

TOWN OF TEWKSBURY



SELECT BOARD POLICIES AND REGULATIONS

**TOWN OF TEWKSBURY SELECT BOARD
POLICIES AND REGULATIONS**

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ARTICLE I: DEFINITIONS

Charter: The Tewksbury Town Charter

Committee: A Town board, committee, or commission.

Commonwealth: The Commonwealth of Massachusetts.

DPW: Department of Public Works.

M.G.L. c. _____, § _____: Massachusetts General Laws Chapter _____, Section _____, as amended.

M.G.L. c. 30A, §§ 18 – 25: The Open Meeting Law.

Policy: The general principle guiding the Select Board’s management of its public affairs and regulations.

Regulations: A rule or order prescribed by the Select Board for matters under its jurisdiction.

Select Board: The Select Board.

Town: Town of Tewksbury.

Town Manager: The Town Manager including his or her designee.

Quorum: A majority of the elected or appointed Committee unless otherwise provided by statute or bylaw.

ARTICLE II GENERAL

2.1 Purpose

To insure good administration through equitable enforcement and continuity of decisions, with the understanding that all matters brought before the Select Board are reviewed on a case by case basis, and that the Select Board at any time may determine that a particular Policy and/ or Regulation and in that particular instance is no longer applicable to the general good.

2.2 Adoption of Policies and Regulations

Votes taken at the Select Board meetings fall into two categories:

- 1) Votes specific to one issue and not applicable to other issues,
- 2) Votes that may be applied to future matters. The latter may be adopted as a Policy or Regulation.

A Policy or Regulation may be requested by the Select Board's staff or the public. Once a request has been made to the Chair of the Select Board, the matter requested shall be placed on the agenda of a future Select Board's meeting. At that time, a Policy or Regulation will be adopted if a majority of the full Select Board so votes or be amended or revoked in like manner. An annual review of the Policies and Regulations shall be initiated by the Chair of the Select Board.

2.3 Index and file of Town Manager

The Town Manager shall maintain an index and a file on all Policies and Regulations. Copies of the Policies and Regulations shall be filed with the Town Clerk, uploaded to the Town website, and distributed to appropriate staff and Committees.

ARTICLE III RULES OF ORDER AND PROCEDURE FOR SELECT BOARD

3.1 Election of Officers

The Select Board shall meet in regular session each year on the Tuesday following the annual Town election for the purpose of electing its own officers and conducting such other business as may come before it.

3.2 Terms of Office

Officers shall serve one year and until new officers are elected, or until their term as Select Board has expired through resignation or the election of a replacement.

3.3 Officers of the Board

From among its members the Select Board shall elect a Chair, a Vice-Chair, and a Clerk. The Chair shall preside at all meetings of the Select Board at which he or she is present. The Chair shall be the ceremonial chief civil officer of the Town. The Chair, when representing the Select Board, shall be careful to take only positions on subjects which have been approved by the Select Board. When necessary to make observations on other matters, the Chair shall state that the opinion expressed is his or her own opinion as an individual Select Board member and not necessarily that of the Select Board.

The Vice-Chair shall perform the functions of the Chair in the Chair's absence. Should the Chair resign, the Vice-Chair shall automatically succeed him or her.

The Clerk shall be responsible for the accuracy of the minutes of the meetings of the Select Board and, when prepared, sign those minutes which become part of the official public records of the Town.

3.4 Recording Secretary

The Select Board shall retain on an hourly salaried basis a Recording Secretary who is experienced in recording the proceedings of meetings, both live and from tape recordings. The Recording Secretary shall attend all meetings of the Select Board and shall be responsible for preparing minutes of those meetings in draft form, under the direction of the Clerk, for approval of the Select Board at its next regular meeting.

3.5 Liaison with Town Committees

Each Select Board member may be assigned as a liaison between the Select Board and a Committee, whose meetings the Select Board member may attend when considered appropriate and may acquire current information to be delivered to the Select Board upon request or where the individual Select Board may deem it desirable.

3.6 Place of Select Board Meetings

The designated place for regular and special meetings of the Select Board shall be at the Tewksbury Town Hall, unless otherwise designated by the Select Board.

3.7 Regular Meetings

The Select Board shall meet in regular session on the second and fourth Tuesday of each month at 7:00 p.m. except on holidays or when another day and hour has been fixed by the Select Board

3.8 Special Meetings

Special Meetings of the Select Board may be called at the request of three Select Board members or by the Chair.

3.9 Work Sessions

The Select Board, in compliance with the Open Meeting Law, may meet in a Work Session as needed. The Work Session shall be devoted primarily to any matter when the interchange of information is deemed desirable or essential by the Select Board or Town Manager, and particularly when a preliminary discussion is deemed necessary prior to the regular meetings of the Select Board. No formal vote shall be taken on any matter under discussion nor shall any Select Board member enter into a commitment with another respecting the vote to be taken subsequently in a regular meeting of the Select Board; provided, however, that nothing shall prevent a polling of the Select Board or the taking of an informal vote on any matter under discussion. Agenda procedures shall be the same as for regular meetings, except that matters not included on a work session agenda shall be taken up by the Select Board only after listed agenda items have been considered. To consider a non-agenda item, the Select Board shall vote to approve such consideration.

3.10 Executive Session

The Select Board, as part of a regular or special Select Board meeting, may convene an Executive Session. Attendance at the Executive Session shall be limited to the Select Board and persons as may be required for advice and information. Executive Sessions shall be convened solely for purposes permitted by the Open Meeting Law.

3.11 Quorum

Three Select Board shall constitute a quorum. In the event a quorum is not obtained, the Select Board present may adjourn the meeting to a specific date and time. A majority vote shall be required to approve any matter acted upon by the Select Board except as otherwise provided by the Regulations of the Select Board, By-laws, or statute.

3.12 Open Meeting Law

All meetings of the Select Board shall be held and conducted in strict compliance with the requirements of the Open Meeting Law. Each newly elected Select Board member shall be given a copy of the Open Meeting Law by the Town Clerk and shall sign a statement acknowledging that he or she has received it.

3.13 Posting of Meetings

All meetings and work sessions of the Select Board shall be posted in accordance with the Open Meeting Law. The law allows that, in the case of an emergency, defined as “a sudden, generally unexpected occurrence or set of circumstances demanding immediate action,” a meeting may be held although notice was not posted in time. Notice of such meetings shall be posted as much in advance of the meeting as possible.

3.14 Recording of Meeting

Any person in attendance at an open meeting may record the meeting by any means of sonic reproduction, including videotaping, provided that there is no active interference with the conduct of the meeting. If requested, persons intending to make such recordings must so declare.

3.15 Suspension of Regulations

Any provision of these Regulations of the Select Board not governed by statute or otherwise governed specifically by these Regulations of the Select Board may be temporarily suspended by a majority of the full Select Board.

3.16 Meeting Agenda

The agenda for a meeting will be prepared by the Town Manager after conferring with the Select Board Chair. The agenda will close at 10:00 A.M. on the third day before the meeting, excluding Saturdays, Sundays, and legal holidays; and no changes to the agenda shall take place thereafter except as follows: Any matter coming to the attention of the Town Manager or a Select Board member after the above-stated closing time and considered to be an emergency matter may be included on the agenda. The Select Board Chair will be notified of any such changes. Consideration of matters of a non-emergency nature may be allowed at the discretion of the Chair, if permitted under the Open Meeting Law.

3.17 Order of Agenda

The business of all regular meetings of the Select Board shall be transacted in the following order:

- Scheduled Items
- Residents(s) Comments
- New Business
- Old Business
- Town Manager Report
- Outstanding Minutes
- Board Member Reports
- Adjourn

3.18 Submission of Proposed Agenda Items

All reports, communications, resolutions or other matters submitted to the Select Board shall be delivered to the Town Manager by the time specified or the close of the agenda, whereupon the Town Manager shall immediately arrange or cause to be arranged a list of such matters according to the Order

of Agenda. The agenda shall be included in the meeting notice to be posted in conformity with the Open Meeting Law.

No action will be taken by the Select Board on documents circulated for the first time in any regular meeting unless the matter is of an emergency and/or routine nature.

3.19 Supporting Information

All matters included on the agenda, unless clearly self-explanatory, shall have been preceded by or shall be accompanied by written explanations or descriptive materials; such information is to be provided by the sponsor of the agenda item and/or the Town Manager. This background information is intended to aid in the Select Board's consideration of matters to be brought before the Select Board. All supporting information shall be provided to the Select Board in advance of the meeting and, if not, action on the matter may be postponed to a future meeting.

3.20 Distribution of Agenda

Copies of the agenda shall be made available to the Select Board and to the Recording Secretary. A sufficient number of copies of the agenda shall also be available to the public at the Select Board's meetings.

3.21 Town Manager Recommendations

All agenda matters relating to the administration of the Town shall be acted upon by the Select Board only when accompanied by written or oral recommendations of the Town Manager and are to be made a part of the official record of the Select Board.

3.22 Residents' Comments and Presentations

The Select Board reserves the right to defer action or comment on any matter brought before them as part of the Resident(s)' Comments section of a meeting agenda. In general, and at the Chair's discretion, to allow full and fair discussion of items previously placed on the agenda, the time allotted to unannounced Residents' Comments shall be limited to five (5) minutes unless the Select Board, by vote, allows otherwise. Matters brought before the Select Board relating to the administration of the Town shall be referred to the Town Manager for necessary or appropriate action in each individual case.

3.23 Complaints

All complaints involving the Town shall be acted upon by the Select Board when appropriate; and, except in the most unusual cases, such action shall be preceded by a report and recommendation of the Town Manager who shall have been given sufficient opportunity to investigate and prepare a report.

3.24 Agenda for Special Meetings

Only matters set forth in the notice of special meetings shall be discussed or acted upon during such a meeting. This provision may not be suspended.

3.25 Motions

No motions shall be made, except under emergency conditions, unless pursuant to an item specifically set forth on the agenda.

3.26 Decorum & Procedures

The Select Board Chair shall maintain decorum and procedure during Select Board's meetings. The Chair will moderate the meeting according to the dictates of reason established by Select Board practice and the law. The expressed purpose of this policy is to ensure that the Select Board are not unduly inhibited in its operations by strict conformance to inflexible rules of conduct, such as "Roberts Rules of Order." The Chair shall have the right of seconding motions but shall not make motions but may state that he or she will entertain a specific motion.

3.27 Circulation of Minutes

Minutes of the meeting of the Select Board shall not be circulated until after the Select Board have approved the minutes. Draft minutes are considered a public record. The Select Board will act on the minutes of its meetings as an item on the agenda.

3.28 Minutes, Executive Session

Executive session minutes shall be available to all the Select Board, who are bound to maintain their confidentiality. Executive session minutes, or sections thereof, shall be released in accordance with Massachusetts General Laws, only when by doing so the lawful purpose of the executive session will not be defeated. Executive session minutes, or sections thereof, will be released only by an affirmative vote of at least three (3) Select Board. All requests for unreleased executive session minutes will be immediately forwarded to the Select Board Chair and placed on the next available Select Board's meeting agenda for resolution. Notwithstanding periodic reviews, the Select Board Clerk shall conduct a review of all existing executive session minutes, together with the Chair or his or her designee; and recommendations as to their release shall be presented to the Select Board in the month of September.

ARTICLE IV APPOINTMENTS AND COMMITTEES

4.1 Application

This policy of the Select Board as the appointing authority applies to all of its Committees.

4.2 Powers and Duties

Effective local government requires that all Committees respect the duties and responsibilities of other Committees and coordinate their activities to the greatest extent possible. The overall best interest of the Town is that each Committee carries out its responsibilities in a consistent and professional manner and in harmony with the general policies of Select Board.

Once appointed, Committees shall operate with a high degree of autonomy. However, Committees shall keep the best interests of the Town in mind and be guided by the general Policies promulgated by the Select Board to the extent possible.

4.3 Officers of Committees

Each Committee shall annually elect from among its members a Chair and a Clerk. Certain Committees may also find it desirable to elect a Vice-Chair who may act in the absence of the Chair. In the case of new Committees, or Committees that have become inactive, the Select Board may appoint a chair pro-tem to serve until the Committee itself elects a Chair for the balance of the current year. Except in unusual circumstances, the Chair and the Clerk should rotate yearly amongst the Committee membership.

4.4 Open Meeting Law and Minutes

All Committees shall operate in accordance with the Open Meeting Law and shall keep minutes of their proceedings. Each Committee shall establish its own procedures for approval and submission of minutes to the Town Clerk on a timely basis. Committees are urged to prepare, review, and approve minutes as expeditiously as possible in order to maximize the public's access to information concerning Committee activity. In most instances, Committee minutes should be reviewed and approved within six (6) weeks of the original meeting date. All Committees shall submit electronically a copy of approved minutes to the Town Clerk immediately upon approval. Draft copies of a Committee's of non-executive session minutes are public records and must be made available to the public upon request, although the Committee has not reviewed and adopted the minutes.

