not the required parking area.

(3) Roads. The principal roadway(s) serving the site shall be designed to conform with the standards of the Planning Board's Subdivision Control Rules and Regulations.

(4) Parking. Each business located within the FBDP shall provide parking as required by § 200-4.2 of this Zoning Bylaw; provided, however, that the Planning Board may reduce the number of required parking spaces in a FBDP by special permit upon a finding that such reduction will not cause substantial detriment.

(5) Buffer areas. A buffer area of one hundred (100) feet shall be provided at the perimeter of the property where it abuts residentially zoned properties, except for driveways necessary for access and egress to and from the site. No vegetation in this buffer area will be disturbed, destroyed or removed, except for normal maintenance. The Planning Board may waive the buffer requirement:

(a) Where the land abutting the site is the subject of a permanent restriction for conservation or recreation so long as a buffer is established of at least fifty (50) feet in depth, which may include such restricted land area within such buffer area calculation; or

(b) Where the land abutting the site is held by the Town for conservation or recreation purposes; or

(c) The Planning Board determines that a smaller buffer will suffice to accomplish the objectives set forth herein.

(6) Stormwater management. Stormwater management shall be consistent with the requirements for subdivisions set forth in the Rules and Regulations of the Planning Board and the DEP's Stormwater Management Policy.

G. Contiguous open space. A minimum of twenty-five percent (25%) (or less if in the opinion of the Planning Board such reduction is consistent with the intent of this section) of the parcel shown on the development plan shall be contiguous open space. Any proposed contiguous open space, unless conveyed to the Town or its Conservation Commission, shall be subject to a recorded restriction enforceable by the Town, providing that such land shall be perpetually kept in an open state, that it

shall be preserved for exclusively agricultural, horticultural, educational or recreational purposes, and that it shall be maintained in a manner which will ensure its suitability for its intended purposes.

(1) The percentage of the contiguous open space which is wetlands shall not normally exceed the percentage of the tract which is wetlands; provided, however, that the applicant may include a greater percentage of wetlands in such open space upon a demonstration that such inclusion promotes the purposes set forth in Subsection A, above.

(2) In no case shall the percentage of contiguous open space which is wetlands exceed fifty percent (50%) of the tract.

(3) The contiguous open space shall be used for conservation, historic preservation and education, outdoor education, recreation, park purposes, agriculture, horticulture, forestry, or for a combination of these uses, and shall be served by suitable access for such purposes.

(4) The contiguous open space shall remain unbuilt upon, provided that the Planning Board may permit up to ten percent (10%) of such open space to be paved or built upon for structures accessory to the dedicated use or uses of such open space, pedestrian walks, and bikepaths.

(5) Underground utilities to serve the FBDP may be located within the contiguous open space.

H. Ownership of the contiguous open space. The contiguous open space shall, at the Planning Board's election, be conveyed to:

(1) The Town or its Conservation Commission, subject to the public acceptance requirements of the Board of Selectmen and Town Meeting;

(2) A nonprofit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above;

(3) A corporation or trust owned jointly or in common by the owners of lots and/or units within the FBDP, if applicable. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots or units in perpetuity. Maintenance of such open space and facilities shall be permanently guaranteed by such corporation or trust, which shall provide for mandatory assessments for maintenance expenses to each lot/unit. Each such trust or corporation shall be deemed to have assented to allow the Town to perform maintenance of such open space and facilities, if the trust or corporation fails to provide adequate maintenance, and shall grant the Town an easement for this purpose. In such event, the Town shall first provide fourteen (14) days' written notice to the trust or corporation as to the inadequate maintenance, and, if the trust or corporation fails to complete such maintenance, the Town may perform it and recover from the trust or corporation the costs of performing the maintenance and all expenses, including attorney fees (Town Counsel otherwise), incurred in enforcing the requirements set forth in this section, which costs and expenses shall constitute a lien upon each of such lots/units. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions designed to effect these provisions. Documents creating such trust or corporation shall be submitted to the Planning Board for approval, and shall thereafter be recorded.

I. Decision. The Planning Board may approve, approve with conditions, or deny an application for a FBDP after determining whether the FBDP better promotes the purposes set forth in Subsection A than would a conventional commercial or industrial development of the same property.

J. Relation to other requirements. The submittals and permits of this section shall be in addition to any

requirements of the Subdivision Control Law or any other provisions of this Zoning Bylaw.

§ 200-5.15.Inclusionary zoning special permit.

Affordable Housing — Incentive Option

A. Purpose and intent.

(1) The purpose of this incentive option is to increase the supply of affordable housing in the Town of Charlton. This bylaw aims to ensure that such housing is affordable over the long-term and provided in accordance with the requirements of MGL c. 40B and its implementing regulations as promulgated by the Department of Housing and Community Development (DHCD), Charlton's Zoning Bylaw, and the Charlton Master Plan.

(2) Accordingly, the provisions of this section are designed to:

(a) Provide developers an incentive to increase the supply of affordable rental and ownership housing in the Town of Charlton;

(b) Eventually reach the ten-percent affordable housing threshold established by the Commonwealth in MGL c. 40B, §§ 20 through 23;

(c) Encourage a greater diversity and distribution of housing to meet the needs of families and individuals at all income levels; and

(d) Prevent the displacement of Charlton residents.

B. Definitions.

AFFORDABLE HOUSING UNIT (AHU) — A dwelling unit available at a cost of no more than thirty percent (30%) of gross household income of those households at or below eighty percent (80%) of the Worcester Primary Metropolitan Statistical Area (PMSA) median household income as reported by the U.S. Department of Housing and Urban Development, including units listed under MGL c. 40B and the Commonwealth's Local Initiative Program and qualifying for the Mass. DHCD Subsidized Housing Inventory (SHI) listing. [Amended 5-21-2012 ATM by Art. 28]

INCOME, LOW AND MODERATE

(1) LOW INCOME — Households making less than fifty percent (50%) of the median income of the Worcester PMSA.

(2) MODERATE INCOME — Households making between fifty percent (50%) and eighty percent (80%) of the median income of the Worcester PMSA.

MEDIAN INCOME — The median income, adjusted for household size, for the Worcester PMSA published by or calculated from regulations promulgated by the United States Department of Housing and Urban Development or any successor federal or state program.

PROJECT — Any residential development containing six (6) dwelling units, including housing created both by new construction or remodeling and conversion of an obsolete or unused building or other structure from its original or more recent use to an alternate use.

C. Applicability. Developers may exercise the affordability incentive option for residential development projects containing at least six (6) dwelling units in any zoning district that permits residential development by right or by site plan approval. The option is only available to definitive subdivision plans and is not available to projects containing fewer than six (6) dwelling units. [Amended 5-21-2012 ATM by Art. 28]

D. Provision of affordable units and density bonus.

(1) Utilizing the affordable housing incentive option will require the granting of a special permit from the Planning Board.

(2) Density bonus applicability. The density bonus is only available in those areas of Charlton serviced by both municipal water and sewer, or upon approval of both the Planning Board and the Board of Health. [Amended 5-21-2012 ATM by Art. 28]

(3) Density bonus formula. For projects resulting in a net increase of six (6) or more dwelling units, the applicant has the option of obtaining a density bonus in exchange for the provision of affordable housing. The number of additional lots derived from the density bonus shall not exceed twenty-five percent (25%) of the total lots that could be created under a conventional definitive subdivision plan design. The density bonus shall be calculated according to the following formula:

(a) For those residential development projects that will set aside a minimum of fifteen percent (15%) of the total proposed housing units for affordable housing, the minimum lot area per dwelling normally required in the applicable zoning district may be reduced by the amount necessary to permit up to two (2) additional units for each one (1) affordable housing unit provided.

(b) For those residential development projects that will set aside a minimum of ten percent (10%) of the total proposed housing units for affordable housing, the minimum lot area per dwelling normally required in the applicable zoning district may be reduced by the amount necessary to permit up to one (1) additional unit for each one (1) affordable housing unit provided.

(4) Fractions. If, when applying the above percentages to the total number of units to determine the number of affordable units, the resulting number of affordable units includes a fraction of a unit, this fraction shall be rounded up to the next whole number.

E. Standards. Residential projects that plan on utilizing the affordable housing incentive option need to comply with the following standards:

(1) Affordable units shall be dispersed throughout the project so as to ensure a true mix of market-rate and affordable housing.

(2) Affordable units shall conform to the general appearance of residences in the area and/or the project. Affordable units must contain at least eighty-five percent (85%) of the average floor area of the market-rate units.

(3) All affordable housing units created under this bylaw shall be no less accessible to public amenities, such as open space, than the market-rate units.

(4) The construction of the affordable units will be built (a unit is considered "built" upon the issuance of an occupancy permit) coincident with the development of market-rate units, but in no event shall the development of affordable units be delayed beyond the schedule noted below:

Market-Rate Units (% built)	**Affordable Housing Units (% built)**
Up to 30%	None required
30% to 50%	At least 30%

51% to 75%	At least 75%
76% or more	100%

F. Use restrictions.

(1) Preservation of affordability: restrictions on resale. Each affordable unit created in accordance with this bylaw shall have the following limitations governing its resale. The purpose of these limitations is to preserve the long-term affordability of the unit and to ensure its continued availability for affordable income households in perpetuity. The resale controls shall be established through a deed restriction, acceptable to the Massachusetts Department of Housing and Community Development and the Charlton Planning Board, and recorded at Worcester District Registry of Deeds or the Land Court. Covenants and other documents necessary to ensure compliance with this section shall be executed and, if applicable, recorded prior to and as a condition of the issuance of any certificate of occupancy, as the Planning Board shall deem appropriate.

(2) Maximum rental price. Rents for the affordable units, including utilities, shall not exceed thirty percent (30%) of the targeted annual gross household income.

(3) Maximum sales price. Housing costs, including monthly housing payments, principal and interest payments, and insurance, shall not exceed thirty percent (30%) of the targeted gross household income.

(4) Resale prices. Subsequent resale prices shall be determined in a manner consistent with the initial pricing of the affordable housing unit. The resale price will be established based on a discounted rate, which is the percentage of the median income for which the unit was originally sold. The method of resale price calculation shall be included as part of the deed restriction. This percentage may be increased or decreased by up to five percent (5%) at the time of resale, in order to assure that the target income groups' ability to purchase will be kept in line with the unit's market appreciation and to provide a proper return on equity to the seller.