Upon the dissolution of any Committee, either by action of the Select Board or pursuant to an expiration date provided in the Committee's charge, all records, documents, correspondence, and files concerning the Committee's work shall be promptly turned over to the Town Clerk for appropriate filing and archival storage.

4.5 Conflict of Interest

All Committee members are subject to the requirements of M.G.L. c. 268A, Conduct of Public Employees. The statute addresses:

- a. Gifts or receipt of compensation or gratuities from anyone other than the Town;
- b. Offers or promises to influence official acts;
- c. Financial interest in contracts or other particular matters;
- d. Acting as agent or attorney before a Committee; and
- e. Unfair advantage in relation to a particular matter.

If a prospective Committee member has any question concerning a potential conflict of interest under M.G.L. c. 268A, the member shall raise the question in advance of appointment. Those members currently serving should discuss questions of conflict of interest with the Committee Chair and the Select Board as soon as possible. The State Ethics Commission and Town Counsel are useful resources for information concerning the application of the law, and Committee members are expected to follow guidance provided by the State Ethics Commission.

In addition, all Committee members must avoid the appearance of conflict of interest in all matters coming before the Committee. Committee members shall seek guidance from the State Ethics Commission or Town Counsel, as appropriate, and shall file with their Committee Chair and the Select Board any required disclosure statements.

4.6 Term of Office

Unless otherwise prescribed by statute, Town Meeting vote, or specific Committee charge, one year shall be the standard term of office for Committee members unless otherwise determined by vote of the Select Board.

The terms of office on Committees shall be set on a staggered basis in the interest of fostering continuity of knowledge and experience on all Committees. The Select Board shall determine the year in which a given term expires at the time of appointment.

Each Committee member shall hold office until his or her successor has been appointed and qualifies, unless his or her office shall become vacant by reason of resignation or removal or the Committee by its charge is dissolved.

4.7 Eligibility for Appointment

All residents of the Town aged eighteen or over are eligible for appointment.

4.8 Criteria for Selection

Actual appointments from the pool of applicants shall be made by the Select Board based upon the following:

- a. The level of applicant's interest in serving and interest in the work of the Committee.
- b. The need for diversity on the Committee, taking into account the educational and professional background of the applicant, as well as the need for diversity among all Committee members in terms of neighborhood representation, gender, age, and other demographic characteristics.
- c. Special skills needed by a particular Committee.

4.9 Residency

In most instances, Committee members should be residents of the Town. There may be occasional exceptions when an individual's unique skill or experience supports the appointment of a non-resident and would be beneficial to the Committee's work; however, this should be relatively rare. Non-residents shall not be eligible for appointment to any Committee responsible for exercising statutory or regulatory authority.

4.10 Removal from Committees

As provided by the Town Bylaws the Select Board may remove, after such hearing as the Select Board deem advisable, any Committee member appointed by the Select Board. Cause shall include the repeated failure to attend Committee meetings, the commission of an ethical violation (as found by the State Ethics Commission or a violation of the Open Meeting Law, as found by the Office of the Attorney General), or if the Select Board and Town Manager believe such action is necessary to preserve public confidence in Town government.

4.11 Conflicts with Law

In case of a conflict between any provision of this Appointment Policy and the laws of Massachusetts, the Charter, or Town Bylaws, as the case may be, the laws of Massachusetts and the Charter shall take precedence.

4.12 Appointive Powers

The Select Board shall make appointments for Committees and in accordance with the Charter, Section 2.

4.13 Advertising

Whenever appointments are to be made by the Select Board, vacancies shall be publicized by bringing the vacancies to the attention of the news media and posting the vacancies on the Town Website.

4.14 Incumbents

Committees on which members spend a significant amount of time in service to become knowledgeable and useful members, present members will be given every consideration if they desire to be reappointed. Incumbents who wish to be reappointed must indicate so in writing to the Select Board.

4.15 Applicants

Anyone wishing to serve on a Committee shall submit a completed Citizens Activity Form.

4.16 Screening

The Select Board shall receive copies of all Citizen Activity Forms submitted to the Select Board's Office prior to each position being filled. Citizen Activity Forms shall remain on record with the Select Board's Office for three years from the date of application. The Select Board may interview applicants prior to making a decision on an appointment.

4.17 Committee Appointments

Unless required by state or federal law, no Select Board member shall be appointed to any permanent Committee that is appointed by the Select Board. If such member when elected is a sitting member of such Committee, he or she shall resign from that Committee. Liaison assignments are excluded from this policy.

4.18 Removal of an Appointed Committee Member

Step 1. When a Select Board member wishes to schedule a hearing to determine if there is cause to rescind an appointment made by the Select Board of any Committee member (Member) or when the Select Board respond to a complaint requesting that such an appointment be rescinded, the Select Board or the Town Manager, acting on the Select Board's behalf, shall notify the Member in writing that the Select Board will be voting to go into executive session to consider whether to schedule a hearing to determine if there is cause to rescind his or her appointment. This written notice shall provide the Member with the following:

- a. The date, time, and place of the Select Board's meeting, giving the Member at least five business days advanced notice of the meeting, excluding Saturdays, Sundays, and legal holidays;
- b. That the Member may request the meeting be held in open session instead of executive session;
- c. That the Member has the right to be present during the discussion that pertains to him or her;
- d. That the Member may have legal counsel or a representative of choice;
- e. That the Member may speak on his or her own behalf;

- f. That the Member may cause an independent record to be created; or as otherwise provided by the Open Meeting Law if more restrictive.

Step 2. At the Select Board's scheduled meeting, prior to making a motion to go into executive session to discuss whether to schedule a hearing, the Select Board shall ask the Member, if present, if he or she requests that the meeting take place in open session. If the Member requests to have the meeting in open session, the Select Board shall not vote to go into executive session. The Select Board then shall discuss whether or not to hold a hearing to determine whether there is cause to rescind the Member's appointment. The Member, if present, shall be given an opportunity to speak on his or her own behalf. After discussion, a majority of the full Select Board shall vote in the affirmative to hold a hearing as to whether to rescind the appointment, and if such a majority does not so vote, the matter shall be dismissed. If the Member has not requested an open session, the vote and discussion shall remain as executive session material.

Step 3. If the Select Board vote to hold a hearing, the Select Board, or the Town Manager, acting on the Select Board's behalf, shall provide the Member with written notice of the hearing. The notice will include the following:

- a. A statement that the Select Board will be voting to go into executive session for the purpose of holding a hearing to determine whether or not there is cause to rescind the Member's appointment.
- b. A summary of the allegations or charges that have led to the hearing being scheduled.
- c. The date, time, and place of the Select Board's hearing, giving the Member at least five business days advanced notice of the hearing, excluding Saturdays, Sundays, and legal holidays.
- d. That the Member may request the hearing be held in open session instead of executive session.
- e. That the Member has the right to be present during the discussion that pertains to him or her.
- f. That the Member has the right to have legal counsel or a representative of choice.
- g. That the Member may speak on his or her behalf, and respond to allegations or charges.
- h. That the Member may cause an independent record to be created.

or as otherwise provided by the Open Meeting Law if more restrictive.

Step 4: At the Select Board's scheduled hearing, a motion shall be made to go into executive session to consider the possible dismissal of a Member. If the Select Board vote to go into executive session, an executive session will be convened for such purpose. Prior to voting to go into executive session, the Member will be asked whether he or she requests that the hearing take place in open session. The

Select Board shall hear and/or review evidence to determine whether or not there is cause to rescind the Member's appointment. The Member shall be given an opportunity to then respond to the charges or allegations. After the Member has had an opportunity to respond to the charges or allegations, the Select Board shall entertain any appropriate motion regarding the rescinding of the Member's appointment for cause. At any time during this hearing, the Select Board may discuss or ask questions about any of the issues related to whether or not there is cause to rescind the Member's appointment. To rescind a member's appointment for cause, a majority vote of the full membership of the Select Board in open session is required.

**ARTICLE V PROCESS SERVING CONSTABLES REQUIREMENTS FOR
APPOINTMENT**

5.1 Appointment Procedures and Qualifications

Appointment procedures and qualifications for process-serving constables are as defined in M.G.L. c. 41, § 91B.

5.2 Requirements for Re-appointment of Constables

- a. Written application for re-appointment.
- b. Documentation of bond required by M.G.L. c. 41, § 92.
- c. Documentation of compliance with M.G.L. c. 262, § 8A.
- d. After two years of service, applicants for re-appointment shall show that they have been active in serving process or shall possess special qualifications or hold special position where re-appointment is deemed necessary.

ARTICLE VI SPECIAL MUNICIPAL EMPLOYEES

6.1 Designation of Special Municipal Employee

Designation of special town employee shall be limited to nonpaid Committee members and paid employees who work under twenty hours each week. Such designation shall be granted only in areas where there is definitely no connection with the type of business that the individual wishes to do with the Town and the activity that he or she is involved in on behalf of the Town. The designation of special town employee shall not be given to full-time employees under any circumstances. Select Board cannot be designated special town employees. All special town employee designations shall be filed with the Town Clerk.

ARTICLE VII

EQUAL OPPORTUNITY POLICY

7.1 Town Policy

The policy of the Town is to provide equal employment opportunities to all employees and qualified applicants for employment without regard to race, color, religion, gender, or sexual orientation, as defined by law; national origin, age as defined by law; disability, genetic information, or status as a covered veteran in accordance with applicable federal and state law. To this end, the Town complies with all applicable federal and state laws governing non-discrimination in employment. This policy applies to all terms and conditions of employment, including, but not limited to, recruitment, recruitment advertising, hiring, placement, promotion, termination, leaves of absence, compensation, and training. In addition, the Town expressly prohibits any form of unlawful employee harassment based the above-described items.

ARTICLE VIII HEARING PROCEDURES BEFORE THE SELECT BOARD

8.1 Hearings before the Select Board

Hearings generally shall be conducted in accordance with the following procedures. Variations may be necessary to comply with statutory requirements applicable to particular matters.

8.2 Hearing Agenda

Upon receipt of a request for a hearing, the hearing will normally be included in the agenda for a regular meeting, under the appropriate section.

8.3 Notice of Hearing

The Town Manager or applicant will be responsible for the advertising of the hearing and the notification of interested persons, such as abutters, as required by statute or regulation or as directed by the Chair in the absence of statutory or regulatory requirements.

8.4 Hearing Procedures

Hearings will be held in open session unless otherwise voted and by the Select Board and authorized by law in compliance with the Open Meeting Law.

8.4 Opening the Hearing

The Chair will announce the nature and the purpose of the hearing, identify the particular matter, and recite the notice given. Where appropriate, the Chair will outline the procedure to be followed. The order of presentation generally will be:

- a. Each party has a right to be represented by a person of his or her choice.
- b. No person shall address the Select Board unless recognized by the Chair.
- c. Each party will have the opportunity to present facts orally and to submit documents.
- d. The rules of evidence observed by the courts will not be observed.
- e. Only evidence introduced at this hearing and made part of the record shall be considered by the Select Board in making a decision.
- f. Recommendations from any Town officer or department will be received.
- g. A party or individual who wishes to speak will, when recognized, rise, address the Chair, give his or her name and address, and then proceed.
- h. The applicant or proponent will proceed first and present its position, and the opponent will proceed next to present its position.

- i. Persons in the audience in favor will be given an opportunity to address the Select Board.
- j. Persons in the audience in opposition will be given an opportunity to address the Select Board.
- k. After recognition by the Chair, the Select Board may direct appropriate questions during the hearing.
- l. Rebuttal statements by proponents and opponents will be heard.
- m. The Chair will have the discretion to vary the order of presentations to expedite the hearing and to focus on specific issues or facts.
- n. The presentations should not be repetitious, irrelevant, or immaterial.
- o. When the evidentiary and presentation portions of the hearing are over, the Select Board will vote to close the evidentiary portion of the hearing.
- p. After the closing of the evidentiary portion of the hearing, the Select Board will not receive any further comments or documents and will deliberate as to a decision.
- q. The Chair may permit persons not desiring to speak to record themselves as in favor or against and/or a show of hands may be taken.
- r. At the conclusion of the evidentiary portion of the hearing, the Select Board may render its decision or take the matter under advisement and continue the hearing to a place, date, and time certain.

ARTICLE IX PROCEDURE FOR CONDUIT UTILITY HEARINGS

9.1 Town Pole and Conduit Location Petitions

M.G.L. c. 166, § 22, authorizes the Select Board “of the town where it is proposed to construct such line to grant permission to erect or construct upon, along, under or across said way the wires, poles, piers, abutments or conduits necessary therefor. A public hearing shall be held on the petition, and written notice of the, time, and place of the hearing shall be mailed at least seven days prior thereto by the ... Select Board of the town to all owners of real estate abutting upon that part of the way...” Accordingly, this policy prescribes the procedure to be followed by a petitioner in applying for a permit for a pole or conduit location. All petitions shall be filed on the appropriate petition form at the Select Board’s Office. In addition to the petition form, the petition shall be accompanied by:

- a. A copy of an appropriate map marked with the location of existing poles and/or conduits, proposed poles and/or conduits, any other applicable structures, and approximate property lines of abutters.
- b. The name and telephone number of the petitioner’s representative to be contacted by abutters with questions.

9.2 Scheduling Public Hearings

Receipt of the materials outlined above, the Town Manager’s Office will schedule the public hearing and forward to each abutting property owner a copy of the notice indicating that the map is available and the name and telephone number of the petitioner’s representative. The Town Engineer or his or her representative will review the application and indicate his or her recommendation on the petition along with any special conditions recommended. At the hearing, the petitioner shall be represented by an individual who is familiar with the actual existing site conditions as well as the proposal. The petitioner shall explain the petition. Interested abutters and citizens will be provided with an opportunity to ask questions and comment.

The order of the hearing is as follows:

- a. Open hearing upon petition for permission to install overhead or underground conduit or locate or relocated poles.
- b. Confirm that notices have been sent to abutters, as shown on plan of petitioner(s) and that the plan is on file with the Department of Public Works (DPW) and the Select Board’s Office.
- c. Recognize the representative of the petitioner.
- d. Accept verbal or written recommendation from the DPW representative, Town Manager, or other Town officers.
- e. Receive questions from the Select Board.
- f. Receive questions from the public.

- g. Inquire as to whether anyone else present wishes to be recorded as in favor or in opposition to the petition. Allow questions if applicable.
- h. Close the hearing.
- i. Render a decision.

ARTICLE X LICENSING POLICIES – GRANTING OF LICENSES AND SPECIAL PERMITS

10.1 List of Common Licenses and Permits

The following is a list of licenses and permits most commonly granted by the Select Board:

- Alcoholic Beverage Licenses
- Entertainment Licenses
- Automobile Sales – New, used and Junk Dealers
- Common Victualler Licenses
- Lodging Houses
- Outdoor Dining Licenses
- Pawnbroker/Second Hand Dealer Licenses
- Storage of Inflammables
- Taxi/Livery Licenses
- Auctioneer
- Automatic Amusement Devices
- Automobile Grave Yards
- Bike-a-thons
- Bicycle Races
- Block Parties
- Carnivals/Exhibitions
- Transient Vendors
- Junk Collector or Dealer
- Moving Buildings in Public Ways
- Road Races
- Street Closings
- Vigils

10.2 Additional Licenses

Additional licenses and permits shall be reviewed according to state statute and Town Bylaws. Every license or permit application which requires a public hearing with newspaper publication or notice to abutters, all liquor license change of manager applications, and all Outdoor Dining License applications shall go before the Select Board for hearing in conformity with the General Laws or Town Bylaws.

10.3 Denial of Application for License

The Town shall deny the application for any license or permit to any individual, business, or corporation that is in tax delinquency with the Town. The Town Manager, his or her administration, and the various licensing committees and agencies in the Town will develop and enforce the necessary procedures to implement this policy within the framework of the prevailing local and state laws.

10.4 Denial of Application to Renew License

The Town shall not renew any license or permit previously granted to any individual, business, or corporation that is in tax delinquency with the Town. Again, the Town Manager, his or her administration, and the various licensing boards and agencies in the Town will develop and enforce the necessary procedures to implement this policy within the framework of the prevailing local and state laws.

ARTICLE XI ALCOHOLIC BEVERAGE LICENSE POLICIES AND REGULATIONS

11.1 Administration of Liquor Licenses

The adoption of uniform policies and guidelines is desirable for the administration of liquor licenses; therefore, the Select Board as the Local Licensing Authority for alcoholic beverage licenses, under M.G.L. c. 138, does hereby adopt the following policies and guidelines:

- a. The Town Manager is the designated Licensing Agent of the Select Board. The Licensing Agent has the authority to accept and reject applications that do not meet the minimum requirements of the Alcoholic Beverages Control Commission (ABCC) and/or the Town.

- b. Applications regarding premises not actually in existence at the time of the application will not be approved unless and until a building permit has been issued by the Town and the applicant has filed with the application a plan showing the actual dimensions of the premises which are to be constructed on which the license is to be exercised. If construction of the premises is not completed at the time the license is approved, the license may be approved on the condition that construction shall be completed and as-built plans shall be filed prior to the issuance of the license.

- c. Approvals of applications by the Select Board are valid for six months from the date of approval by the ABCC. If such time expires before the license is issued, due to the applicant's failure to meet all of the conditions imposed by the Select Board, the license will not be issued and the applicant must reapply and be reheard by the Select Board. Prior to the expiration of the six month approval period, the applicant may petition the Select Board for an extension of the approval period not to exceed two months. The extension may be granted for good cause. No more than one extension may be granted.

- d. The Town, like other Massachusetts municipalities, is granted under M.G.L. c. 138, a certain number of wine-and- malt-beverages-only pouring licenses and a certain number of all-alcohol pouring licenses based on population. In the event a municipality has issued its maximum allowable wine-and-malt-beverages pouring licenses, the local licensing authority has the discretion to issue additional wine-and-malt-beverages pouring licenses, provided that an all-alcohol pouring license is retired for each such wine-and-malt-beverage pouring license issued. The Select Board will consider applications for the issuance of wine-and-malt-beverages pouring licenses under these circumstances on a case by case basis. The Select Board may issue the same if determined to be in the best interests of the Town.

11.2 Liquor Law Violations

When, after hearing, the Select Board determine that a violation of the liquor laws of the Commonwealth of Massachusetts has occurred, or a licensee has failed to comply with the conditions of the license or these policies and regulations, the Select Board shall consider the appropriate disciplinary action. In determining the appropriate disciplinary action to be taken, the Select Board shall consider the following:

- a. The written record of the licensee on file within the Office of the Town Manager during the preceding thirty-six calendar months and any prior infractions during this period.
- b. The particular merits of the case presented at the hearing inclusive of such factors as intent, culpability of the parties, and such other factors as the Select Board may deem relevant.
- c. Cooperation of the licensee with the Town Manager, Police Department, Town Inspectors, and other Town officials in the conduct of its business.
- d. Such recommendations as the Town Manager may present.

11.3 First Offense

In general, in matters of first offense, the Select Board shall consider the issuance of a letter of reprimand to the licensee, a copy of which shall be placed on file in the licensee's record or issue a suspension of the license for a period of one to seven days.

11.4 Second Offense

In matters of a second offense within the period of thirty-six calendar months, the Select Board shall consider the issuance of a suspension for a period of one to fourteen consecutive calendar days.

11.5 Third Offense

In matters of a third or subsequent offense within thirty-six calendar months, the Select Board shall consider a second suspension for a period of two to thirty consecutive calendar days and/or revocation of the license.

11.6 General Guidelines Regarding Infractions

All of the above are general guidelines for the Select Board in its deliberations regarding infractions found against the licensee. Each case shall be considered upon its individual merits. The Select Board reserve the right to impose penalties in excess of the above if deemed appropriate.

11.7 Last Drink Policy

Background:

The Report identifies establishments where defendants convicted of operating a motor vehicle while under the influence of intoxication liquors state they were served alcohol before being arrested. M.G.L. c. 90, § 24J, requires courts to ask defendants convicted of operating a motor vehicle while under the influence of intoxicating liquors whether they were served alcohol at any licensed establishment before the violation and the name and location of any such establishment. The Attorney General provides this information to the Town in view of the public safety issue that operating a motor vehicle while under the influence presents.

The information in the Report does not constitute an accusation of criminal or negligent conduct by any establishment and is not a substitute for such establishments' license monitoring and enforcement practices. [The Attorney General has not conducted an independent review of the information contained in the Report and notes that Section 24J does not require that defendants' statements regarding such establishments be made under oath.]

Policy:

The Select Board will review the Report which identifies such establishments located within the Town. The Town Manager shall send a letter to such establishments, informing them that they are identified in the Report and to remind them of the following requirements of their licenses:

- a. Licensees shall insure careful selection of its manager and of qualified employees of the licensed business, including servers, clerks, and persons who are engaged with the public in any capacity.
- b. Licensees shall provide frequent training of employees in all matters relating to the sale and service of alcoholic beverages.
- c. The Select Board strongly advise licensees to require their managers and all employees who serve or sell alcoholic beverages, as they are hired, to participate in a State-recognized alcohol training program such as a TIPS or like alcoholic server training.

11.8 Liquor Licenses – General

The following applies to all liquor licenses:

- a. Liquor licenses are issued under authority of M.G.L. c. 138. Any new application for a license to sell alcoholic beverages, or for a change in an existing license, must be accompanied by the appropriate application fee.
- b. Every liquor license application which requires a public hearing with newspaper publication or notice to abutters and all applications for change of manager shall go before the Select Board for hearing in conformity with the General Laws.
- c. If approved, the application generally shall be transmitted to the ABCC for its approval. If disapproved the applicant may appeal to the ABCC under the provisions of M.G.L. c. 138.
- d. The Select Board, under the authority granted by M.G.L. c. 138, shall set the hours of operation for any on premise establishment. Once the operating hours are granted to any licensee, a change in these hours can be made only after a public hearing before the Select Board.
- e. Any licensee intending to close the licensed premises must notify the Select Board in writing ten days before such closing and shall state in the notice the reason for such closing and the estimated length of such closing. Any licensee intending to close for more than sixty days must appear before the Select Board to discuss the status of the license. Any licensee who closes and does not reopen or relocate, unless otherwise agreed, within one hundred eighty

days shall be subject to the Select Board's convening a show cause hearing to cancel the license.

- f. No licensee shall conduct business under any corporate or trade name other than that under which it is licensed.

11.9 Manager

The Manager of the licensed premises is the principal representative of the licensee with full authority and control of the licensed premises and of the conduct of all business therein relative to alcoholic beverages as provided in M.G.L. c. 138, § 26.

Except as otherwise provided in the Massachusetts General Laws or approved by the Select Board, the Manager must be a full-time employee or a corporate officer of the licensee and must be engaged exclusively in the management of the licensed business.

The Manager shall be on the licensed premises regularly in the course of business, consistent with the permitted hours of operation. When the Manager is not upon the premises, a method of contacting the Manager promptly must be arranged so that the Manager can be reached at all times by the person designated to be in charge of the premises. The Manager shall designate an Assistant Manager to be responsible in his or her absence. However, the Manager will continue to be responsible for the operation of the licensed premises whether or not on the premises.

Without limiting the scope of the previous subsections and without limiting the penalties which may be imposed on the licensee for violation of these regulations, the Manager shall be responsible for the following:

- a. Careful selection of qualified employees of the licensed business, including servers, clerks and persons who are engaged with the public in any capacity.
- b. Training of employees in all matters relating to the sale or service of alcoholic beverages. The Select Board advise managers and all employees to participate in a State recognized alcohol training program.
- c. Failure of the Manager to comply with these Policies and Regulations or to properly discharge the duties of Manager may result in suspension or revocation of the license as may be appropriate to the circumstances.

11.10 Change of Manager

The Select Board may impose a penalty for failure to file a timely application for change of Manager, which may include a penalty of suspension that may be up to one day of suspension for each day of non-compliance, unless the Select Board find that there were circumstances which excused the non-compliance.

11.11 Additional Provisions

The following additional provisions apply to all owners and licensees:

- a. The Select Board do not approve the pledge of stock in a licensee's corporation or the pledge of the liquor license.
- b. A licensee shall immediately notify the Select Board of any proceedings brought against it or any proceedings brought by it under the bankruptcy laws.
- c. Licensees shall immediately notify the Select Board of any court or administrative proceedings which may affect the status of the license.
- d. No person may have a direct or indirect beneficial interest in any type of license without obtaining approval from the Select Board and the ABCC.
- e. All alcoholic beverages sold pursuant to M.G.L. c. 138, § 12, must be opened and consumed on the premises unless removed in accordance with the provisions of Section 12. (Applicable to Section 12 Licenses.)
- f. Last call shall be no later than thirty minutes before the licensed closing hour. No alcoholic beverages may be served after last call. (Applicable to Section 12 Licenses.)
- g. All tables and bars must be cleared of all glasses, bottles, and containers of alcoholic beverages by the licensed closing hour, and all customers must be off the premises by the licensed closing hour. (Applicable to Section 12 Licenses.)
- h. Owners and employees must be off the premises no later than thirty minutes after the licensed closing hour, except that such owners and employees may be on the premises for the purpose of cleaning, making emergency repairs, providing security for such premises, or preparing food for the next day's business or opening or closing the business in an orderly manner. No employee or owner shall serve or consume any alcoholic beverage on the premises before the licensed opening hour or after the licensed closing hour. (Applicable to Section 12 Licenses.)
- i. No licensee shall keep for sale or store or sell alcoholic beverages in any part of the premises not specified on the license.
- j. No licensee shall make any distinction, discrimination or restriction on account of race, color, religious creed, national origin, sex, sexual preference or ancestry relative to the admission or treatment of customers.
- k. A license is subject to suspension, revocation, or forfeiture for breach of any of its conditions or regulations, or any law of the Commonwealth.
- l. All licenses and building certificates shall be displayed on the premises in a conspicuous manner where they may easily be seen and read.