(5) Marketing plan. The affordable units must be rented or sold using a plan for marketing which has been reviewed and approved by the Planning Board (or its administrative agent). Such plan will be consistent with any affordable housing guidelines issued by the Planning Board. The plan shall describe marketing approaches, selection of occupants, initial rents and sales prices for the units designated as affordable and, prior to their being recorded, condominium, cooperative or other homeowners' association documents as appropriate. This plan shall include a description of the lottery or other process to be used for selecting buyers, in conformity to Affordable Housing Guidelines.

(6) Preference for Charlton residents and persons employed within the Town of Charlton. Unless otherwise prohibited by a federal or state agency under a financing or other subsidy program, not less than fifty percent (50%) of the affordable units shall be initially offered to current residents of the Town of Charlton who qualify under the income guidelines and who have resided in the Town for a minimum of five (5) years, to persons employed within the Town of Charlton for at least five (5) years, and to persons who, although not currently residents of the Town, have previously resided in the Town of Charlton for a minimum of five (5) years. The Town may establish a system of priorities for selecting buyers or renters, in accordance with Affordable Housing Guidelines issued by the Planning Board.

(7) Ensuring that buyers are income eligible. Purchasers and would-be purchasers and renters are required to submit to the Planning Board copies of their last three (3) year's tax returns and

certify in writing that their income does not exceed eligibility guidelines.

(8) Relationship to the state's affordable housing inventory. It is intended that the affordable low- and moderate-income housing units that result from this bylaw be considered as Local Initiative Program (LIP) units in compliance with the requirements of the Commonwealth of Massachusetts Department of Housing and Community Development and or count as low- or moderate-income housing units pursuant to MGL c. 40B, §§ 20 through 23.

(9) Relationship to public funding programs. Developers may participate in public subsidy programs for the purpose of providing affordable housing within their developments. Such participation will be subject to the approval of the subsidizing agency and to the unit price limitations of the funding program. In case of conflicting price limitations, the lower price requirement shall prevail.

G. Procedures. All projects shall comply with the following procedures as applicable:

(1) Pre-application meeting. Applicants are encouraged to meet with the Planning Board to discuss the project proposal and affordable housing requirements prior to filing a special permit application.

(2) Submission of affordable housing plan. The applicant shall fill out and submit an affordable housing plan form to the Planning Board prior to filing a special permit application. This form requires the following information: project units by location, square footage, unit types, number and types of rooms, and location of and number of affordable units. Specific floor plans shall be included with this submission.

(3) Planning Board review. The Planning Board shall meet to hear the special permit application. The Planning Board decision may require modifications, conditions, and safeguards, including documentation regarding housing unit affordability.

(4) Revised affordable housing plan. As needed to secure Planning Board approval, a revised affordable housing plan may be submitted to the Planning Board. No building permit shall be issued until the applicant submits proof that the decision of the Planning Board has been recorded and that a final approval letter for the affordable housing plan has been issued.

H. Enforcement.

(1) Legal restrictions. Affordable units shall be rented or sold subject to deed covenants, contractual agreements, and/or other mechanisms restricting the use and occupancy, rent level, and sales prices of such units to assure their affordability. All restrictive instruments shall be subject to review and approval by the Planning Board.

(2) Administration. The Planning Board will be the authority that will monitor, oversee and administer the details for all resale of any affordable units created under this bylaw. The Planning Board may appoint an administrative agent to assist with the implementation of this bylaw.

(3) Maintaining local affordable housing inventory. The Planning Board shall maintain the Affordable Housing Inventory, to ensure compliance with approved plans.

§ 200-5.16.Small wind turbines.

A. Purpose and intent.

(1) It is the purpose of this regulation to promote the safe, effective and efficient use of small

wind energy systems installed to reduce the on-site consumption of utility-supplied electricity.

(2) Additionally, the purpose of the regulation is to promote alternative energy sources, reduce peak power demands in existing utility power grids, reduce reliance on fossil fuels, and provide choices to property owners that have possible cost savings and positive environmental impacts.

B. Definitions.

SMALL WIND TURBINE — A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than twenty (20) kW and which is intended to provide power primarily for on-site uses as opposed to generation for sale to the commercial power grid.

TOWER HEIGHT — The height above grade of the fixed portion of the tower, excluding the wind turbine itself.

C. Submission requirements. The applicant shall provide thirteen (13) copies of each of the following to the Planning Board as part of the site plan application:

(1) A completed application form with a review fee.

(2) Existing conditions site plan prepared by a professional engineer and professional registered land surveyor drawn in sufficient detail to show the following:

(a) Property lines, dimensions, landowners, acreage, and contours at two-foot intervals of the subject property and properties within three hundred (300) feet of the small wind turbine.

(b) Location and dimensions of all existing buildings, accessory structures and uses, public and private roads, driveways, easements, stone walls, and fence lines within three hundred (300) feet of the system.

(c) Height of any structures over thirty-five (35) feet, and the location and average height of trees on the subject property and adjacent properties, within three hundred (300) feet of the proposed small wind turbine.

(3) Proposed conditions site plan prepared by a professional engineer and professional registered land surveyor drawn in sufficient detail to show the following:

(a) The location of the proposed small wind turbine and any appurtenances and equipment. Indicate property boundaries and distances to the base(s) of the wind turbine(s) and to the nearest corners of each of the appurtenant structures and equipment.

(b) Limits of areas where vegetation is to be cleared or altered and justification for any such clearing or alteration.

(c) Detailed stormwater management plans and plans to control erosion and sedimentation both during construction and as a permanent measure.

(d) Plans indicating locations and specifics of proposed screening, landscaping, ground cover, fencing, exterior lighting or signs.

(e) Plans of proposed access driveway or roadway and parking area at the small wind turbine, whether temporary or permanent; include grading, drainage, and traveled

width. Include a cross section of the access drive indicating the width, depth of gravel, paving or surface material.

(f) Location of access easements or rights-of-way, if any, needed for access to the small wind turbine from a street.

(4) Standard drawings of the structural components of the small wind turbine, including structures, tower, base and footings. Said drawings, and any necessary calculations shall be certified by a registered engineer that the system complies with the State Building Code.

(5) A technical report from a qualified individual that the site is feasible for wind power, that documents wind speed at the proposed site, that anticipates energy that will be created from the small wind turbine unit, and that estimates the amount of energy necessary to serve the on-site uses.

(6) Post-construction simulation views of the site from at least four (4) locations where the small wind turbine will be visible from as determined by the Planning Board through means of sketches or computer simulations.

(7) A proposed maintenance schedule for the small wind turbine and related equipment.

D. Design and siting requirements.

(1) Setbacks. A small wind turbine shall not be located closer to a property line than the height of the tower plus the height of the blade in its vertical position. It is recommended that the setback areas be kept free of all habitable structures while the small wind turbine is in place.

(2) Noise. The small wind turbine and associated equipment shall conform to Massachusetts noise regulations (310 CMR 7.10). In no case shall the sound created by said facility exceed seventy (70) decibels (dba) at the nearest property line.

(3) Height. The small wind turbine shall not exceed one hundred twenty (120) feet in height, and must comply with Federal Aviation Administration (FAA) regulations.

(4) Visual impact. Installation of the small wind turbine will not create a substantially adverse visual impact. The small wind turbine shall have a nonreflective finish of an unobtrusive color. The Planning Board may require the structure to be painted or otherwise camouflaged to minimize visual impact.

(5) Electromagnetic interference. The small wind turbine shall cause no disrupting electromagnetic interference. If it is determined that a small wind turbine is causing interference, the operator shall take the necessary corrective action to eliminate this interference, subject to the approval of the Building Commissioner.

E. Approval.

(1) In acting on the site plan application, the Planning Board shall proceed in accordance with the procedures and timelines for special permits in MGL c. 40A, § 9, as well as § 200-7.2A of this bylaw. The Planning Board may hire professional consultants at the expense of the applicant to assist it in evaluating the proposed small wind turbine and the impacts on the community.

(2) Said site plan approval will run with the property and shall not be specific to a particular owner unless otherwise noted.

F. Maintenance requirements.

(1) At all times the applicant shall maintain the small wind turbine and related equipment in good working condition and perform regular maintenance in accordance with the approved maintenance schedule. A record shall be kept of all maintenance performed, and said record must be provided to the Zoning Enforcement Officer whenever requested to verify maintenance.

(2) Should the turbine fall into disrepair and/or experience a situation where it is producing unusual noise or other emissions, the applicant shall have no more than twenty-four (24) hours to implement actions to correct the situation.

(3) Failure to properly maintain the small wind turbine or correct other issues may result in revocation of the site plan approval.

G. Removal requirements.

(1) A small wind turbine that is not used for twelve (12) successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the small wind turbine owner. Removal of the system shall include the structure, foundation, transmission equipment, fencing and other appurtenances. The site shall be revegetated to prevent erosion.

(2) The owner of the small wind turbine shall submit a letter to the Planning Board in January of each year confirming the turbine is still in use and verifying compliance with standards of the bylaw and the special permit that was granted.

H. Waiver provisions. The Board may waive strict compliance with any provision of this bylaw if it deems it in the public interest and determines that the intent of the bylaw has been maintained. Such waivers must be referenced in the written site plan approval decision, including the reasons for them.

§ 200-5.17.Village District regulations.

A. Landscaping.

(1) A landscaped buffer zone, of at least the width of the required setback, continuous except for approved driveways, shall be established along any side of the lot with road frontage to visually separate the building and its parking areas from the road. Trees shall be placed at least three (3) feet from the face of the curb, and at least two (2) feet from the sidewalk.

(2) A landscaped buffer zone along the side and rear of each lot, of at least the width of the required side and rear setback, shall be provided where a proposed nonresidential use abuts a residential use.

(3) The buffer zones shall be planted with grass, ground cover, medium height shrubs, and shade trees planted at least every thirty (30) feet. The buffer zone shall include both deciduous and evergreen shrubs and trees. Trees and shrubs at driveway intersections shall be set back a sufficient distance from such intersections so as not to obstruct traffic visibility. Trees shall be at least eight (8) feet tall with a trunk caliper of at least two (2) inches.

(4) Exposed storage areas, machinery, garbage "dumpsters," service areas, truck loading areas, utility buildings and structures shall be placed to the rear of buildings in visually unobtrusive locations. Screening and landscaping shall prevent direct views of the loading areas and their driveways from adjacent properties or from public or private streets used by the general public. Screening and buffering shall be achieved through walls, fences and landscaping, shall be a minimum of six (6) feet tall, and shall be visually impervious.