- m. Any changes to an license must be approved by the Select Board under the authority of M.G.L. c. 138, including but not limited to: transfer of license, change of manager, transfer of stock, new officers and/or directors of a corporation, change of stockholders in a closely held corporation, pledge of license, change of corporation name, change of d/b/a, change of premises including reduction or extension of the area of the licensed premises, or a change in the physical layout of the premises.
- n. Licensed premises shall be subject to inspection by the Police Department, Fire Department, Inspector of Buildings and/or any duly authorized agent of the Select Board or ABCC.

11.12 Events with Alcohol in General

Alcohol served at events held outside of a private residence, but on the owners property is presumed to result in a sale of alcohol. As such, a Special License under M.G.L. c. 138, § 14, 4 shall be required for such events, unless such event falls within an exception stated herein. In the case of events held by private residents, outside of their private residence, the Town shall not require a Special License where:

- a. The event is by invitation only,
- b. Money is not exchanged for alcohol,
- c. Tickets are not sold,
- d. A donation is not required or solicited, or
- e. An entrance fee is not charged.

11.13 Special Licenses Issued Under M.G.L. c. 138, § 14

Businesses or charities which hold events where liquor is served are required to obtain a Special License unless evidence is provided to the Select Board which rebuts the presumption of a sale. The Select Board shall determine whether a Special License is required under M.G.L. c. 138, § 14, and applicable regulations. In making such a determination, the Select Board shall consider such the evidence as the location of the event, the purpose of the event, who is invited to the event, what fees are charged for the event, and other relevant information. In addition:

- a. Charities which have wine donated must apply for a Charitable Wine Pouring or Charitable Wine Auction License.
- b. For events that require a Special License, all alcohol must be purchased from a licensed Massachusetts wholesaler, in compliance with M.G.L. c. 138, § 14, or a caterer licensed under M.G.L. c. 138, § 12C. Alcohol may not be purchased from any other source. A list of wholesalers is available at the Town Manager's Office or through the ABCC.
- c. Special Licenses may be issued only to a natural person or a natural person in conjunction with a business, organization, or charity. The person named on the Special License must sign the application for the license, shall be responsible for management of the Special License,

and shall be on the premises for the entire event. The person named on the license shall be a United States citizen.

- d. All Alcoholic Special Licenses shall only be issued to a non-profit organization. Proof of an organization's non-profit status may be required.
- e. A person or entity may only be issued a maximum of thirty Special Licenses in any calendar year.
- f. Holders of M.G.L. c. 138, § 12 or Section 15, licenses that are not Massachusetts licensed wholesalers, are subject to disciplinary action by the Select Board if such licensee is found to have illegally sold alcohol to Section 14 Special License holders.
- g. No alcohol may be stored on any unlicensed premise. For special events covered under a Special License, alcohol must be delivered the day of the event and removed from the premises after the event at the expiration of the Special License. Under the M.G.L. c. 138, § 22, holders of a Special License may not transport alcohol without a permit. A caterer may transport alcohol on behalf of a Special License holder only if that caterer has a current transport permit issued by the ABCC.
- h. The licensee shall post the Special License in a conspicuous location during the event.
- i. No Special License holder may sell or deliver any alcoholic beverages between the hours of 2:00 a.m. and 8:00 a.m. Special Licenses holders may sell or serve alcoholic beverages between the hours of 11:00 a.m. to 1:00 a.m., Monday through Saturday, and 12:00 p.m. to 1:00 a.m. on Sundays. Notwithstanding the foregoing, the Select Board may alter the specific hours and terms of sale and service of alcohol.
- j. The Select Board may refuse to issue or reissue a Special License, if the licensee fails to comply with state or local regulations or any reasonable requirements of the local licensing authority. The Select Board may suspend, cancel or revoke a Special License, after a hearing, if the licensee fails to comply with state or local regulations or any reasonable requirements of the local licensing authority.

11.14 Special License Issued Under M.G.L. c. 138, § 15F, (Farmer-Winery)

Pursuant to M.G.L. c. 138 § 15F, the Select Board may issue to an applicant authorized to operate a farmer-winery under Section 19B, or any other statute a Special License for the sale of wine produced by or for the licensee for off-premises consumption at an indoor or outdoor agricultural event, provided that:

- a. All sales shall be conducted by an agent, representative, or solicitor of the licensee to customers who are at least twenty-one years of age.
- b. A licensee under this section of this Policy may provide, without charge, samples of wine to prospective customers at an indoor or outdoor agricultural event in compliance with said M.G.L. c. 138, § 15F, as the same may be from time to time amended.
- c. The term "agricultural event" shall be limited to those events certified by the Department of Agricultural Resources as set forth in said M.G.L. c. 138, § 15F. A copy of the certification,

with all supporting documentation submitted to the Department, shall be submitted to the Town Clerk with the license application.

- d. A license may be granted for an indoor or outdoor agricultural event which takes place on multiple dates and/or times during a single calendar year, but no Special License shall be granted for an agricultural event that will not take place within one calendar year.
- e. The license application form shall be prepared by the Town Clerk and shall be made available on request. The application shall be signed on behalf of the applicant by a natural person duly authorized by the applicant and by the agent, representative or solicitor (as those terms are used in Section 15F) on his or her own behalf. The authorized signer for the applicant and the agent, representative or solicitor may be the same person.

11.15 Pouring License May Be Granted to Golf Courses Pursuant to M.G.L. c. 138, § 12

Pouring licenses may be granted to golf courses by the Select Board as provided below:

- a. When acting on an application to license the sale and service of alcohol on a golf course, the Select Board shall take into account the distance from residential dwellings, schools, and/or churches, the character of the surrounding neighborhood, noise, lighting, other licenses in the area and any and all other reasonable and proper concerns.
- b. The specific location of stationery stands and/or structures for the sale and service of alcohol within golf course premises shall be approved the Select Board. Stationary stands and/or structures must serve within the approved location. Approval of the serving location shall take into account the distance from residential dwellings, schools, and/or churches, the character of the surrounding neighborhood, noise, lighting, other licenses in the area and any and all other reasonable and proper concerns.
- d. The Select Board's approval of premises that are intersected, interrupted or divided by public ways is conditional upon the applicant receiving a transportation permit from the ABCC.
- e. No licensee shall permit any patron to possess alcoholic beverages on the grounds of approved golf course premises other than those alcoholic beverages purchased from that licensee.
- f. No licensee shall permit any patron to carry or transport any alcoholic beverages off the grounds of approved golf course premises.
- g. No licensee shall permit any patron to carry or transport any alcoholic beverages on any public way.
- f. Alcohol is not permitted in parking lots. No parking lot shall be included in the description of the licensed premises. Parking lots of a golf course will be treated the same as a public way.
- g. At the intersection of each cart path with a public way, at the edge of parking lots, and other approved locations bordering the course the licensee shall erect sign posts with the following required signage and information:

“No alcoholic beverages permitted beyond this point.”

“Operating a golf cart while under the influence is a criminal offense punishable by law.”

“Possessing an open container of alcohol on a public way is a criminal offense.”

- h. These signs shall be in a conspicuous place where these signs can be easily read. The licensee shall post these signs regardless of whether or not the licensed premises extend beyond the public way or not.
- i. At the intersection of each cart path with a public way, at the edge of parking lots, and other approved locations bordering the course the licensee shall place receptacles for beverage containers.
- j. No more than two drinks shall be sold, delivered or in the possession of any one patron at any time while on the grounds of the approved golf course premises.
- k. Alcohol must be properly stored and secured at all times. Alcohol shall not be stored overnight in wheeled carts.

11.16 Pouring License for Outdoor Dining Areas Premises Pursuant to M.G.L. c. 138, § 12

Pouring licenses for outdoor dining areas may be granted by the Select Board pursuant to M.G.L. c. 138, § 12, as follows:

- a. When acting on an application to license the sale and service of alcohol on a patio and/or outdoor area the Select Board shall take into account the distance from residential dwellings, schools and/or churches, the character of the surrounding neighborhood, noise, lighting, other licenses in the area and any and all other reasonable and proper concerns.
- b. Preferred are areas where alcohol is served to patrons who are seated at tables and where food is available.
- c. The patio and/or outdoor area must be contiguous to the licensed premises, and the licensee shall have a view of the outdoor premises from inside, or staff shall be present in the serving area at all times. A clear path of ingress and egress from the inside to the outside shall be clearly established to ensure safe, uninterrupted travel of patrons and the service of alcoholic beverages. The patio and/or outdoor area must have adequate exits in case of emergency.
- d. The premises shall be enclosed by a fence, rope or other means to prevent patrons or members of the public from wandering in or out and to ensure that the licensee has control of the area.
- e. No licensee shall permit any patron to possess alcoholic beverages on the licensed patio or outdoor area other than those alcoholic beverages purchased from that licensee.
- f. No licensee shall permit any patron to carry or transport any alcoholic beverages off the grounds of the approved patio and/or outdoor premises unless otherwise authorized by State Law.

- g. Alcohol is not permitted in parking lots. A parking lot shall not be considered a patio or outdoor area under this policy. No parking lot shall be included in the description of licensed premises.
- h. Licensees shall act reasonably and diligently to disperse loiterers or patrons who attempt to congregate outside the licensed patio and/or outdoor premises, especially those on public sidewalks and those in parking lots.
- i. Alcohol shall be properly stored and secured at all times. Alcohol shall not be stored overnight in outdoor areas and/or on patios.
- j. Nothing in this policy shall be interpreted as an endorsement of the drinking and or serving of alcohol on public sidewalks or any outdoor area owned, maintained, or controlled by the Town, except pursuant to a license issued under this Policy “Regulations for Outdoor Dining Licenses”.

11.17 Hours of Operations

M.G.L. c. 138, § 12, On-Premises Pouring Licenses:

Monday through Saturday: 11:00 A.M. to 1:00 A.M.
 Sunday: 12:00 P.M. to 1:00 A.M.

Licensees may apply for permission to open at 10:00 A.M. on Sundays.

M.G.L. c. 138, § 15, Package Stores:

Monday through Saturday: 8:00 A.M. to 11:00 P.M.
 (11:30 P.M. on the day before a legal holiday)
 Sunday: Noon to 11:00 P.M.
 (11:30 P.M. on the day before a Monday legal holiday)

M.G.L. c. 138, Clubs:

Monday through Saturday: 9 A.M. to 1 A.M.
 Sunday 12:00 P.M. to 1 A.M.

11.18 Sunday Package Store Openings

The retail sale of alcoholic beverages not to be drunk on the premises is permitted on Sundays by retail establishments licensed under M.G.L. c. 138, § 15; provided, however, that there shall be no such sales prior to the hour of 12:00 noon or on Christmas Day if Christmas occurs on a Sunday; and provided further, that establishments operating under this clause which employ more than seven persons shall compensate all employees for work performed on a Sunday at a rate of not less than one and one-half of the employee’s regular rate. No employee shall be required to work on a Sunday; and refusal to work on a Sunday shall not be grounds for discrimination, dismissal, discharge, reduction of hours or any other penalty. (See M.G.L. c. 136, § 6, clause 52.)

11.19 Alcoholic Beverage Licenses on Town Owned Property

The Consumption of alcohol is not allowed on Town owned property, except with a one day special license in accordance with M.G.L. c 138, § 14.

11.20 Fees: Alcoholic Beverages Licenses

The following are the fees that are charged in the Town of Tewksbury for Alcoholic Beverage Licenses at the time of the issuance of the license and for the renewal of the license.

Inn Holder – All Alcoholic Application Fee	\$3,500.00
Restaurant – All Alcoholic Application Fee	\$2,500.00
Retail Pkg. Goods – All Alcoholic Application Fee	\$1,800.00
Club – All Alcoholic Application Fee	\$1,000.00
Retail Package Goods – Wine & Malt Application Fee	\$1,200.00
Restaurant – Wine & Malt Application Fee	\$1,200.00
One-Day All Alcoholic	\$100.00
One-Day Wine & Malt	\$100.00
Charitable Wine Pouring	\$75.00
Farmer-winery (M.G.L. c. 138, § 15F)	\$50.00

Fees for a new license, other than a one-day Special License, a Charitable Wine Pouring License or a Farmer-winery License will not be adjusted or prorated.

ARTICLE XII COMMON VICTUALLER LICENSE

12.1 General

Any person who engages in the business of cooking, preparing and/or providing food for seated patrons on the premises must obtain a Common Victualler License from the Select Board. Any Common Victualler License issued shall be in compliance with and pursuant to M.G.L 140.

12.2 Inspection of Licensed Premises

Any person to whom a Common Victualler License is issued shall ensure that order and decorum is maintained in the licensed premises at all times, and shall cooperate in every respect with Town officials including, but not limited to, representatives of the Select Board, Fire and Police Departments, and the Board of Health. The licensed premises shall be available for inspection by said officials or any other department or official of the Town so directed by the Select Board.

12.3 Conditions Applicable to All Common Victualler Licenses

All licenses issued shall be subject to the following conditions:

- a. Licensee shall ensure that the licensed premises is kept clean, neat and sanitary at all times.
- b. Unless otherwise authorized pursuant to a license duly issued by the Select Board, no employee of the licensee shall consume any alcoholic beverage or unlawful controlled substance while on duty, or during the eight-hour period preceding his or her tour of duty.
- c. Deliveries between the hours of 11:00 p.m. and 5:00 a.m. are prohibited without specific permission.
- d. In accordance with the Select Board's Annual License Process all Common Victualler Licenses expire on December 31st and are automatically renewed unless the Select Board are notified of a violation of any State law, Town By-law, or Board of Health violation.
- e. All Common Victualler licensees must be in compliance with all Board of Health rules and regulations and have the proper licenses from the Board of Health.
- f. All Common Victualler licensees must be up to date for payment to the Town of all real estate and personal property taxes and water and sewer charges.

12.4 Requirements of Applicants

All applicants for a Common Victualler License are required, as follows:

- a. Complete and sign the application form. (Application is available at the Select Board's Office or online at www.tewksbury-ma.gov/board-of-Select Board)
- b. Submit a set of floor plans, site plan, and description.

- c. Consult with the Board of Health for the required applications and permits.
- d. Consult with the Department of Public Works.
- e. Obtain a business certificate from the Town Clerk's Office if the applicant is not incorporated or is not an individual.
- f. Pay the annual (calendar year) cost of a Common Victualler License of \$50.00, which is not pro-rated.
- g. If the proposed establishment is not replacing an existing business site, the applicant may require from the special permit granting authorities a special permit to conduct business.
- h. Before obtaining the Common Victualler License, applicants shall have obtained a Food Service License from the Town's Health Department.
- i. When the applicant has obtained all necessary departmental signatures, or will obtain such signatures prior to a Select Board's meeting, call the Select Board's secretary at 978-640-4300, to be placed on the Select Board's meeting agenda

12.5 Floor Plans, Description and Proposed Date of Opening

If the premises is to be constructed or refitted, floor plans showing elevations shall be filed with the application with the following information:

- a. Type of building,
- b. Entrance and exits,
- c. Number of rooms,
- d. Number of tables and chairs,
- e. Bar area: Number of seats,
- f. Storage area (Square Feet),
- g. Kitchen area (Square Feet),
- h. Dance area / Band Area, and
- i. Outside serving area.
- j. Proposed date of opening

12.6 Site Plan

All applicants for a Common Victualler License shall submit to the Select Board as part of the application a site plan showing the following information:

- a. Layout of parking lot,
- b. Landscaping,
- c. Curb cuts and location of driveways,
- d. Existing utility easements,
- f. Parking lot lighting,
- g. Parking lot drainage, and
- h. List of abutting property owners and their uses within 300 feet of property lines.

The submission of a Site Plan will not be required for annual renewals of the Common Victualler License if current plan is on file and there have been no changes proposed at the time of the annual renewal.

12.7 Procedure for Review by Select Board for Newly Constructed or Renovated Premises

If an applicant appears before the Select Board for a Common Victualler License on premises that require construction or renovation, the Select Board may grant the license subject to the completion of the construction or renovation work in accordance with the approved plans. The license would not, however, be issued to the applicant until the Select Board receive verification that the construction or renovation has been completed in accordance with those plans.

The applicant will be scheduled to have a public hearing with the Select Board when the Licensing Office receives notification from the Building Department and the Board of Health that the application is in compliance with their regulations. The Select Board shall determine whether or not to issue a Common Victualler License after conducting a public hearing. If the application is approved by the Select Board, a license will be issued after payment of the license fee to the Town of Tewksbury, upon the completion of the premises according to the plans submitted, the payment of all taxes, fees, fines, etc., to the Town, and the receipt of a Business Certificate, if required, from the Town Clerk.

ARTICLE XIII ENTERTAINMENT LICENSE

13.1 License Conditions

The Select Board may impose reasonable limitations and conditions on any Entertainment License issued. Such limitations may include, but are not limited to, the type of entertainment, the number of performers, and the number and kinds of instruments. The entertainment must be conducted in such a manner so as to protect employees, patrons, and members of the public inside or outside the premises from disruptive conduct, from criminal activity, and from health, safety, or fire hazards. The entertainment shall be conducted in such a manner as to prevent an unreasonable increase in the level of noise in the area caused by the licensed activity or caused by patrons entering or leaving the premises. The entertainment shall also be conducted in a manner designed to prevent an unreasonable increase in the level of pedestrian or vehicular traffic in the area of the premises or an unreasonable increase in the number of vehicles to be parked in the area of the premises. To the maximum extent possible, the noise from the entertainment should not be heard outside the boundaries of the licensed premises.

13.2 Space Provided for Entertainment, Violations

The space provided for entertainment shall be confined to areas described on the Entertainment License Application and approved by the Select Board. The holder of an Entertainment License, issued by the Select Board, shall be subject to the terms and conditions as imposed by the Select Board and by M.G.L. c. 140, § 183A. Any license issued under this policy may be suspended, modified, or revoked if any of the terms or conditions are violated or for other reasonable cause related to the public good and the licensee's fitness to hold a license.

13.3 Hours of Operation

The hours of the Entertainment License shall not extend beyond the hours of operation as stated on the establishment's Alcoholic Beverage License or Common Victualler License, and may be further limited at the discretion of the Select Board.

13.4 Schedule of Fees for Town

The following schedule of fees shall apply to establishments issued an Entertainment License. No fee shall be collected in cases where the license is denied. There will be no automatic renewal of licenses issued on a yearly basis. Establishments must re-apply each year by completing an Application for Entertainment License form. Fees shall not be pro-rated.

Yearly Entertainment License (Monday through Saturday only)	\$25.00
One-Time Entertainment License (Includes Sundays)	\$25.00
Yearly Sunday Entertainment License	\$25.00

13.5 Schedule of Fees for Massachusetts Department of Public Safety

NOTE: These are additional State fees for Sunday Entertainment Licenses. Under M.G.L. c. 136, § 4, any entertainment held on a Sunday requires the approval of the Department of Public Safety, in addition to the Town. If approval for entertainment on a Sunday has been granted by the Town, the Town Manager or the Town Manager’s designee, shall forward to the Department of Public Safety three (3) copies of each of the completed application and license, along with the state fee.

Fees Per Occurrence Individual Sunday(s):

Regular Hours Sunday 1:00 P.M. through 12:00 Midnight \$2.00

Special Hours Sunday prior to 1:00 P.M. \$5.00

Annual Fee for Operation on Every Sunday in Calendar Year:

Regular Hours Sunday 1:00 P.M. through 12:00 Midnight \$50.00

Special Hours Sunday prior to 1:00 P.M. \$100.00

13.6 Compliance/Monitoring

The Town Manager or his designee will be responsible for following up with any complaints against a holder of an Entertainment License and to insure their compliance with the conditions and terms of the license.

ARTICLE XIV AUTOMATIC AMUSEMENT DEVICES ANNUAL LICENSE

14.1 Provisions of General By-Laws, Section 5.08.010

Any individual or business that is seeking to keep or operate Automatic Amusement Devices must have an approved license from the Select Board and comply with the Town's General By-Laws Section 5.08.010 Automatic Amusement Devices Annual License which state as follows:

(The following language in italics is from the relevant Massachusetts General Law)

In accordance with Massachusetts General Laws, Chapter 140, Section 177A, as amended from time to time, any individual or business desiring to keep and operate an automatic amusement device for hire, gain or reward shall secure an annual license from the Select Board. The Select Board shall not grant a license for any automatic amusement device, which presents a risk of misuse as a gaming device. Automatic amusement devices, which represent a risk of misuse as a gaming devices are those devices which have one or more of the following features: (1) the device accumulates more than twenty six (26) plays; (2) the device is equipped with a "knock off" switch, button or similar device; (3) the device has a mechanism for adjusting the odds; (4) the device has a remote control feature that can reset the device from another location; (5) the device is capable of returning money to the player, other than the change for the excess amount put in; (6) each game on the device does not cost exactly the same amount for each player, and a player may change any aspect of the game by paying a different amount than any other play before or after the game; and (7) there is a metering device that accounts for both money/points in and money/points out.

All licenses for automatic amusement devices granted by the Select Board shall be subject to inspection by the Tewksbury Police Department to insure conformance with submitted application and local by law requirements. Any unlicensed automatic amusement device shall be subject to immediate seizure by the Tewksbury Police Department. Any person found in violation of this by law shall be punished by a fine of \$200.00 for each offense.

If any sentence, clause or phrase of this by law is, for any reason, to be held invalid or unconstitutional, such decision shall not affect the validity of the remaining portion. (Article 34, Annual Town Meeting 2000)

14.2 Fees

The annual fee for an Automatic Amusement License is \$75.00 per machine. Fee shall not be pro-rated.

ARTICLE XV REGULATIONS FOR OUTDOOR DINING LICENSES

15.1 Applications

- a. Applications for outdoor dining licenses shall be made to the Select Board by submission of an Application Form to the Town Manager. The application will include the name, address and telephone number of the owner of the building. The application shall be signed by the owner of the restaurant and shall be accompanied by a copy of the current Permit to Operate a Food Establishment issued by the Board of Health.
- b. The application shall also include eleven copies of a detailed plan showing the area and seating and shall also include a plan for outdoor lighting.
- c. Eleven copies of the application and all supporting materials shall be submitted to the, and Town Manager, who, upon determining that the application is complete, shall distribute the application to the Select Board, Police Department Public Safety Officer, Fire Department, Board of Health, Town Engineer, and Building Commissioner.

15.2 Hearing on the Application

The Town Manager shall establish a date for hearing on the application before the Select Board and shall notify the applicant and the departments to whom the application has been submitted for comments. The departments shall submit comments to the Select Board either in writing prior to the date of the hearing or in person at the hearing on the application.

15.3 Applicant Holders of Alcoholic Beverages License

- a. Applicants who hold an alcoholic beverages license shall provide a detailed alcohol control plan/strategy as part of their Outdoor Dining application packet. The alcohol control plan shall include what steps the manager shall take to ensure alcohol remains only on the licensed premises, including signage, staff instructions, monitoring of the outdoor dining area, etc. The applicant shall also submit the TIPS or alcohol server training certificates for the manager and all shift managers as part of the application packet.

15.4 Workers Compensation Insurance

The Licensee shall furnish a certificate of insurance to the Town evidencing coverage of Workers' Compensation Insurance.

15.5 Comprehensive Public Liability and Property Damage Liability Insurance

In addition, the licensee shall carry Comprehensive Public Liability and Property Damage Liability Insurance and, if applicable, Liquor Liability Insurance with limits to cover the licensee and its contractors and subcontractors against claims due to accidents which may occur or result from operators under this license with limits of \$1,000,000 per occurrence and \$3,000,000 in the aggregate. The Town shall be named as an "additional insured" in all policies of such insurance. The licensee (and its successors) shall hold harmless, defend and indemnify the Town and its employees and agents from any responsibility, liability and claims arising out of or related to the operations under this license. The licensee shall furnish a certificate of insurance to the Town prior to commencing provisions of the facilities and services authorized under the licensee. Where such

insurance is renewed or replaced, the licensee shall furnish the Town with a certificate of such insurance

15.6 Removal of Outdoor Dining Furniture Notification by the DPW

Upon notification from the DPW that weather conditions or work to be performed on the property of the Town requires removal of the outdoor dining furniture, the applicant shall immediately remove all of its property associated with the outdoor dining license from the public property.

15.8 License for Use of Town Property is Revocable

The License is revocable at will by the Town for any reason whatsoever upon written notice to the licensee from the Town. The License Agreement shall stipulate that in the event of such revocation, the licensee shall have no recourse or claim against the Town for such revocation whether by way of monetary charges, a suit in equity or otherwise.

15.9 Compliance with Applicable Laws

The licensee shall comply with all applicable laws, rules, regulations, and conditions of other licenses and permits.

15.10 Additional Conditions

In granting a licensee, the Select Board may impose such additional conditions as it determines to be appropriate.

ARTICLE XVI TRANSIENT VENDORS

16.1 Definition

Transient Vendor: A person who carries out any exhibition and sale of goods, wares, merchandise, flowers, food, which is carried or in any tent, booth, pushcart, towed trailer, temporary structure, building or other structure, unless such place is open for business during usual business hours for at least twelve consecutive months, vehicle(s) in any open area, parking lot, and along any way open to the public whereby the vendor exhibition and sale is not conducted by the same vendor who is the primary owner, tenant, or occupant of a bona fide commercial retail business on the site. See M.G.L. c. 101, § 1.

16.2 Permit and License Required

No person shall act at any time or place within the Town as a Transient Vendor without first obtaining a license under the laws and further, such person shall not so act unless a license is granted in accordance with the provisions of these regulations. Town religious, non-profit, and fraternal organizations shall be exempt.

16.3 Applications

Applicants for a license must file with the Select Board an application in writing, on the form furnished by the Town. The application fee of \$25.00 shall be paid to the Town at the time of filing of said application.

16.4 Investigation and Issuance

Upon receipt of an application by the Select Board, the original shall be forwarded to the Chief of Police or his or her designee who shall cause an investigation of the applicant to determine the following:

- a. Whether any fraud, misrepresentation, or false statements have been made in the application for permit, and
- b. Whether the applicant has been convicted of any crime or misdemeanor involving moral turpitude.