(5) Materials to be used in the buffer zone include but are not limited to the following: natural/existing vegetation, natural topography, berms, stone walls, fences, deciduous and coniferous shrubs/trees, perennials, annuals, pedestrian-scale walkways, and other landscape materials that enhance the aesthetic quality of the site. The final approval of all material used within the buffer zone shall be at the discretion of the Planning Board.

(6) Street trees shall be planted along the edge of the parking lot at a maximum average of thirty (30) feet on center. Parking lot edges which abut property under a different ownership shall have a screening wall or be planted with shrubs that obtain a height of at least three (3) feet in three years with a maximum spacing of three (3) feet on center.

(7) Mechanical equipment such as HVAC units, telephone boxes, or electrical transformers shall be integrated into the site design through use of landscaping, berms, or fences and shall be as unobtrusive as possible. HVAC units may be located behind roof ridge lines so they are not visible from the front view of the building.

B. Parking and access. In addition to the provisions of § 200-4.2, Off-street parking and loading, the following provisions shall apply in the Village District. Where this section conflicts with § 200-4.2, this section shall govern:

(1) Parking areas shall be located to the side and rear of the structure. No parking area shall be designed such that parking is within the required or authorized front yard setback. The Planning Board may, at its discretion, allow twenty-five percent (25%) of the total parking to be located to the front of the structure.

(2) Recognizing that standard parking requirements may hamper development of village-style land use and development, the Planning Board is authorized to reduce the parking requirements specified for the use/structure proposed up to twenty-five percent (25%). In determining the appropriate reduction, if any, the Board may give consideration to the hours of use of the proposed use, hours of use of other uses/structures within the Village District, nearby on-street spaces, the amount of "shared" parking with other uses, the opinions of merchants, residents and municipal officials as to the adequacy or inadequacy of parking spaces within the specific area of the proposed use, as well as other relevant information to assist the Board in determining the need for additional parking for motor vehicles.

(3) To minimize the visual impact of parking lots and promote pedestrian use, parking lots shall occupy no more than one-third (1/3) of the lot frontage of the proposed use, and no more than seventy-five (75) feet in a stretch.

(4) Parking areas shall include provisions for the parking of bicycles in locations that are safely segregated from automobile traffic and parking.

(5) A minimum of five percent (5%) landscaping and green space must be provided for all parking areas. This area shall not include the buffer zones, but shall include all internal landscaped islands in the parking areas.

(6) The number of parking spaces required for a given site may be on another site within the district. Such off-site parking must be established by legal documentation satisfactory to Town Counsel, and a copy filed in the office of the Town Clerk.

(7) Common parking areas shall be permitted for mixed-use developments which have different hours, days and/or seasons of peak parking demand. The Board may, in approving development within the District, permit individual parking standards to be reduced for separate uses where it can be demonstrated that adequate parking will be made available on a

shared basis. The Board may require written easements or other assurances to enforce shared parking arrangements. Where practicable, the Planning Board may require common driveways and interconnected parking lots in order to facilitate shared parking.

C. Pedestrian amenities.

(1) Provision for safe and convenient pedestrian access shall be incorporated into plans for new construction of buildings and parking areas and should be designed in concert with landscaping plans. New construction should improve pedestrian access to buildings, sidewalks and parking areas and should be completed with considerations of pedestrian safety, handicapped access and visual quality.

(2) If no public sidewalk exists across the frontage of the lot, a paved sidewalk of at least four (4) feet in width shall be provided within the front yard setback; and to the maximum extent possible, the sidewalk shall be designed to create a continuous pedestrian walkway with the abutting properties.

(3) At a minimum, fifty percent (50%) of the walls of ground floor spaces directly facing streets shall have transparent window and door openings, placed at the eye level of pedestrians [between three (3) feet and eight (8) feet above grade]. The Planning Board may waive this standard for redevelopment if compliance would create an economic hardship or cause undesirable changes to the facade of the building. To allow people to see interesting things inside buildings, fixed interior walls shall not obscure views into the building.

(4) Commercial and office building should include features such as awnings, canopies, bay windows, plazas, balconies, decorative detail, public seating, and well-designed lighting to encourage visual interest for pedestrians.

D. Mixed-use projects. Ground floor space shall generally be reserved for pedestrian-oriented retailing and services, with offices and housing above. Second-story residential uses are encouraged, and shared parking arrangements shall be allowed.

E. Lighting and wiring. In addition to the requirements of § 200-5.8C, the following requirements shall apply to the Village District:

(1) All applications for site plan review and special permit shall include a proposed lighting plan that meets functional security needs of the proposed land use without adversely affecting adjacent properties or the neighborhood. Any light used to illuminate signs, parking areas or for any other purposes must be arranged to reflect light away from adjacent residential properties and away from the vision of passing motorists. The lighting plan must comply with the following design standards:

(a) Background spaces, such as parking lots, must be illuminated as unobtrusively as possible to meet the functional needs of safe circulation and protecting people and property. Foreground spaces, such as building entrances and plaza seating areas, must use local lighting that defines the space without glare.

(b) Light sources must be concealed or shielded to the maximum extent feasible to minimize the potential for glare and unnecessary diffusion on adjacent properties.

(c) The style of light standards and fixtures must be consistent with the style and character of architecture proposed on the site.

(d) Light levels measured twenty (20) feet beyond the property line of the development site (adjacent to residential uses or public rights-of-way) must not exceed one-tenth (1/10)

footcandle as a direct result of the on-site lighting.

(2) To the extent practicable, all wiring shall be placed underground to minimize the visual exposure of overhead wires and utility poles.

F. Signs. The color, size, height, and landscaping of signs shall be designed for compatibility with the local architectural motif. Permanent signs affixed to windows that advertise a product or service are encouraged. Such signs should have colorful and unique elements that provide visual interest for pedestrians.

G. Historic structures. The removal or disruption of historic, traditional or significant uses, structures, or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties. When new construction is surrounded by existing historic buildings, building height and exterior materials shall be harmonious with those of adjacent properties.

SECTION 6
Floodplain District

(overlay to all other districts)

§ 200-6.1.Purposes.

The purposes of the Floodplain Districts are to protect the public health, safety and general welfare, to protect human life and property from the hazards of periodic flooding, to preserve the natural flood control characteristics, and the flood storage capacity of the floodplain, and to preserve and maintain the groundwater table and water recharge areas within the floodplain.

§ 200-6.2.District delineation.

A. The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Charlton designated as Zones A and AE, on the Worcester County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Worcester County FIRM that are wholly or partially within the Town of Charlton are panel numbers 25027C0767E, 25027C0768E, 25027C0769E, 25027C0780E, 25027C0783E, 25027C0786E, 25027C0787E, 25027C0788E, 25027C0789E, 25027C0791E, 25027C0792E, 25027C0793E, 25027C0794E, 25027C0931E, 25027C0932E, 25027C0951E, 25027C0952E, 25027C0953E, 25027C0954E, 25027C0956E, 25027C0957E and 25027C0958E, dated July 4, 2011. The exact boundaries of the District may be defined by the one-hundred-year base flood elevations shown on the FIRM and further defined by the Worcester County Flood Insurance Study (FIS) report dated July 4, 2011. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk.

B. Within Zone A, where the one-hundred-year flood elevation is not provided on the FIRM, the developer/applicant shall obtain existing flood elevation data, and it shall be reviewed by the Town Inspector of Buildings. If the Inspector of Buildings determines that the data is sufficiently detailed and accurate, it shall be relied upon to require compliance with this bylaw and the State Building Code. If the determination is that the land is in the floodplain, the Inspector of Buildings shall notify the Planning Board and the developer/applicant.

§ 200-6.3.Regulations.

A. The Floodplain District is established as an overlay district to all other districts. All development in the district, including structural and nonstructural activities, whether permitted by right or by special permit must be in compliance with MGL c. 131, § 40, and with the following:

(1) Section of the Massachusetts State Building Code which addresses floodplain and coastal high-hazard areas (currently 780 CMR 120.G, "*Flood Resistant Construction and Construction in Coastal Dunes*");

(2) Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);

(3) Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);

(4) *Minimum Requirements for the Subsurface Disposal of Sanitary Sewage*, DEP (currently 310 CMR 15, Title 5);

B. Permitted uses. The following uses of low flood damage potential and uses which cause no or little obstruction to flood flows shall be allowed, provided they are permitted in the underlying district and they do not require structures, fill or storage of material and equipment:

(1) Agricultural uses such as farming, grazing, truck farming, horticulture, and the like.

(2) Forestry and nursery uses.

(3) Outdoor recreational uses, including fishing, boating, play areas, and the like.

(4) Conservation of water.

(5) Wildlife management areas; foot, bicycle, and/or horse paths.

(6) Temporary nonresidential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises.

(7) Buildings lawfully existing prior to the adoption of these provisions.

C. Notification of watercourse alteration. In a riverine situation, the Conservation Commission shall notify the following of any alteration or relocation of a watercourse:

(1) Adjacent communities
(2) NFIP State Coordinator Massachusetts Department of Conservation and Recreation 251 Causeway Street, Suite 600-700 Boston, MA 02114-2104
(3) NFIP Program Specialist Federal Emergency Management Agency, Region I 99 High Street, 6th Floor Boston, MA 02110

§ 200-6.4.Special permits for floodplain development.

No structure or building shall be erected, constructed, substantially improved, or otherwise created or moved; no earth or other materials dumped, filled, excavated, or transferred, unless a special permit is granted by the Zoning Board of Appeals. Said Board may issue a special permit hereunder (subject to other applicable provisions of this bylaw) and of the Massachusetts General Laws if the application is in compliance with the following provisions.

A. The proposed use shall comply in all respects with the provisions of the underlying district; and

B. Within five (5) business days of receipt of the application the Zoning Board of Appeals shall transmit one (1) copy of the application, containing a site plan, to the Board of Selectmen, Board of Health, Conservation Commission, Planning Board and Inspector of Buildings. Final action shall not be taken until reports have been received from the above Boards and officials, or until forty-five (45) days have elapsed, and the above boards and officials have not taken any action.

C. All encroachments, including fill, new construction, substantial improvements to existing

structures, and other development are prohibited unless certification by a registered professional engineer is provided by the applicant demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the one-hundred-year flood.

D. In considering an application to determine whether a site is reasonably free from flooding, the Zoning Board of Appeals shall, to a degree consistent with a reasonable use of the site, find the following requirements to be fulfilled:

(1) The location and construction of the utilities will minimize or eliminate flood damage.

(2) The method of disposal of sewage, refuse and other wastes, resulting from the use permitted on the site, and the methods for providing adequate drainage will minimize flood damage.

(3) A good and sufficient case is demonstrated.

(4) A determination that failure to grant the special permit would result in exceptional hardship to the applicant.

(5) The granting of a special permit will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws.

(6) A determination that the special permit is for the minimum construction necessary, considering the flood hazard, to afford relief.

E. The Board of Zoning Appeals may specify such additional requirements and conditions as it finds necessary to protect the health, safety and welfare of the public and the occupants of the proposed use.

F. A special permit shall not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

G. If a special permit is granted, the Zoning Board of Appeals shall notify the applicant in writing above their signatures that:

(1) The issuance of such a special permit to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as determined by National Flood Insurance coverage.

(2) Such construction below the base flood level increases risks to life and property.

H. The Zoning Board of Appeals shall maintain a record of all special permit actions, including justification for their issuance, and report such special permit actions in the Annual Report submitted to the Federal Flood Insurance Administration.

§ 200-6.5.Application for variance.

The Zoning Board of Appeals may grant a variance from these Floodplain District requirements upon a determination that the variance is the minimum necessary action, considering the flood hazard, to afford relief to an applicant in the case of:

A. New structures to be erected on a lot contiguous to and surrounded by lots with existing structures constructed below the flood protection elevation; or

B. The restoration or reconstruction of a structure listed on the National Register of Historic Places or an Official State Inventory of Historic Places.

§ 200-6.6.Reasons for denial of variance.

A. Variances shall not be issued for any new construction, substantial improvement, or other development in a designated floodplain zone which would result in a significant increase in flood heights within the Town during the occurrence of the one-hundred-year flood.

B. Variances shall not be issued except:

(1) That the Zoning Board of Appeals specifically finds that, owing to circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures, but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this bylaw would involve substantial hardship, financial or otherwise, to the applicant or petitioner, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this bylaw; or

(2) A determination that the variance issuance will not result in significantly increased flood heights, additional threats to public safety, extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing local laws or regulations.

§ 200-6.7.Required notice to applicant or petitioner.

The applicant or petitioner must be notified in writing that the issuance of a variance to locate a structure at an elevation below the one-hundred-year flood level will result in increased actuarial rates for flood insurance coverage. The applicant or petitioner shall also be notified in writing that the issuance of a variance to construct a structure below the one-hundred-year flood level increases risks to life and property.

§ 200-6.8.Required notice to others.

Upon granting of a variance or special permit, the Zoning Board of Appeals shall require that:

A. A notice be recorded with the title records of the property at the Worcester County Registry of Deeds, stating that the proposed construction will be located in a flood hazard area. Said notice will also contain a statement of the number of feet below the one-hundred-year flood level that the lowest non-floodproofed floor of the proposed structure shall be located.

B. The Town Clerk maintains a record of all variance actions, including justification for their issuance and the number of variances issued. The Clerk shall also send an Annual Report to the Flood Insurance Administration of number of variances granted.

§ 200-6.9.Authority and interpretation.

Where these flood provisions impose greater or lesser restrictions or requirements than those of other applicable bylaws or regulations, the more restrictive shall apply.

§ 200-6.10.Validity and severability.

The invalidity of any section or provisions of this bylaw shall not invalidate any other section or provision thereof.

SECTION 7
Administration

§ 200-7.1.Administration.

A. Appointment. A Zoning Enforcement Officer shall be appointed by the Board of Selectmen for an

indefinite term. The Board of Selectmen may appoint any existing Town officer or any other person to this position, and shall not leave the position of Zoning Enforcement Officer vacant. Compensation shall be determined by the Board of Selectmen. The Zoning Enforcement Officer shall review all zoning matters, and if he/she finds any activity in relation to land or buildings or structures in violation of this bylaw, he/she shall send written notification of the violation to the owner and order that the activity in question be stopped immediately, giving reasons for the order. The Zoning Enforcement Officer may request an assistant from the Town if in his/her judgment an assistant is necessary.

B. Enforcement. The Zoning Enforcement Officer shall be charged with the enforcement of this Zoning Bylaw and shall require of the Inspector of Buildings the withholding of a permit for the construction, alteration or moving of any building, sign or structure if the building, sign or structure as constructed, altered or moved would be in violation of this bylaw.

C. Certificate of compliance. No land shall be occupied or used, and no building, sign or other structure erected or structurally altered shall be occupied or used after the effective date of this bylaw, unless a certificate of compliance has been issued by the Zoning Enforcement Officer stating that the building, sign or other structure and the proposed use of the land, building, sign or other structure complies with the provisions of this bylaw, excepting that uses, buildings and structures in existence before the effective date of this bylaw do not require a certificate of compliance. Such existing uses, buildings and structures do require a certificate of compliance for any alterations or use changes made after the effective date of this bylaw.

D. Site plan review and approval.

(1) Purposes and thresholds. For the purpose of ensuring adequate stormwater management, wastewater disposal, screening, parking and loading spaces, utilities, water supply and pressure, landscaping, protection of significant natural and man-made features, lighting, and erosion and sedimentation control, compatible site design, safe pedestrian and vehicular access, protection of the natural environment, and compliance with the provisions of this bylaw, a site plan shall be submitted for review and approval to the Planning Board, for the following uses:

(a) New construction of all uses identified with the symbol "P" ("P" Use) on the Use Regulation Schedule of § 200-3.2B of this bylaw.

(b) Expansion of any "P" Use existing to increase floor space by at least twenty-five percent (25%) or five thousand (5,000) square feet, whichever is less;

(c) Any change in a P Use if:

[1] The change is from one (1) major category of use listed in the Use Regulation Schedule to another major category of use (for example, a change from any use listed under Business Uses to a use listed under Industrial and Warehouse Uses), or

[2] Such change would result in a more intensive use, as measured by the need for more than five (5) additional parking spaces (as required by § 200-4.2B of this bylaw) or an increase in traffic generation (as measured by the Institute of Transportation Engineers *Trip Generation Manual* or another source standard in the industry).

(d) Resumption, subject to the other requirements and proscriptions of this bylaw, of any "P" Use described above discontinued for more than two (2) years.

(e) All uses in those districts where site plan approval is required.

(2) General requirements.

(a) All site plans required under this bylaw shall be prepared by a registered professional architect, registered professional landscape architect, or registered professional engineer, unless the Planning Board waives this requirement because of unusually simple circumstances and specifically exempted herein. Ten (10) copies of site plans and other plans required by Subsection D(3) below shall be submitted to the Planning Board or its designee.

Applicant shall submit a narrative with the plan if necessary for a layperson to understand the plan or any detail thereof. Each page of the submitted plans shall have a Planning Board signature block at approximately the same location. At the written request of the applicant, the Planning Board may waive any information requirements it judges to be unnecessary to the review of a particular plan.

(b) For those uses/structures referenced in Subsection D(1)(a) through (d) of this section as site plan approval pursuant to this § 200-7.1 is a prerequisite the grant of a building permit.

(3) Submission requirements.

(a) A site plan at a scale of one (1) inch equals forty (40) feet (1" = 40') or such other scale as the Planning Board may accept so long as the plan shows all details clearly and accurately. For convenience and clarity, this information may be shown on one (1) or more separate drawings. The site plan shall show the following information and in all cases distinguish clearly between existing and proposed features:

[1] Name, address, and phone number of the person or persons submitting the application. If other than the owner, a notarized statement authorizing the applicant to act on the owner's behalf and disclosing his/her interest shall be submitted.

[2] Name, address, and phone number of the owner or owners.

[3] Property address and Charlton Assessors' Map, Block, and Lot Number.

[4] Name of project, date and scale of plan.

[5] Dimensions of lot, building coverage percentage (see § 200-3.2D) and unoccupied space percentage [see § 200-4.2D(6)].

[6] Description (including location) of existing land use(s) and building(s), if any.

[7] Description (including location and dimensions) of proposed use(s) and buildings.

[8] Location of required setback lines.

[9] Location and dimensions of all driveways.

[10] Location and dimensions of all driveway openings. Road construction and drainage details, curb cuts, and all required state and local highway access authorizations.

[11] Location, dimensions, and detail of surfacing materials of parking and loading space(s). The plan should also indicate the total number of parking spaces provided and the total required number of parking spaces (See § 200-4.2B, Off-Street Parking Schedule.).

[12] Service area(s), exterior storage areas, fences, and screening.

[13] Lighting [see § 200-4.2D(7) for commercial lighting plans]. For projects located in BEP Districts, sufficient detail should be provided to demonstrate compliance with § 200-5.8C.

[14] The location, dimensions, height, illumination and characteristics of proposed signs, in sufficient detail to demonstrate compliance with § 200-5.6, Signs.

[15] The location and description of all existing and proposed sewage disposal systems, stormwater management systems and other required waste disposal systems. All related easements shall be shown.

[16] Existing and proposed well or public water supply system.

[17] Location and description of all other existing and proposed utilities, their exterior appurtenances, and related easements.

[18] Zoning district(s) in which the property is located and location of any zoning district boundaries that divide or abut the property.

[19] Ownership of the abutting land as indicated on the most recent Town Assessors' records and location of buildings thereon within three hundred feet (300) feet of the project boundaries.

[20] Existing topography and proposed finished grading at two-foot elevation intervals and existing easements, if any.

[21] Significant natural and man-made features such as stone walls, public or private burial grounds, and watercourses.

[22] Erosion and sedimentation control plan, including during and after construction.

[23] Location of wetlands as well as calculation of percentage of lot free of wetlands [to determine compliance with § 200-3.3B(5)].

[24] Proposed emergency vehicle routing around building(s) and any and all emergency entrances and/or exits.

(b) A landscaping plan at the same scale as the site plan that shows landscaping features, including the location and description of screening, fencing, and plantings, including the size and type of planting material. Landscaping plans for projects that include no more than twelve thousand (12,000) square feet of gross building area shall be prepared by a registered engineer or by a landscape designer. Landscaping plans for projects that include more than twelve thousand (12,000) square feet of gross building area shall be prepared by a licensed landscape architect.

(c) A locus plan at a scale of one (1) inch equals one hundred (100) feet (1" = 100') or other such scale as may be approved by the Planning Board, showing the entire project site and its relation to surrounding properties, buildings and roadways, and zoning district boundaries within one thousand (1,000) feet of the project boundaries or such

other distance as may be approved by the Planning Board.