If as a result of such investigation, the Chief of Police or his or her designee finds that either a. or b. above, is in the affirmative, he or she shall endorse on such application his or her disapproval and reasons for the disapproval.

16.5 Notice of Hearing

Upon investigation and approval of the Chief of Police, the Select Board shall proceed to advertise for hearing notice of the application for the Transient Vendor. Such notice shall be given by publication in a newspaper of general circulation for the Town in each of two successive weeks, the first notice not be less than fourteen days before the day of the hearing and by posting said notice in a conspicuous place in the Town Hall for a period of not less than fourteen days before the day of said hearing.

16.6 Notice to Abutters

The abutters, owners of land directly opposite on any public or private way, abutters to abutters within 300 feet of the property line, and the Planning Board and the Planning Boards of every abutting town or city shall be notified by certified mail, postage paid, by the applicant, to all abutters certified by the Board of Assessors.

16.7 Directive for Transient Vendors

No Transient Vendor shall:

- a. Stand, stop, attempt to sell, solicit sales, or conduct business before 8:00 a.m. or after one half hour before sunset.
- b. Shall cry his or her wares to the disturbance of any peace and comfort of the inhabitants of the Town in selling or exposing for sale his or her wares.

16.8 Duty of Police to Enforce

The duty of any Building Commissioner, Local Building Inspector, or Police Officer of the Town is to enforce the provisions of these Regulations. The Transient Vendor shall provide his or her license issued by the Select Board to such officials and may only operate at such approved times as provided.

16.9 Right to Arrest and Warning

Any Police Officer who finds that the Transient Vendor is in violation of these Regulations is notify such Vendor to immediately cease and desist. If such Vendor fails to cease and desist or if the Vendor is not duly licensed by the Select Board, the police shall have the right to arrest such person.

16.10 Violation of License

Any Transient Vendor found by a Police Officer of the Town in violation of these Regulations shall be reported in writing to the Select Board. The Select Board shall have the right to revoke said Vendor's license if the Select Board find that the permit has been violated.

16.11 Revocation of License

A license shall be revoked by the Select Board upon report of a violation of these Regulations and after hearing as here provided.

16.12 Notice of Hearing

Notice of hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of the complaint and the date, time, and place of hearing. Such notice shall be mailed, postage paid, to the license holder at his or her last known address at least five days prior to the date set for the hearing.

16.13 Penalty

Failure of a license holder to appear on the designated date of hearing shall constitute automatic revocation of the license.

Any person violating any provisions of these Regulations shall be punished by a fine not to exceed three hundred dollars (\$300.00).

The provisions of these Regulations shall for any reason be held invalid or unconstitutional, such decision shall not affect the validity of the remainder of these Regulations.

ARTICLE XVII USE OF THE TOWN COMMON

17.1 Introduction

The Common is a public park owned by the Town that is enjoyed on a daily basis by residents and their guests for passive recreation activities. The purpose of these Regulations is to provide a framework for requests to use the Town Common from non-profit organizations and individual residents of the Town.

17.2 General Policies

By virtue of its name, the Town Common, its land and features, are held in common by the residents of the Town for use and enjoyment. Permission will not be granted for exclusive use. Individuals, groups, and organizations wishing to use the Town Common for specific purposes are requested to make application to the Select Board.

17.3 General Use Policies

The Use of the Town Common shall be regulated as follows:

- a. Permission for use of the Town Common may be granted to groups or private individuals by the Select Board after review and recommendation by the Town Manager. Approval of a display or event does not imply endorsement by the Select Board or the Town. The Town reserves the right to review and approve or disapprove each application on a case-by-case basis and to disallow any activity that it may deem as inappropriate with the intended use and purpose of the Town Common or which may cause harm to the inhabitants of the Town.
- b. These Regulations shall not apply to Town-sponsored events as approved by the Select Board or to informal, non-repetitive gatherings of under twenty people whose activities are limited to passive recreation. Passive recreation shall include such things as picnics, walking, running and games. However, games shall not include the installation of standing equipment.
- c. A permit granted under these Regulations shall only apply for the use of the Town Common. The applicant shall be responsible for acquiring all other necessary permits. For example, temporary displays or structures may require approval by the Building Commissioner, and food sales may require obtaining a permit from the Board of Health. In order to prevent excessive damage to the Town Common, the number of events held or displays on the Town Common may be limited.
- d. The Town Common is a public area for use by the public. A permit to reserve the Common does not allow the permit holder to prevent anyone from entering onto the Town Common space. A fee shall not be required for anyone to enter the Town Common. Non-profit organizations and individuals may be allowed to use the Town Common for displays and events for a maximum of one day, not counting set up and take down, subject to permission from the Select Board consistent with these Regulations. Individuals or for-profit businesses or organizations may not hold events that are for the purpose of profit. The Town may require an organization to present a copy of their non-profit status as approved by the Federal Government or the Commonwealth.

17.4 Application for Use of the Common

The Town Manager shall develop the necessary application forms to be in compliance with this section. Applications will be available from the Town Manager's Office and may include, but not necessarily be limited to, the following information:

- a. Name of group or individual;
- b. Contact person(s) and phone number(s)
- c. For events only: The applicant must designate a person or persons responsible for the event who will be at the Town Common during the entire event. If several people will take shifts, these people and their times must be noted on the application form;
- d. Nature and purpose of display or event;
- e. Date desired;
- f. Area of Town Common to be used;
- g. Time of operation;
- h. Parking plan; and
- i. Clean-up plan

17.5 Review and Recommendation by the Town Manager

Upon receipt of an application for permit, the Town Manager shall meet with the applicant to review the completeness of the application and its compliance with these Regulations. In conducting this review, the Town Manager shall seek the advice and recommendations from the Police, Fire, Public Works and other departments as the Town Manager deems necessary. After completion of the review of the application, the Town Manager shall make a written recommendation to the Select Board to approve or not approve the application. The approval may be granted with conditions.

17.6 Prohibited Practices

The below practices shall not be allowed:

- a. In accordance with Town By-laws, no alcoholic beverages shall be served or consumed on either the Town Common or the paved areas, unless appropriate licenses are granted by the Licensing Authority, the Select Board
- b. Use of the Town Common by private groups or private individuals for private gain is not allowed.
- c. The charging of admission is not allowed. Access to any and all parts of the Town Common cannot be denied to any citizen except in the case of fees paid for specific services such as pony rides, road races, etc., if all or a portion of that fee goes to a charitable or non-profit entity.

- d. Wires, equipment, signs, tents, or other structures, or any other miscellaneous items, etc., shall not be hung from trees.
- e. Unless allowed as a condition to the permit, no vehicles shall be allowed on the Town Common at any time. For those events with conditions permitting vehicles on the Town Common, those vehicles will be allowed to enter and exit using only routes pre-determined by the Town, for the purpose of dropping off or picking up equipment and displays but will not be allowed to remain parked on the Town Common during the event.

17.7 Security Deposit

A security deposit and/or restoration fee in a form acceptable to the Town Manager shall be posted at the time of issuance of the permit. Such deposit shall be determined based on the following formula:

20 to 100 attendees:	\$300
101 to 500 attendees:	\$600
501 to 1,000 attendees:	\$1,000
1001 and up:	As recommended by the Town Manager

The security deposit shall be used by the Department of Public Works to offset any cost necessary to restore the Town Common to its pre-event condition as determined by the Town Manager. The security deposit shall not be the limit of damages should significant damages occur. The applicant may be held responsible for additional amounts should the Town Manager determine that the damage exceeds the amount of the security deposit. Any amount of the security deposit not used for repairs shall be refunded to the applicant thirty days after a determination has been made that funds may be released.

17.8 Usage of Electricity

There may be a fee for electrical usage. If the electricity has been deactivated for the season and there is a reactivation fee, the individual or organization shall be responsible to pay the reactivation fee, as well as any usage charge. The Town will bill these amounts to the individual or organization. The estimated amount of the cost of electricity may be added to the security deposit.

17.9 Public Displays

Displays shall be allowed only as follows:

- a. Except for holiday displays, public displays of art, banners, signs, symbols, etc., shall be limited to one day only with an allowance of one-half day in advance to set up the display and one-half day afterwards to remove the display.
- b. Holiday displays shall be allowed from Thanksgiving Day until the following January 7th. The Select Board’s policy is to reasonably allow, in the Select Board’s sole discretion, holiday displays that combine a variety of symbols in such a way that the approval of the

display is not an endorsement of any particular religion. The Select Board shall allow holiday displays, so long as no particular display gives the impression (by size, location or otherwise) that the Select Board endorse any particular religion.

- c. No display shall present a threat to public safety, and the display shall be removed immediately by order of the Building Commissioner if he or she determines that the display is a threat to public safety.

17.10 Police Presence

Depending upon the type of event and the number of people anticipated to attend, the Town may require the presence of one or more police detail officers during the event. The cost of these detail officers shall be paid in advance by the applicant.

17.11 Restroom Facilities

Depending upon the type of event and the number of people anticipated to attend, the Town may require that portable toilet(s) be made available. The costs of these facilities are to be paid by the applicant.

17.12 Noise and Other Nuisances

If at any time during the event the Police Department determines that noise or other nuisances emanating from the event is having a detrimental effect on public safety or welfare, the Police Department may order the noise or other nuisance be abated or eliminated.

17.13 Indemnification

The applicant shall defend, indemnify, and hold harmless the Town from any and all claims, suits, causes of action, judgments and demands of any nature made or obtained by third parties which result from activities or actions of the applicant, its agents or servants under this permit and if judgment is entered against the Town, said judgment shall be paid by the applicant, together with all interest thereon, costs, and legal fees. In furtherance of this section, the Town may require that the applicant provide the Town with a certificate of insurance indicating appropriate levels of coverage for the type of event and/or display intended and with the Town named as an additional insured.

ARTICLE XVIII LAND, STREET ACCEPTANCE, AND EASEMENTS

18.1 Acceptance of Land

The policy of the Select Board shall be to accept land offered as a gift to the Town for the purposes of returning it to the tax rolls at the earliest date or whatever is in the best interests of the Town.

18.2 Gifts of Land

At Town Meeting the Select Board will recommend against the approval of any article involving gifts of land, street acceptances or easements unless all necessary legal descriptions, deeds and/or plans are correctly prepared and are in the actual possession of the Engineering Department or Town Counsel.

18.3 Town Meeting Warrant Articles

Select Board shall place onto the Town Meeting Warrant the articles relative to gifts of land, street acceptances, and easements after all legal descriptions, deeds or plans are complete or in receipt by the Engineering Department or Town Counsel with the understanding that the period of time between the Warrant signing and Town Meeting will be used to fully complete all legal work. The placement onto a Warrant of such an article will not constitute endorsement of the proposed action. Parties seeking Town Meeting action on gifts of land, street acceptances, and easements are required to submit materials for review to the Engineering Department in sufficient time before the start of Town Meeting to ensure a timely review. Failure of the proponent of any such action to allow sufficient time for review will constitute non-compliance with this policy.

18.4 General Provisions

Select Board has determined that the Town's best interest is served by causing land owned by the Town, for which there is no anticipated municipal use, to be returned to taxable status in an expeditious manner. Toward that end, and in compliance with applicable Massachusetts law and Town Bylaws, the following steps shall apply:

- a. Property taken by the Town for non-payment of property taxes (i.e. tax foreclosure land) may be returned to taxable status by auction as permitted under the Town By-Laws Chapter 3.12 Tax Title Procedures.
- b. The Select Board shall not approve the acceptance of land for conservation purposes unless it finds that such acceptance is in the public's interest.

ARTICLE XIX USE OF TOWN LAND, BUILDINGS & PROPERTY

19.1 Availability for Use

All Town land, buildings, and property (Town Facilities) within the jurisdiction of the Town Manager, shall be available for use by all Town residents, individuals, groups, and organizations so entitled. No Town Facility will be used for any unlawful purpose or a purpose that involves any breach of the public peace or tranquility; nor shall any use be inconsistent with the reasonable use of the Town Facility. No Town Facility within the jurisdiction of the Town Manager shall be reserved for the exclusive use by any resident, individual, group, or organization.

19.2 Application Requirements

The procedure for requesting the use of Town Facilities is as follows:

- a. All individuals, groups, and organizations requesting to use Town Facilities shall submit a written application to the Town Manager not less than two weeks and not longer than three months in advance of the proposed use time. The application form may be obtained at the Town Manager's Office.
- b. Non-profit groups or organizations may be required to provide proof of their non-profit status with their application. If requested, a security deposit to the Town shall be provided.
- c. Each group or organization must provide documentation of insurance coverage at the time of application. If a local non-profit group or organization uses a meeting room for one day, documentation of insurance may be waived at the discretion of the Town Manager.

19.3 Group Definitions

Group 1, Governmental Use:

Town Departments, official Town Committees, and any group that is part of the Town government whose primary purpose is to provide local services and enhance the health, safety and well-being of local citizens and their property.

Group 2, Local Student and Local Non-Profit Groups:

Local student groups and groups that are part of the Tewksbury community and function on a non-profit basis, such as Scouts, youth groups, fraternal groups, recreation groups, or youth sports.

Group 3, Local For-Profit: Groups:

Local for-profit groups that are part of the Tewksbury community and request use of the Town Facilities on a for-profit basis.

Group 4, Non-Local, Non-Profit:

Non-Local, Non-Profit: Groups that serve the public good and function on a non-profit basis but do not meet the local criteria noted above. Groups with fewer than 50% Tewksbury residents will be deemed non-local.

Group 5, Non-Local, For-Profit:

Non-Local, For-Profit: Groups that are not part of the Tewksbury community and request use of the facilities on a for-profit basis.

Permits may not exceed a twelve-month period and are subject to review before renewal.

19.4 User Fees and Security Deposit

User fees may be charged to residents, individuals, groups or organizations who derive a profit as a result of using Town Facilities. The user fee will be determined by the Town Manager and approved by the Select Board. The Town Manager has the authority to deny or prioritize use of any Town Facility. The Town Manager, at his or her discretion, may require a security deposit not to exceed \$500 from any resident, individual, group, or organization applying for use of a Town Facility if there is reason to believe that the use may result in the Town's incurring some expense.

19.5 Abuse of Privilege

Any resident, individual, group, or organization that in any way abuses the privilege of using any Town Facility shall be denied use of a Town Facility for one year following the last use.

19.6 Denial of the Use

Any resident, individual, group, or organization denied the use of any Town Facility by the Town Manager may appeal the denial to the Select Board.

19.7 General Release

The applicant shall agree to comply with all of the Town's Policies, Regulations, and Bylaws as a condition of access to a Town Facility, and the applicant shall agree to the following:

- a. To pay for and assume full liability for any and all loss or damages to person or property or claim resulting or arising from the use of the a Town Facility whether from an occurrence at the Town Facility itself during such use, before or after such use, going to and from such use, and/or within available parking areas.
- b. To indemnify, hold harmless, and defend the Town and its officers, agents, and employees from any loss, damage, claim or suit, including, but not limited to, its attorney's fees and costs.
- c. To pay any attorney's fees and costs paid or incurred by the Town to enforce any obligation imposed under this Policy or in the application.

- d. To pay for cleanup if the Town Facility and/or utilized equipment is/are not left in a clean and orderly condition. In the event there is a question as to whether or not the Town Facility and/or utilized equipment was left in a clean and orderly condition, the Town Manager shall make, in his or her sole discretion, such determination.

19.8 Use of Town Hall

Users of Town Hall facilities shall comply with the following:

- a. Use of the Select Board's Meeting Room shall be booked through the Town Manager's Office.
- b. Use of the Select Board's Meeting Room after 5:00 P.M. Monday through Friday or anytime on weekends shall be restricted to Town-appointed or elected multiple member bodies or to any Department Head, non-profit Town-based individuals, groups, and associations involved in educational cultural, civic, and/or recreational activities and shall be permitted use of the Town Hall facilities on a space-available basis. Exceptions shall be approved by the Town Manager.
- c. Users shall be responsible for their own set-up, break-down, and clean-up of all food and refreshments.
- d. The Select Board shall have absolute priority for use of the Select Board's Meeting Room and may revoke any use previously authorized if necessary. Town department activities and official Town committees shall have priority in the use of all facilities in the Town Hall.
- e. Granting of permission to use Town Hall facilities shall not be construed as an endorsement of any individual or group by the Town.
- f. The Town assumes no liability for injury to persons authorized to use the Town Hall facilities and assumes no liability for loss or damage to equipment, materials, or other property of the users. Groups using the facility shall sign a release of liability.
- g. The Town reserves the right to cancel any use by giving notice within seven days of the start of the use or without advance notice in the case of inclement weather conditions or emergency situations.
- h. Smoking or use of tobacco products, consumption of alcoholic beverages, and possession of illicit drugs are strictly prohibited on Town Hall property.
- i. Residents, individuals, groups, or organizations using Town Hall facilities shall be responsible for controlling the behavior of persons entering the building or attending the function, by assuring the following:
 - (1) No one is to enter the building until the responsible person is present. The responsible person shall remain until everyone else has left the premises.
 - (2) Children under the age of 14 years old must be supervised at all times. One responsible adult shall be in charge and present at all times for every ten participants.

19.9 Protection of Town Hall from Damage

Residents, individuals, groups, and organizations using Town Hall shall protect it from damage by assuring the following:

- a. Use is confined to the specific area of Town Hall that was granted and/or approved. All access to other areas of Town Hall is strictly prohibited. Users shall use the restroom facilities on the basement level of Town Hall.
- b. No equipment is to be used, moved, altered, adapted, or adjusted without prior permission.
- c. Users of Town Hall shall make restitution for any vandalism or accidental damage to the facility or equipment.
- d. Nothing shall be pinned, taped, or fastened to the walls, curtains, or floors, etc., without prior written permission.
- e. All scenery, decorations, fixtures, etc., used in Town Hall shall comply with applicable fire safety laws, regulations, and procedures and shall be removed from the building immediately after use, unless previous arrangements have been made. Any needed lighting and sound equipment shall be provided by the user.
- f. The Town Hall shall be left in a clean and orderly condition. Users of the Town Hall facilities shall be responsible for clean-up with the aid of the custodian(s) on duty, and the used area must be returned to the state of cleanliness and order prior to its use for the event.

ARTICLE XX HUNTING ON TOWN LAND (ARCHERY ONLY)

20.1 Hunting Laws and Regulations and Hunter Conduct

All hunting laws and regulations of the Commonwealth shall be in force. There shall be no hunting on Sundays pursuant to Massachusetts law. In addition, the following Regulations are in effect for parcels under the custody of the Select Board:

- a. Hunting is permitted by means of archery only. Firearms' hunting is not allowed.
- b. The hunter must contact the Police Department business line at phone number (978) 851-7373 on the day before the day of hunting with his or her name, permit and license plate numbers, and hunting location.
- c. Permanent stands, or stands that permanently damage trees are not allowed. Portable stands or blinds must be removed within 31 days of the completion of the hunting season. Owner identification, (permit ID number) shall be affixed to any stand or blind left unattended. Stands or blinds not meeting these requirements may be removed by the Town.
- e. No hunter shall erect a tree stand or ground blind within 50 feet of a designated trail. No arrows shall be released that might reasonably be expected to cross a designated trail or impact within the boundary zone.
- f. The Town shall not responsible for loss or damage of tree stands or other hunting equipment, and is not responsible for any injuries resulting from their use.
- g. Hunters are responsible for the removal of their own litter, debris, and arrows. Hunters should be considerate of where they field dress their game.
- h. Hunters must stay at least 150 feet away from private property, roads, parking areas, and standing or flowing water while field dressing game.
- i. Hunting on Town property is allowed only from September 1st through December 31st.
- j. Any game species with an open season between September 1st and December 31st, inclusive, may be hunted as provided by Massachusetts General Laws. Information regarding seasons is available at <http://www.mass.gov/eea/agencies/dfg/dfw/>

ARTICLE XXI MOVING OF BUILDINGS

21.1 Permit

Moving a building over public ways is not permitted without permission from the Select Board. See M.G.L. c. 85, § 18. The Select Board shall not issue a permit unless the following documents have been submitted to the Select Board:

- a. Affidavit from the owner of record of a legal buildable lot at the point of destination and that the building is to be permanently installed on such buildable lot on a suitable, available foundation approved by the Building Commissioner.
- b. Approval from the Board of Health that such lot has an approved subsurface septic system plan or approval from the Department of Public Works of available public sewer.
- c. Copy of a valid building permit for the point of destination.
- d. Route map is superimposed on a street map of the Town, showing time after departure at which all intersections will be crossed.
- e. Certification from all utilities operating in the Town (electric, gas, water, telephone, cable etc.) that either: the proposed move does not affect their installation and operation, or satisfactory arrangements have been made to prevent damage to their system and to give timely notice to those affected, of any anticipated interruption of service.
- f. Report from the Chief of Police and Fire Chief that the proposed move will cause no abridgment to the safety of the Town and of the public, either directly or indirectly, as a result of making some portion of the Town inaccessible to local law enforcement officials or firefighters.
- g. Report from the Town Engineer that the proposed route is structurally suitable for the move.
- h. Report from the Tree Warden indicating whether and where trees, limbs or shrubs must be removed to facilitate the move or protect the best interests of the Town.
- i. Bond or other acceptable surety in the amount of ten thousand dollars (\$10,000) to be returned after all requirements have been complied with.
- j. Copy of Massachusetts Rigger's license.
- k. Certificate of liability insurance for an amount no less than \$500,000 to \$1,000,000 for property damage and personal injury.
- l. Signed agreement authorizing the Town Manager to take whatever action is necessary to remove any incidental obstruction to a public way, if the move is not carried out in accordance with the submitted schedule.

21.2 Additional Provisions

The following must be complied with at the time of the move:

- a. The move must be executed during daylight hours at a time other than heavy traffic hours, as determined by the Chief of Police.
- b. A police officer must be on site at all times to direct traffic and any and additional police officers in the numbers and at the locations deemed necessary by the Chief of Police to assist directing traffic.
- c. The move must be expeditious and, as nearly as possible, performed in compliance with the submitted route and schedule.
- d. The submitted route, schedule, and time of departure must be prominently advertised at least once in a paper of local circulation within one week preceding the move.
- g. Incidental debris on Town ways and abutting property shall be removed within two hours after completion of the move.

ARTICLE XXII ACCEPTANCE OF GRANT OR GIFT OF FUNDS

This Policy sets forth the procedures for the acceptance of monetary grants or gifts of funds.

22.1 Deposit of Grant or Gift of Funds with the Treasurer

Any employee or committee who receives a gift on behalf of the Town shall promptly deposit the gift with the Treasurer.

22.2 Written Acknowledgement of Grants or Gifts of Funds

Written acknowledgment of such funds shall be provided by the Town Manager to the grantor. The grantee shall also notify the Town Manager of the receipt of the gift.

22.3 Acceptance and Expenditure of Grant or Gift of Funds

The acceptance and expenditure of grants and gifts of funds shall be in compliance with M.G.L. c. 44, § 53A, or any other specific statute or law.

XXIII USE OF THE TOWN SEAL

The Town Seal constitutes a symbol to the general public of the Town.

23.1 Provisions of M.G.L. c. 268, § 35

The Town Seal may only be used for official purposes as determined by the Town Clerk or by the Select Board.

23.2 Policy

The policy of the Select Board is to prohibit all non-official uses of the Town Seal so that the Town Seal is used only to represent official purposes by the Town.

The Town Seal

- a. Shall be used on letterhead, forms, legal notices, and other official papers of the Town, as approved by the Town Manager.
- b. Is to be placed on municipality-owned or operated vehicles as may be determined by the Town Manager.
- c. May not be used for commercial purposes.

Any other use shall require approval by the Select Board.

ARTICLE XXIV STREET LIGHTING

In the evaluation of the need for street lighting in a given location, the Town Manager will consider special requests only after the request has been reviewed by appropriate departments, especially the Police Department, as well as the utility company, for a determination of public safety, before a final determination.

ARTICLE XXV CHARITABLE AND POLITICAL SIGN PLACEMENT

25.1 General Purpose

This policy is intended to be consistent with the intent of the Sign Zoning Bylaw to protect the character of the Town and is not intended to restrict in any manner the placement of Bylaw-exempt signs on private property, or within the public right-of-way immediately in front of the property of the sign owner as long as the sign does not cause damage, encroach upon a sidewalk or roadway, or otherwise create a hazard. This policy is not intended to restrict the carrying of signs in any public place where the signs are not otherwise restricted and is intended to be “content neutral” with respect to the placement of political and charitable signs on public property. As examples of “free speech”, political signs enjoy the constitutional protections accorded under the First Amendment to the United States Constitution and under Article 16 of the Massachusetts Declaration of Rights. Towns may not impose restrictions on protected speech that are greater than those placed on other types of speech. By restricting the placement and proliferation of unattended political and charitable signs to a limited number of public locations for a specified time period, this policy shall remain content neutral while protecting the public interest in maintaining the Town’s historic character.

25.2 Permanent Signs Prohibited

The policy of the Select Board is to prohibit the installation of permanent political or charitable signs within the public right-of-way. The Select Board acknowledge the good work performed by the Town’s many charitable organizations and confirms the no-permanent-signs policy as a means of treating such organizations equitably, while upholding the goal of avoiding the proliferation of signs on public property.

25.3 Policy Guidelines

The placement of temporary political and charitable signs on public property in front of one’s own home does not require Town Manager approval, with the following conditions:

- a. There is no protrusion into the public walkway or roadway; and
- b. Placement will not damage any plantings in the area; and
- c. Placement does not pose a hazard to passersby. The maximum allowable time for sign placement (60 days, as stated in the Bylaw) shall apply. All other requests to place political or charitable signs on municipal property shall be referred to the Town Manager’s Office.
 - (1) Placement shall be allowed on an equitable basis with respect to approved locations, duration of placement, and maximum dimension of signs.
 - (2) Where space is limited, approval shall be on a first-come, first-served basis.
 - (3) Approval shall be for one sign for each location (back-to-back signs and two-sided “sandwich board” signs are acceptable).