(d) Building elevation plans at a scale of one-quarter (1/4) inch equals one (1) foot (1/4" = 1') or one-half (1/2) inch equals one (1) foot (1/2" = 1') or other such scale as may be approved by the Planning Board, showing all elevations of all proposed buildings and structures and indicating type and color of materials to be used on all facades.

(e) Payment of required administrative and peer review fees.

(f) Copies of all easements, covenants and restrictions shown on plans and text to be provided.

(g) Additional information required by the Planning Board to determine compliance with the criteria set forth in Subsection D(7), including but not limited to soil suitability tests and analysis, a phasing plan, if applicable, a construction mitigation plan and a landscape maintenance plan.

(4) Filing the application. The applicant shall submit the application for site plan approval to the Town Clerk and a date and time-stamped copy thereof to the Planning Board or its designee. The date of filing shall be the date after which the application was received by the Clerk and the Planning Board or its designee.

(5) Pre-application meeting, notice and hearing. The Planning Board strongly encourages the applicant to present and discuss the general development concept for the proposed project at one (1) of its posted meetings prior to filing an application. The applicant may present as many or as few of the details listed in Subsection D(3) as desired.

(6) Site plan review and approval procedures.

(a) Within seven (7) business days after the filing of an application for site plan approval, the Planning Board may submit one (1) copy of the site plan each to the Board of Selectmen, the Board of Health, the Conservation Commission, the Inspector of Buildings, the Superintendent of Highways, and the Sewer Commission and ask for their comments.

(b) Within sixty-five (65) days of the filing of an application for site plan approval, the Planning Board shall provide notice and hold a public hearing noticed in accordance with the requirements set forth in MGL c. 40A §§ 11 and 15. A majority vote of the Planning Board is required for approval of a site plan.

(c) Within ninety (90) days after the initial date of the public hearing, the Planning Board shall take its final action on the application (render its decision, file its decision with the Town Clerk and notify the applicant of its decision).

(d) At the applicant's written request, the Planning Board may extend the time period in Subsection D(6)(b) and (c) unless extended pursuant to Subsection D(6)(d) shall constitute approval of the site plan as provided in MGL c. 40A, § 11.

(e) Failure of the Planning Board to act within any of the time periods listed above in Subsection D(6)(b) and (c), unless extended pursuant to Subsection D(6)(d), shall constitute approval to the site plan as provided in MGL c. 40A, § 11.

(7) Review and approval criteria.

(a) The Planning Board shall approve a site plan for projects with "P" Uses if the applicant

demonstrates to the Planning Board that the project is properly designed in the following site design categories:

[1] The site plan complies with all applicable provisions of these bylaws feasible to the site, including, but not limited to, § 200-4.2, and § 200-5.17A and B for projects within the Village District.

[2] The application is complete, including payment of administrative and peer review fees [see Subsection D(3)].

[3] All drives, parking lots, loading areas, paths, sidewalks and streets are designed to provide for safe vehicular, pedestrian and bicycle travel.

[4] There is safe and adequate access and egress to and from the site.

[5] Access and site circulation enables prompt fire, police, ambulance and other emergency responses.

[6] Adequate capture and discharge of stormwater and surface water runoff is achieved in accordance with the Department of Environmental Protection Massachusetts *Stormwater Handbook*, as amended.

[7] Provision for adequate utilities has been made.

[8] Adequate water supply is available in terms of quantity, quality, and water pressure for commercial and/or domestic needs and fire protection.

[9] Minimize glare from headlights through plantings or other screening.

[10] Lighting intrusion onto other properties and public ways is minimized, while at the same time providing adequate lighting for security and public safety.

[11] Adequate disposal of wastewater is provided.

[12] Changes to the natural landscape are minimized.

[13] Adverse impacts of construction are minimized.

[14] There is adequate landscaping and landscaping maintenance.

(b) The Board may deny an application for site plan approval if:

[1] The project does not comply with one or more of the criteria set forth in Subsection D(7)(a) and reasonable conditions cannot be imposed to ensure compliance with one (1) or more of these criteria; or

[2] The applicant has not provided information sufficient for the Planning Board to determine compliance with one (1) or more of the criteria listed in Subsection D(7)(a).

(8) Lapse. An approved site plan shall lapse after a period of two (2) years (not including time required to pursue or await the determination of an appeal from site plan approval) from the date of approval unless substantial use or construction has not begun. All work proposed in the site plan or required by conditions in the site plan approval decision, shall be completed within two (2) years from the date the Planning Board voted to approve the site plan unless the Planning Board provides in the site plan approval for a longer period of time or the applicant requests an extension and it is granted by the Planning Board.

(9) Conditions. The Planning Board may impose conditions on site plan approval to ensure compliance with the review and approval criteria listed above, including, but not limited to, requiring:

(a) A performance guarantee, in a form and amount acceptable to the Planning Board, to guarantee completion of all public improvements required by the approved site plan and land restoration not having to do with the construction of public improvements. The Planning Board shall establish the amount of security required after reviewing an estimate from the applicant's engineer and determining whether the proposed amount is sufficient or whether it needs to be increased.

(b) That any project easements and restrictions are subject to review and approval by legal counsel to the Planning Board.

(c) That condominium and homeowners documents are subject to review and approval by legal counsel to the Planning Board to ensure compliance with the review and approval criteria listed above.

(d) Other conditions the Planning Board determines are necessary to ensure compliance with the review and approval criteria listed above.

(10) Post-site plan approval.

(a) Upon completion of construction, and before the release of the performance guarantee, the applicant shall have prepared and submitted to the Planning Board as-built plans. The Board shall receive six (6) paper copies of the as-built plans and the plans shall also be submitted in AutoCad (*.dwg) format or such other digitized file format as specified by the Planning Board.

(b) An applicant shall submit proposed changes to an approved site plan to the Planning Board so that it can determine whether the changes are field adjustments or amendments to the approved site plan. The Planning Board shall convene a public hearing in accordance with MGL c. 40A, § 11, to consider and vote upon proposed amendments.

(c) Appeals from a Planning Board decision to grant, grant with conditions or deny site plan approval shall be made to Superior Court in accordance with MGL c. 40A, § 17.

E. Building permit. No building permit shall be issued for the construction, alteration or moving of a building or other structure which as constructed, altered or moved would not be in conformance with this bylaw.

F. Occupancy permits. No building erected, materially altered, relocated or in any way changed as to construction or under a permit or otherwise, and no land, shall be occupied or used without an occupancy permit signed by the Inspector of Buildings. Said permit shall not be issued until the building, and its use and accessory uses, and the use of all land comply in all respects with the bylaw.

G. Enforcement and penalty.

(1) If the Zoning Enforcement Officer is requested in writing by any citizen to enforce the provisions of this bylaw against any person allegedly in violation of the bylaw and the Zoning Enforcement Officer declines to act, the Zoning Enforcement Officer shall notify, in writing, the party requesting such enforcement of any action, or refusal to act, and the reason therefor, within fourteen (14) days of receipt of such request.

(2) Any person aggrieved by reason of his/her inability to obtain a permit or enforcement action from the Zoning Enforcement Officer or other administrative officer under the provisions of this bylaw; or any person, including an officer or board of the Town, aggrieved by an order or decision of the Zoning Enforcement Officer, or other administrative officer, in violation of the provisions of Chapters 40A and 808 of the Massachusetts General Laws or any provision of this bylaw, may file an appeal in accordance with the provisions of Chapters 40A and 808 of the Massachusetts General Laws.

(3) Whoever violates any provision of this bylaw shall be punished by a fine imposed by a court of law not exceeding fifty dollars ($50) for each offense and each day that such violation continues shall constitute a separate offense.

H. Industrial use special permits.

(1) Requirements. No building, use or occupancy permits for any construction, alteration, relocation or improvement as to real property or the structures thereon shall be issued for any industrial use or project as listed in § 200-3.2B, Use Regulation Schedule, and which is designated "SP" (special permit) under IG and BEP Districts, except in accordance with the terms of a special permit for such projects as set forth herein. The special permit granting authority for all permits is necessary for the construction or use of a project in an Business Enterprise Park or Industrial - General District (designated "SP" in § 200-3.2B) shall be the Planning Board which, for such purposes, shall have all of the powers conferred upon such special permit granting authorities by MGL c. 40A, and which shall conduct its business in accordance with the notice, hearing and decisional requirements therein set forth, and in accordance with the requirements of this bylaw.

(2) Industrial use special permit procedure.

(a) A pre-application meeting with the Planning Board and its Technical Advisory Committee for informal discussion and review of preliminary materials is strongly suggested prior to formal submission of an application for a special permit.

(b) No application shall be deemed complete, nor shall any action be taken, until all required materials have been submitted. Plans and other application materials conforming to the Planning Board's adopted *Procedures for Applications for Industrial Use Special Permits*, as filed with the Town Clerk, shall be submitted to the Planning Board and Town Clerk as required by such *Procedures*. [See § 200-7.1D(1), (2) and (3) for site plan contents as required in special permit applications.]

(c) The Planning Board shall, within fifteen (15) days of submission, distribute one (1) copy of the application materials each to the Conservation Commission, Board of Health, Sewer Commission, Building Inspector, Technical Advisory Committee, Highway Superintendent and Board of Selectmen for review and comment. The failure of any commission, board, committee, inspector, superintendent or department to make recommendations within thirty-five (35) days of receipt by such agency of the application materials shall be deemed lack of opposition thereto.

(d) The Planning Board shall hold a public hearing and make its decision in accordance with applicable provisions of MGL c. 40A; the Board shall hold a public hearing within sixty-five (65) days of the filing of the application with the Town Clerk; the Board shall render a decision within ninety (90) days following the date of the public hearing and shall file a copy of its decision with the Town Clerk within fourteen (14) days thereafter; the granting of a special permit shall require a four-fifths (4/5) vote of the

Planning Board. The cost of advertising the hearing and notification of abutters shall be borne solely by the applicant. The time limits hereunder may be extended by written agreement between the petitioner and the Planning Board, by majority of the Board, and any such agreement shall be filed with the Town Clerk.

(e) A special permit granted by the Planning Board shall not be valid until recorded in the Registry of Deeds, and no work may commence until evidence of such recording has been received both by the Board and the Building Inspector. Such recording shall be the responsibility of the petitioner.

(3) Technical Advisory Committee. For the purpose of providing technical advice to the Planning Board regarding the advisability of the granting of special permits for industrial uses, as described above in Subsection H(1), a Technical Advisory Committee may be appointed by the Planning Board. Said Committee shall consist of three (3) members, at least two (2) of whom, preferably, shall have expertise in industrial economics or industrial technologies. Each of the persons appointed shall be a resident of the Town of Charlton for the duration of his/her service on the Committee. Initially, one (1) member of the Technical Advisory Committee shall be appointed to a one-year term, one (1) member to a two-year term and one (1) member to a three-year term. Two (2) members shall constitute a quorum for meetings, and all actions of the Committee shall require an affirmative vote of two (2) or more members.

(4) Review criteria. A special permit shall be granted by the Planning Board acting as the special permit granting authority only if the Planning Board finds that the proposed project is in harmony with the intents and purposes of the applicable industrial zoning district; that it is sufficiently advantageous to the Town and the immediate area in which it is located; and that present and future impacts on Charlton's infrastructure, and built and natural environments will be minimized. The Board shall deny a special permit where in its judgment a nuisance, hazard or congestion will be created, or where for other reasons there will be substantial harm to the neighborhood or derogation from the general purposes and the intent of the bylaw, or that the stated district objectives or applicable use criteria will not be satisfied. In granting a special permit, the Planning Board may impose such conditions and safeguards as public safety, welfare and convenience may require.

§ 200-7.2.Granting authority.

The special permit granting authority for the Town of Charlton shall be allocated as follows:

A. The Planning Board shall have site plan review and approval authority and shall be the special permit granting authority for special permits issued pursuant to §§ 200-5.6, 200-5.7, 200-5.9 and 200-5.10 of this bylaw. The Planning Board shall also be the special permit granting authority for all uses identified with the symbol "SP" in the Use Regulation Schedule, § 200-3.2B.

B. The Zoning Board of Appeals. The Zoning Board of Appeals shall have the authority to issue special permits for development in floodplain zones as specified in § 200-6.4 of this bylaw. The Zoning Board of Appeals also shall have the authority to issue special permits for altering the number of mobile homes in an existing mobile home park, as specified in § 200-5.2B(3) of this bylaw.

C. The Board of Selectmen. The Board of Selectmen shall have the authority for appointing a Zoning Enforcement Officer and the Zoning Board of Appeals, and to grant special permits for unregistered motor vehicles as specified in § 200-5.3 of this bylaw.

D. Appeals. Any person aggrieved by a decision of the Zoning Board of Appeals or the Board of

Selectmen in exercising their powers to grant or deny special permits may appeal such decisions in accordance with the provisions of Chapter 40A of the Massachusetts General Laws.

E. Conditions for granting. Special permits may be granted if an applicant can show a condition peculiar to the particular case but not generally true for similar permitted uses on other sites in the same zoning district. The Board of Selectmen and Zoning Board of Appeals shall deny a special permit where in its judgment a nuisance, hazard, or congestion will be created, or for other reasons there will be substantial harm to the neighborhood or derogation from the general purposes and the intent of the bylaw, or that the stated district objectives or applicable use criteria will not be satisfied.

F. Review and reports. Upon the receipt of any application for a special permit and the payment of an application fee established from time to time by the Zoning Board of Appeals, for any special permit not involving unregistered motor vehicles, and the required plans and documents, the Zoning Board of Appeals shall file one (1) copy with the Town Clerk and one (1) copy with the Planning Board for review and recommendation. The Planning Board shall submit reports to the Zoning Board of Appeals or the Board of Selectmen within thirty-five (35) days of the receipt of the application and supporting documents. Failure to report within this time period shall be deemed to be lack of opposition thereto.

G. Public hearing. Any special permit shall only be issued after a public hearing which must be held within sixty-five (65) days after the effective date of filing of a special permit application. Effective date is the date the application is filed with the Town Clerk by either the Board of Selectmen or the Zoning Board of Appeals. For any public hearing held under this bylaw, all abutters must be notified by mail of the hearing date and time, and notice of the hearing must be published twice at least eight (8) and fifteen (15) days before the hearing in a newspaper of general circulation.

H. Period of validity. If fifty percent (50%) of a project has not been completed without good cause, within one (1) year from the date granted, the special permit shall lapse. Included within the one-year period is the time required to pursue or await the determination of an appeal. Extensions to the special permit may be granted by the special permit granting authority for good cause.

I. Permits granted before zoning changes. If a special permit or a building permit is issued before the publication of the first notice of a public hearing of a proposed zoning amendment, but is not then utilized by commencing construction within a six-month period and then proceeding as expeditiously as is reasonable, the building or special permit will lapse and a new permit will be required to conform to the amended bylaw.

§ 200-7.3.Zoning Board of Appeals.

A. The Zoning Board of Appeals constituted under Article 27 of the Warrant for Annual Town Meeting of May 8, 1969 shall be the Zoning Board of Appeals under this bylaw: and said Board shall be appointed by the Board of Selectmen, and said appointment shall be made and shall operate in accordance with Chapters 40A and 808 of the Massachusetts General Laws and its amendments. Said Zoning Board of Appeals shall consist of five (5) registered voters of the Town. The Board of Selectmen shall also appoint two (2) registered voters of the Town for a term of three (3) years to serve as associate members to act in the absence of regular members and at the expiration of each three-year term shall again appoint two (2) associate members for three (3) years. All members and associate members of the Zoning Board of Appeals shall serve without compensation.

B. Powers of the Zoning Board of Appeals shall be:

(1) To hear and decide petitions for variances in accordance with Chapter 40A in all districts subject to appropriate conditions, including, but not limited to, calendar time period, extent of

use, hours of operation, outdoor storage, lighting, parking, dimensional requirements or similar controls. No variance shall be granted which would authorize a use or activity not otherwise permitted in the district in which the land or structure is located.

(2) (Reserved)

(3) To hear and decide applications for expansion of nonconforming uses in accordance with the provisions of § 200-3.4C(5) of this bylaw.

(4) To hear and decide applications for special permits in accordance with § 200-7.2 of this bylaw.

C. In exercising the powers granted by Subsection B above, the Zoning Board of Appeals shall act in accordance with the provisions of Chapters 40A and 808 of the Massachusetts General Laws.

D. Any approval which has been granted by the Zoning Board of Appeals under the provisions of Subsection B(3) above shall lapse within two (2) years from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of a permit for construction, has not begun by such date except for good cause.

E. Any person aggrieved by a decision of the Zoning Board of Appeals may appeal to the Superior Court, Land Court, and in accordance with MGL c. 40A, § 17.

F. The Zoning Board of Appeals shall adopt rules consistent with Chapters 40A and 808 of the Massachusetts General Laws and provisions of this bylaw for the conduct of its business.

§ 200-7.4.Planning Board.

A. Recommendations to the Board of Appeals. Any application filed with the Board of Appeals under § 200-7.3B hereof shall be referred upon its receipt by the Board of Appeals to the Planning Board for a report and recommendation relative thereto as provided by MGL c. 41, § 81I, and MGL c. 40A, § 11. The Planning Board shall make its report to the Board of Appeals by the date of the public hearing as to the application. Failure to make recommendations within thirty-five (35) days of receipt of a special permit application by the Planning Board shall be deemed lack of opposition thereto. For all other applications, the Planning Board shall receive a copy of application materials from the Board of Appeals at least twenty-one (21) days before the public hearing.

B. Associate Planning Board member. In accordance with the Town of Charlton's General Operating Bylaws, Chapter 50, Article I, § 50-1B, and in accordance with MGL c. 40A, § 9, the Selectmen and the Planning Board shall appoint an Associate Planning Board Member. The term of the appointment is one (1) year; consecutive reappointments are allowed. The acting chairperson of the Planning Board may designate the Associate Member to sit on the Board for the purpose of acting on a special permit application, in the case of absence, inability to act, or conflict of interest, on the part of any member of the Planning Board or in the event of a vacancy on the Board.

PART VI: PERSONNEL BYLAW

Chapter 220

PERSONNEL POLICIES AND PROCEDURES

[HISTORY: Adopted by the Town Meeting of the Town of Charlton as last amended May 2007. Subsequent amendments noted where applicable.]

ARTICLE 1
Personnel Board

§ 220-1.1. Establishment.

There shall be a Personnel Board organized in the manner, and having the powers and duties, hereinafter prescribed in this chapter.

§ 220-1.2. Composition and term of office.

The Personnel Board shall consist of five (5) [amended from seven (7) 5-1993] registered voters of the Town who shall hold no other elective or appointive Town office nor be employed by the Town. The terms of office of the members originally appointed shall be for one (1), two (2) or three (3) years and so arranged that the terms of approximately one-third (1/3) of the members will expire each year, and their successors shall be appointed for terms of three (3) years each. Any member may, after a hearing is requested by him/her, be removed for cause by the appointing authority.

§ 220-1.3. Appointment and filling of vacancies.

The members of the Personnel Board shall be appointed by the Board of Selectmen at the Annual Town Meeting. Whenever a vacancy occurs on the Personnel Board, the Board of Selectmen shall fill the vacancy for the unexpired term.

§ 220-1.4. Powers and duties.

The Personnel Board shall have the following powers and duties:

A. To conduct, in conjunction with the Town Administrator, research into wages, hours, and other terms and conditions of employment prevailing in the area.

B. To prepare, in conjunction with the Town Administrator, for submission to the Town meeting, a classification plan classifying all positions, other than those filled by popular election or that are classified via contract, into groups and classes doing substantially similar work or having substantially equal responsibilities.

C. To prepare, in conjunction with the Town Administrator, for submission to the Town Meeting, a salary plan establishing minimum and maximum salaries to be paid to employees in positions so classified. Any such salary plan may provide for the attainment of such maximum salaries by periodic step-rate increases based on length of service and/or performance.

D. To prepare, in conjunction with the Town Administrator, for submission to the Town Meeting, personnel rules applicable to employees in positions so classified and in instances that are not covered by a contract. Such rules may include:

(1) Methods of determining the merit and fitness of candidates for appointment and promotion;

(2) Policies and procedures of government employees holding provisional appointments;

(3) Policies regarding in-service training programs;

(4) Provisions governing days and hours of work;

(5) Attendance regulations;

(6) Provisions for sickness, vacation, military and other leave;

(7) Policies and procedures covering relationships with employee organizations;

(8) Policies and procedures regulating reduction in force and removal of employees;

(9) Grievance procedures, including procedures for the hearing of grievances; and

(10) Such other practices and procedures as may be appropriate for the administration of the personnel system of the Town.

E. From time to time, to prepare, in conjunction with the Town Administrator, for submission to the Town Meeting, amendments to the classification and salary plans and the personnel rules.

F. To administer, in conjunction with the Town Administrator, the classification and salary plans, the personnel rules and any other provisions of these personnel bylaws, determine any questions arising thereunder, and advise the Town Meeting and the Board of Selectmen and other Town agencies in any matter pertaining thereto.

ARTICLE 2
Classification Plan

§ 220-2.1. Plan. [Amended by Art. 16]

Except as otherwise provided by law, if at all, neither title nor the grade of any position covered by this bylaw may be changed without prior approval of the Board of Selectmen, which shall seek the recommendation of the Personnel Board (and of the Town Administrator if someone then holds that position) before acting upon any such change, such changes to be made only by action of an Annual Town Meeting.

Grade	Department	Title
1.	Cemetery	Laborer
	Council on Aging	Kitchen Assistant
	Council on Aging	Kitchen Site Manager
	Library	Page
2.	Animal Control	Animal Control Officer
	Board of Selectmen	Department Assistant
	Board of Selectmen	Custodian
	Council on Aging	Outreach Coordinator
	Fire	Call Firefighter Call
	Fire	Firefighter/EMT
	Veterans' Services	Director
	Zoning Board of Appeals	Department Assistant
3.	Board of Selectmen	Administrative Assistant
	Board of Selectmen	Cable Access Coordinator

Grade	Department	Title
	Cemetery	Superintendent
	Council on Aging	Director
	EMS	Coordinator
	Library	Director
	Fire	Administrative
	Library	Assistant Head of Youth Services/Assistant
	Police	Administrative Assistant
	Town Administrator	Administrative Assistant
	Town Clerk	Assistant Town Clerk
	Water/Sewer	Administrator
4.	Assessor	Director of Assessing
	Building/Zoning	Building Commissioner/Zoning Enforcement Officer
	Collector	Town Collector
	Conservation	Agent
	Fire	Deputy Fire Chief
	Highway	Highway Foreman
	Library	Director
	Police	Lieutenant
	Treasurer	Treasurer
5.	Fire	Fire Chief
	Highway	Superintendent
	Planning	Director
	Police	Chief of Police
	Town Accountant	Accountant
6.	Town Administrator	Town Administrator

ARTICLE 3
Salary Plan

§ 220-3.1. Changes and adjustments.

Except as otherwise provided by law, if at all, the salary of no employee covered by this bylaw shall be changed without the recommendation of the Town Administrator and the Board of Selectmen, which shall seek the recommendation of the Personnel Board and the Finance Committee before acting upon any such change.

§ 220-3.2. Annual cost-of-living increases. [Added 11-1-2005 STM by Art. 17]

Notwithstanding the immediately preceding section, which requires approval of changes in salary by the Board of Selectmen after consultation with the Personnel Board, Finance Committee and Town Administrator, and subject to specific Town Meeting appropriation for same, annual cost-of-living increases for employees subject to the Personnel Bylaw will automatically be provided at a level equal to or higher the average percentage of such cost-of-living increases (as contrasted with increases in base pay and merit increases) granted to the Town of Charlton bargaining units represented by unions whose wage increases have been approved in time for inclusion in the Finance Committee's annual budget report submitted to the Annual Town Meeting.

ARTICLE 4
Benefits

§ 220-4.1. Applicability and interpretation.

The benefits set forth below shall be provided to eligible Town employees. As such, employees are defined in Article 5 of this Bylaw.

§ 220-4.2. Life insurance.

The Town shall contribute seventy-five percent (75%) to a basic life insurance plan for all eligible employees as at present.

§ 220-4.3. Health insurance.

The Town shall contribute eighty percent (80%) towards a major indemnity insurance plan or an equivalent amount to other group health insurance, as specified by the Town. See MGL c. 32B, § 3.

§ 220-4.4. Holidays.

A. All eligible employees of the Town shall be entitled to the following thirteen (13) paid holidays per year.

(1) New Year's Day.

(2) Martin Luther King, Jr.'s Day.

(3) President's Day.

(4) Patriot's Day.

(5) Memorial Day.

(6) Independence Day.

(7) Labor Day.

(8) Columbus Day.

(9) Veteran's Day.

(10) Thanksgiving Day.

(11) Day After Thanksgiving.

(12) Christmas Day.

(13) Christmas Eve afternoon. (Only when Christmas Eve afternoon falls on a workday, it is considered a holiday. Employees shall be excused with pay from all duties not required to maintain essential Town services.)

B. All eligible employees shall receive one (1) day's pay for each of the holidays listed above. Whenever any of the holidays listed occurs on Saturday or Sunday, the holiday shall be observed according to state guidelines.

C. All eligible part-time employees of the Town shall only be entitled to the holidays listed if they occur or are observed on their regular scheduled workday. Pay will be equal to hours regularly scheduled for that day.

D. Holiday leave pay shall in no event be more than one (1) day's pay per employee per holiday.

§ 220-4.5. Vacation.

A. All eligible employees of the Town shall be entitled to vacation time with pay as follows:

Vacation	Required Continuous Employment
2 weeks per year	After first 6 months of employment
3 weeks per year	After 5 years of employment
4 weeks per year	After 10 years of employment
5 weeks per year	After 15 years of employment

B. The vacation year is the twelve-month period from July 1 through June 30 each year, except after the completion of the six-month probationary period. The length of continuous service is determined by the number of years of service which the employee has completed as of July 1 of each year. An employee who, as of July 1 of a given year, has not reached the five-year increments of continuous service required in Subsection A so as to qualify for a greater vacation entitlement, but who does reach such increment during the course of such year, will be entitled to the additional vacation time provided by such increment as of the anniversary of such employee's benefit eligibility date. [Amended by Art. 12]

C. For the purpose of vacation time, a "week" shall consist of the average number of scheduled hours worked by the employee on a regular basis, not to exceed a maximum of forty (40) hours. [For example, an employee working forty (40) hours or more per week shall receive forty (40) hours' pay for each vacation week. An employee working twenty (20) hours per week shall receive twenty (20) hours' pay for each vacation week.)

D. Computation of required continuous employment with the Town for vacation leave benefits shall include both part- and full-time employment as an eligible employee as defined in Article 5, § 220-5.1.

E. A maximum of one (1) week of vacation may be carried over to a succeeding year when requested by an employee prior to June 30 and when approved by the Town Administrator.

§ 220-4.6. Sick leave.

A. All eligible employees of the Town shall earn one and a quarter (1.25) paid sick days per month.

B. A sick day shall be equal to the average number of hours the employee is regularly scheduled to work per day. Unused sick days may be carried over to the succeeding fiscal year or years, but shall not be accumulated for a total of more than one hundred fifty (150) days.

C. All eligible employees with five (5) or more years of service with the Town of Charlton shall receive full payment for accumulated sick leave not to exceed forty-five (45) days upon retirement at the employee's regular hourly rate. Any employee who is eligible to receive payment for unused sick days shall (if possible) notify the Town six (6) months prior to retirement. Upon death of an employee, payment shall be made to the employee's beneficiary as stipulated on the employee's life insurance policy provided by the Town of Charlton.

D. Sick time may be used for the employee's illness or the employee's care of the employee's spouse, significant other, child or any member of the employee's immediate family, provided the person requiring such care resides in the employee's household. [Added by Art. 15]

§ 220-4.7. Leave of absence.

Employees may request a leave of absence without pay. The request shall be in writing to the Department Head stating the reason the leave of absence is being requested and the beginning and ending dates. The Department Head will submit the request with his/her recommendations to the Town Administrator. The Town Administrator will submit a written decision to the Department Head. The employee shall receive a written response from the Department Head stating the decision. Either party may appeal the decision to the Board of Selectmen.

§ 220-4.8. Bereavement leave.

A. All eligible full- and part-time employees shall be granted up to four (4) scheduled working days as bereavement leave with pay.

B. Bereavement leave shall be granted for the death of any following family members: spouse, significant other, child, father or mother, stepfather, stepmother, loco parentis, brother or sister, stepbrother, stepsister, grandparent, father-in-law, mother-in-law, brother-in-law, sister-in-law, daughter-in-law, son-in-law or stepchild, whether or not such relative resides in the employee's household, or any person living in the employee's household.

C. For other relatives, a maximum one (1) day of paid leave of absence will be granted. Special or unusual situations (such as the need for extra time for travel) will be considered on an individual basis by the Town Administrator. Employees granted such bereavement leave extension may be required to use accrued vacation leave or personal leave.

§ 220-4.9. Family leave.

Family leave shall be granted in accordance with the Family Medical Leave Act of 1993 and/or in accordance with the Small Necessities Leave Act of 1998.

A. The Family and Medical Leave Act.

(1) The Family and Medical Leave Act (FMLA) provides an entitlement of up to twelve (12) weeks of job-protected, unpaid leave to eligible employees. The employer must grant an eligible employee FMLA for the following reasons:

(a) Birth and care of the employee's child, or placement for adoption or foster care of a child with the employee;

(b) Care of an immediate family member (spouse, child, parent) who has a serious health condition; or

(c) Care of the employee's own serious health condition.

(2) If an employee was receiving group health benefits when leave began, the Town of Charlton will maintain them at the same level and in the same manner during periods of FMLA leave as if the employee had continued to work. The Town may elect or require the use of any accrued paid leave (vacation, sick, personal, etc.) for periods of unpaid FMLA leave.

(3) Employees may take FMLA leave in blocks of time less than the full twelve (12) weeks on an intermittent or reduced leave basis when medically necessary. Taking intermittent leave for the placement, adoption, or foster care of a child is subject to the Town's approval. Intermittent leave taken for the birth and care of a child is also subject to the Town's approval except for pregnancy-related leave that would be leave for a serious health condition. Approved FMLA leave for maternity shall run concurrent with the Maternity Leave Act.

(4) When the need for leave is foreseeable, an employee must give the Department Head at least thirty (30) days' written notice, or as much notice as is practicable. When the leave is not foreseeable, the employee must provide such notice as soon as possible.

(5) The Town may require medical certification of a serious health condition from the employee's health care provider. An employer may also require periodic reports during the period of leave of the employee's status and intent to return to work, as well as "fitness-for-duty" certification upon return to work in appropriate situations.

(6) An employee who returns from FMLA leave is entitled to be restored to the same or an equivalent job (defined as one with equivalent pay, benefits, responsibilities, etc.). The employee is not entitled to accrue benefits during periods of unpaid FMLA leave, but the employer must return him/her to employment with the same benefits at the same levels as existed when leave began.

(7) An "eligible employee" is an employee who has been employed by the Town for at least twelve (12) months, and has been employed for at least one thousand two hundred fifty (1,250) hours of service during the twelve-month period immediately preceding the commencement of the leave.

B. The Small Necessities Leave Act.

(1) The Small Necessities Leave Act permits an employee leave for the following purposes:

(a) To participate in school activities directly related to the educational advancement of a son or daughter of the employee, such as a parent-teacher conference or interviewing for a new school;

(b) To accompany a son or daughter of the employee to routine medical or dental appointments, such as check-ups or vaccinations; and

(c) To accompany an elderly relative of the employee to routine medical or dental appointments or appointments for other professional services relating to the elder's care, such as interviewing at nursing or group homes.

(2) The twenty-four (24) hours of leave available under this benefit are in addition to the twelve (12) weeks of leave provided for under the Federal Family and Medical Leave Act. The twenty-four (24) hours may be taken within the twelve-month calendar year period and the time may be taken on an intermittent [i.e., two (2) hours to attend a parent-teacher conference] or reduced-time schedule.

(3) An employee is required to provide his/her department with seven (7) days' written notice of the need for the leave if the leave is foreseeable. If the necessity for the leave is not foreseeable, the employee is required to provide notice of the leave as soon as practicable.

(4) The law provides for an unpaid leave of absence. An employee may elect to use any available accrued vacation, personal or sick leave benefits, provided the use of such time is in accordance with the employee's appropriate collective bargaining agreement.

(5) A Department Head may require that written certification or documentation support a request for leave under this Act.

(6) An "eligible employee" is an employee who has been employed by the Town for at least twelve (12) months, and has been employed for at least one thousand two hundred fifty (1,250) hours of service during the twelve-month period immediately preceding the

commencement of the leave.

§ 220-4.10. Maternity leave.

A. Maternity leave shall be granted in accordance with MGL c. 149, § 105D (Massachusetts Maternity Leave Act). This section is intended simply to describe the provision of MGL c. 149, § 105D, as they existed when this became effective.

B. An eligible employee who has worked for at least three (3) consecutive months as a full-time employee and who gives written notice, if possible, at least two (2) weeks advance to her Department Head of her anticipated date of departure and her anticipated date of return, shall be allowed maternity leave of eight (8) weeks for the purpose of giving birth or for adopting a child under three (3) years of age. If an employee has accrued sick leave or vacation time at the commencement of her maternity leave, she may use such leave and/or vacation time for which she may be eligible. Maternity leave shall be without pay. All maternity leave shall run concurrent with Family Medical Leave Act and Small Necessities Act where applicable.

§ 220-4.11. Military reserve leave.

A. Military leave, or its equivalent, shall be granted to any employee upon submission of satisfactory documentation in accordance with applicable state and federal law.

B. Any employee, upon proper notice, may take an unpaid military leave of absence to perform service in the uniformed services. The military leave of absence may be involuntary or voluntary. The employee retains the right to return to his/her former position upon return from active duty. Health insurance will be provided at the same contribution level for the first thirty (30) days of military leave after which the employee may elect to continue participation by paying one hundred two percent (102%) of the monthly premium. If the employee does not participate, he/she has the right to join the health insurance group immediately upon return from military leave. Military leave is limited to five (5) years of cumulative service during employment with the Town of Charlton. Employees considering military leave should consult USERRA regulations as well as applicable state and federal laws for additional rights and requirements.

§ 220-4.12. Jury duty/witness leave.

A. Jury duty/witness leave shall be granted in accordance with MGL c. 234A.

B. An employee summoned for jury duty shall receive from the Town the difference between the compensation of the employee received for such jury service and the regular wages the employee would have earned for the day, exclusive of any travel or other allowance, upon submission of satisfactory documentation.

C. An employee summoned by the Town, as a witness on behalf of the Town, shall be granted leave with pay for the time lost from the employee's regular work schedule.

§ 220-4.13. Time off to vote.

Time off to vote will be granted in accordance with applicable state law.

§ 220-4.14. Personal days.

A. All eligible employees will be allowed three (3) personal days per fiscal year with no loss in pay (part-time employees on a pro-rated basis). Personal days will not be allowed to accumulate year to year.

B. Personal days shall be available to new eligible employees but only after completion of six (6)

months of work for the Town.

ARTICLE 5
Policy

§ 220-5.1. Definitions.

The words and phrases in this chapter shall have the following meanings except where the context clearly indicates a different meaning:

APPOINTING AUTHORITY — The Board of Selectmen.

DEPARTMENT HEAD — The Department Head is the person in charge of the department either because elected or because designated by the appointing authority.

ELIGIBLE EMPLOYEE — One who is currently employed by the Town and who is regularly scheduled to work a minimum of twenty (20) hours per week.

FULL-TIME EMPLOYEE — One who is currently employed by the Town and who is regularly scheduled to work a minimum of thirty-two (32) hours per week.

SUPERVISOR — The Supervisor is the person, if any, in charge of subordinates, as designated by the Department Head or appointing authority.

§ 220-5.2. Personnel Board advice and recommendations.

The Personnel Board was formed to provide the Town with the benefit of particular knowledge, experience and expertise in employment matters and will provide the Board of Selectmen with advice and recommendations regarding such matters upon request.

§ 220-5.3. Collective bargaining.

The Personnel Board shall be a resource for the Selectmen in the collective bargaining process.

§ 220-5.4. New position.

No new position shall be established without a recommendation from the Town Administrator and Personnel Board advising whether or not all of the procedures in this bylaw have been followed. (It is not the intent of this section that the Personnel Board substitute its judgment for that of the Selectmen in determining whether or not a position is necessary.)

§ 220-5.5. Job descriptions.

All positions ideally should have a written job description as prepared by the Town Administrator and approved by the Personnel Board. Each employee shall be given a copy of his/her job description. Lack of a job description shall have no legal impact.

§ 220-5.6. Recruitment.

Individuals shall be recruited from a geographic area as wide as is necessary to assure obtaining qualified candidates, allowing for preference to residents if all considerations are equal. The official notice of a job vacancy shall be posted through the Town Administrator's office on a public bulletin board within the Charlton Town Hall for not less than seven (7) days and shall be published in a newspaper of local circulation, at least seven (7) days prior to close of the period specified for submission of an application. Publishing requirements shall be waived if the position is to be filled by the promotion of a present employee.

§ 220-5.7. Examinations.

A. Under the direction of the Town Administrator's office, the Personnel Board may require medical exams of each new employee as a condition of employment. The examination shall be at the expense of the Town and by a physician appointed by the Town.

B. Written and/or other types of exams may be required and administered by Town officials or Department Heads as necessary. If such exams are required, copies of the exams and results shall be submitted to the Town Administrator for verification of consistency of standards and accuracy of results.

§ 220-5.8. Training.

Any training by the Town of employees shall be arranged for or provided by the Town of Charlton, unless otherwise provided by Massachusetts General Laws. The question of who will bear the cost of such training will be studied and determined by the Town Administrator on a case-by-case basis.

§ 220-5.9. Evaluation.

The Town has the right to evaluate an employee's performance at any time.

§ 220-5.10. Probation.

A. All new employees shall be on probation for the first six (6) months.

B. All current employees promoted shall be on probation for the first six (6) months in the new position.

§ 220-5.11. Transfers.

An employee transferred from one (1) job to another in Town employment shall retain all benefits, if any, already vested as of the date of transfer.

§ 220-5.12. Promotions.

Any Town employee may apply for any promotion posted under § 220-5.6 above. Consideration will be given to knowledge, skills, experience, education and seniority.

§ 220-5.13. Layoffs.

In the case of the necessity of layoff or reduction of personnel for lack of work or by reason of fiscal constraints, layoffs shall be determined first by the needs of the Town on a department and position-by-position basis. If there is more than one (1) employee in a particular department position, the decision will be made according to reverse order of seniority, all other things being equal.

§ 220-5.14. Discipline.

A. Discipline shall primarily be the responsibility of the Town Administrator in conjunction with the Department Head and/or Supervisor and may include one (1) or more of the following: oral reprimand, written reprimand, suspension, disciplinary probation and/or discharge.

B. The above list is illustrative and not definitive and is not intended to limit the employer.

C. A written, dated notice of the above on a standard form prepared by the Personnel Board shall be given to the employee with a copy kept by the Department Head in the employee's personnel file.

§ 220-5.15. Grievance procedures.

(Reserved for grievance procedure to be submitted at a future Annual Town Meeting for consideration with warrant article on creation of Personnel Relations Review Board and Acceptance of MGL c. 40, § 21B.)

§ 220-5.16. Records; maintenance of personnel files.

A. A personnel file will be maintained on each employee (appointed, paid individuals) of the Town.

B. Each file must contain:

(1) Name, address, date of birth.

(2) Job application and/or resume and related documents.

(3) Job title and job description.

(4) Grade and rate of pay and other compensation.

(5) Probationary period reports.

(6) Performance evaluations and disciplinary action forms, including termination notices.

(7) Waivers.

(8) Completed I-9 forms.

C. Medical information about employees is not part of the personnel file and must be kept in separate files from the personnel file.

D. Department Heads will be responsible for obtaining the required documents on the employees in their departments, and forwarding them to the Town Administrator.

E. All personnel files are to be kept in the Office of the Selectmen or in a secure area of their choosing and under their direct control.

F. The Selectmen, the Department Heads, Town Administrator or administrative assistant shall have access to the personnel files. The Personnel Board may have access to the files upon majority vote of their Board and upon written request.

G. Employees have the right to review their own personnel file. If an employee wishes to review his/her file, he must set up an appointment with the Selectmen, Administrative Assistant or Town Administrator. Employees must be notified in writing within ten (10) days of any additions or deletions to their personnel file. The employee must review the file in a designated area and in the presence of a Personnel Board member, the Town Administrator or a designee.

§ 220-5.17. Savings clause.

If any provision of this bylaw shall be found contrary to law, then such provision shall not be deemed valid except to the extent permitted by law and all other provisions of this bylaw shall continue in full force and effect.

§ 220-5.18. Employment at will.

Nothing contained in this bylaw shall constitute an employment contract or abridge or be deemed to abridge the right of the employer not to employ an employee for any given fiscal year.

§ 220-5.19. Amendments.

This bylaw may be amended by vote of the Town Meeting. The Personnel Board shall be notified in writing of the proposed amendment within sixty (60) days prior to the Town Meeting at which amendment is to be considered. The Personnel Board shall make recommendations and report to the Town prior to any action taken by the Town with regards to the proposed amendment. Failure of such notice or of the Personnel Board to report to the Town shall not prevent the Town from taking action on the proposal.