25.4 Sign Locations

This policy does not attempt to identify the relatively few specific locations which shall be approved for sign posting in the central areas of Town because these locations may need to be revised over time. Approved locations shall typically be away from historic places, monuments, memorial structures, and municipal buildings where the placement of such signs may provide an incorrect perception that the Town has taken an official position with respect to a cause, an issue, an organization, or a person.

25.5 Sign Dimensions

Sign dimension requirements shall not be considered absolute, but generally signs shall be in the form of a freestanding “sandwich board”, or attached to a stake driven into the ground (where the surface allows and there is no risk to shallow subsurface structures such as irrigation systems).

25.6 Time Allowed for Posting

Sign owners shall be encouraged to make the most efficient use of time by limiting posting to one week before their event, and by removing all signs promptly at the end of the approved time. Posting time of up to two weeks is acceptable, but posting of more than two weeks shall generally not be approved for events that do not serve a specific Town department’s functional purpose.

25.7 Contact Information

All posted signs shall include the contact information of the sign owner attached in a visible manner to the sign. Signs that do not include such contact information may be removed at the Town’s discretion.

25.8 Sign Removal

In addition to signs that do not include the contact information of the owner, signs that are placed in disapproved locations as well as signs that are placed in approved locations without prior approval of the Town Manager’s Office may be removed from the site and stored at a Town facility awaiting the owner’s retrieval.

25.9 Violations

Violation of this policy by a sign owner shall be considered grounds for suspension or revocation of the privileges outlined above.

25.10 Day-to-Day Administration

The Town Manager is responsible for the day-to-day administration of this Policy.

ARTICLE XXVI RESIDENTIAL WASTE COLLECTION

26.1 Definitions

Contractor: A residential solid waste collection firm with whom the Town contracts for this service and is licensed by the Board of Health to collect solid waste from residential units in the Town.

Non-Recyclable: Non-recyclable materials include light bulbs, plate glass, auto glass, and ceramics.

Recyclable: Recyclable materials include aluminum cans, deposit and non-deposit cans and glass-colored and clear bottles, steel/tin cans, aluminum pie plates and trays, plastic containers #1-7 including milk containers, water, soda, and juice bottles, shampoo, conditioner, laundry, bleach, and fabric softener bottles (all of which must be rinsed and cleaned), newspapers, magazines, office paper, phone books, and all cardboard.

Residential Waste Collection: All residential homes shall place all household waste in trash bags placed in the Town-issued residential blue trash cart. All residential trash carts shall be placed curbside for collection. Items not to be placed in the residential trash cart are: all recyclables, construction materials, tires, motor oil, oil based paint, medical waste, hot ashes, gasoline, hazardous materials, yard waste, leaves, grass clippings.

Single Stream Recycling: all recyclable materials shall be placed in Town-issued recycling cart for automated collection.

26.2 Disposal of Large Household Items

To dispose of white goods such as refrigerators, washing and drying machines, dishwashers, other appliances, televisions, computer monitors, water heaters, other metal items and tires, call Republic Services for disposal instructions and pricing.

26.3 Trash Stickers

All extra household trash that does not fit in the residential trash cart requires a sticker purchased from the Town. Excess trash that does not have a sticker will not be picked up. The cost of the sticker is \$5.00. Excess bags with a sticker shall not exceed fifty pounds.

26.4 Duties of Contractor

The Contractor shall, once each week on routes and days of collection agreed to by the Town Manager, collect and remove trash from residential trash carts placed curbside at the edge of the traveled way or sidewalk. Recyclables shall be collected on days agreed to by the Town Manager.

26.5 Placement of Residential Trash Carts on Collection Day

Residential trash carts shall be placed at least three feet away from the recycling cart or on the opposite side of the driveway or walkway.

26.6 Lost or Damaged Trash or Recycling Carts

Lost or damaged residential trash or recycling carts will be replaced by the Town.

26.7 Collection that Falls on Holidays

In the event of a Holiday, collection may be one day later depending on what day the Holiday falls on.

26.8 Tree Branches, Shrubs, and Leaves

Tree branches and shrubs shall be no more than three feet in length and four inches in diameter.

Branches and shrubs shall be placed in separate barrels or tied and bundled. Leaves must be placed in paper bags or separate barrels for curbside collection.

Designated pickup dates for tree branches, shrubs and leaves will be established each year by the Town.

ARTICLE XXVII HACKNEY VEHICLE REGULATIONS

27.1 Definitions

Whenever in this Regulation the following terms are used, they shall have the meaning respectively ascribed to them in this section:

Chief of Police: The Chief of Police of the Town or the person authorized by the Chief to act in his or her behalf.

Hackney Board: the Select Board or the person authorized by the Select Board to act on its behalf.

Hackney Vehicle: A motor vehicle transporting passengers for hire, and including taxicabs, and public automobiles, but excluding school vehicles.

Public Automobile: A vehicle for hire for livery purposes without a taximeter.

Taximeter: A mechanical instrument or device by which charge for hire is mechanically calculated either for distance travelled or for waiting time or for both, and upon which such charges shall be clearly indicated by means of figures.

Convicted: When the term “convicted” is used for determining the number of years that have expired since a criminal conviction occurred, shall mean the later of the following: the date of conviction, the date of release from prison, or the date upon which the applicant’s parole/probation terminates.

27.2 Hackney Vehicle Licenses

The Hackney Board is authorized, in accordance with this Regulation, to grant hackney vehicle licenses to suitable persons as determined by an appropriate background check conducted by the Police Department, All licenses shall be for a term of one year to expire at the end of the year. In addition to all other considerations, the Hackney Board is authorized to grant licenses when in its judgment the public convenience, needs and welfare will be substantially served by such grant.

27.3 Fees for Licenses

The fee for the first cab is \$500; each additional cab is \$200 and renewal shall be \$100 for each cab. A check made payable to the Town of Tewksbury in the amount of \$250 (one half of the first cab fee) must be submitted with the application. This fee is non-refundable.

27.4 License approved by Hackney Board

No license shall be sold, transferred or assigned without the prior written approval of the Hackney Board which shall, before granting such approval, determine that the proposed licensee is a suitable person, firm or corporation to receive such license.

27.5 Change in Certificate of Registration

Upon change in the Certificate of Registration of a Hackney Vehicle issued by the Registrar of Motor Vehicles of the Commonwealth, the licensed owner shall within five days of such change present such certificate to the Chief of Police together with his or her Hackney Vehicle license for notation of such change.

27.6 Change of Address

Changes of address of business and/or owner of Hackney Vehicle shall be reported to the Chief of Police and Hackney Board within five days of such a change.

27.7 Applications for Livery Licenses

Applications for livery licenses (limousines) must be submitted upon proper form entitled

APPLICATION FOR LICENSE, and applicant must fill out CORI application and submit it to Chief of Police.

27.8 Inspection of Hackney Vehicles

During the month of June on an annual basis and prior to filing application for Hackney Vehicle license, each owner shall cause its Hackney Vehicle(s) to be thoroughly inspected by the Chief of Police, or a qualified person designated by him or her, in regard to mechanical condition, general appearance and safety.

27.9 Other Conditions for Hackney Vehicles

All Hackney Vehicles shall:

- a. Be kept in good condition, suitable for occupancy and mechanically fit for the safety of passengers. The exterior and interior shall be clean and sanitary at all times.
- b. Display the company name and phone number on the exterior of both the driver and passenger sides of the vehicle in letters and numbers at least three inches high. Such lettering and numbering shall be of a color sufficiently contrasting with the color of the vehicle so as to make them clearly visible.
- c. Display a unique unit number in digits at least two inches high on the exterior of both the driver and passenger sides and the rear of the vehicle. Such numbering shall be of a color sufficiently contrasting with the color of the vehicle so as to make them clearly visible.

27.10 Revocation or Suspension of License

The Hackney Board shall revoke or suspend the license of any Hackney Vehicle found by it to be unfit or unsuited for public patronage.

27.11 Taximeters

Taximeters are mechanical instruments or devices by which the charge for hire is mechanically calculated, either for distance travelled or for waiting time or for both and upon which such charge shall be clearly indicated by means of figures. Taximeters shall comply with the following:

- a. The size and design of every taximeter shall be approved by the Commonwealth's Division of Standards or by the Sealer of Weights and Measures of any municipality of the Commonwealth.
- b. Prior to the annual inspection of Hackney Vehicles or when vehicles are licensed for the first time, every taximeter shall be inspected and sealed by the Commonwealth's Division of Standards or by the Sealer of Weights and Measures of any municipality of the Commonwealth. All meters requiring repair and all new meters installed as replacement must be inspected and sealed prior to use. Taximeters shall also be subject to all regulations prescribed by the Director of Standards of the Commonwealth.
- c. After sundown the face of every taximeter shall be illuminated so as to throw a continuous steady light thereon.
- d. Every driver of a licensed taxicab shall place the flag of the taximeter in a recording position as soon as he or she takes on a passenger, and shall keep the flag in a recording position so long as the taxicab is engaged.

27.12 Hackney Vehicle Driver's License

No person, including owners, shall operate a hackney vehicle for hire without first obtaining a Hackney Vehicle Driver's License.

The Chief of Police may issue Hackney Vehicle driver's licenses to suitable persons. Hackney Licenses may be renewed by the Chief of Police and shall be valid for two years. Each applicant shall submit a signed release authorizing access by the Chief to the applicant's criminal history from the Criminal History Systems Board.

Applicants shall be deemed unsuitable and will not qualify for a Hackney license if any of the following disqualifying factors apply:

- a. The applicant is not able to read and understand English.
- b. The applicant is under eighteen years of age.
- c. The applicant is addicted to or is a chronic abuser of intoxicating liquors or drugs.
- d. The applicant has been convicted of a criminal sex offense.
- e. The applicant has been convicted of violating the Controlled Substance Act within the last ten years.

- f. The applicant has been convicted of an offense involving firearms within the last ten years.
- g. The applicant has been convicted of Assault and Battery on a police officer or a serious felony involving violence within the last ten years.
- h. The applicant has been adjudicated as a habitual traffic offender within the last ten years.
- i. The applicant has been involved in five or more incidents involving motor vehicle violations and/or motor vehicle accidents within the last five years.
- j. The applicant does not possess a current, valid Massachusetts driver's license.

27.13 Application Requirements

- a. A non- refundable fee of \$125.00 for each license shall be shall be submitted with initial application. This fee is inclusive of the \$100.00 fee for civil fingerprinting. A license shall be valid for two years and shall expire on the anniversary of the date of issue. The renewal fee shall be \$50.00.
- b. Photographs will be required of new applicants, renewal applicants, and of applicants requesting to replace a lost or damaged license. A reasonable fee may be charged for the photographs.
- c. Applicants must present, at the time their applications are submitted, a valid driver's license issued by the Massachusetts Registrar of Motor Vehicles.

27.14 Change of Address, Employer

When a licensed hackney driver changes his or her address or employer, he or she shall notify the Chief of Police in writing within twenty-four hours of such change.

27.15 Lost or Mislaid License

If a license is lost, mislaid, or destroyed, the licensee shall immediately report the same to the Chief of Police and must apply for a replacement license subject to the terms and conditions of this section.

27.16 Refusal to Issue or Renew License

The Chief of Police may revoke or refuse to issue or renew a license if the Police Chief is of the opinion that the licensee or prospective licensee is not a suitable person.

27.17 New Hackney License Fee Schedule

The fees for a Hackney licenses Hackney Driver's License are as follows:

- a. New Hackney License Fee: \$500.00 for the first cab. Each additional cab is \$200.00.

- b. Hackney Renewal Fee: \$100.00 which shall be paid prior to the expiration date.
- c. Hackney Driver's License Fees: Each Hackney Driver shall pay a non-refundable license fee of \$125.00 which includes fingerprinting and is valid for two years. The renewal fee is \$50.00.

27.18 Rate of Fare for Taxicabs

The rate of fare to be charged by taxicabs are as follows:

- a. Rate fare shall be uniform for all licensed taxicabs, namely: \$3.40 for the first 4/5th of a mile; an additional \$0.60 for each additional fifth of a mile.
- b. All tolls (one way) for tunnels, bridges, roads, and turnpikes shall be assumed by the passenger or passengers.
- c. A flat rate may be charged for trips originating or terminating beyond the geographical limits of the Town. Proof of what shall appear to be an exorbitant charge for services will be regarded as reasonable grounds for believing that the owner or driver so charging is not a suitable person to be licensed.
- d. Waiting time shall include all time during which the vehicle is not in motion, beginning after its arrival at the place to which it has been called, and the party engaging same has been notified. A charge of \$24.00 per hour of each hour of waiting time shall be made. No charge shall be made for time lost through the inefficiency of the vehicle or its driver, or for time between premature arrival in response to a call and the hour for which the vehicle was ordered.
- e. Hand baggage may be carried by passengers without charge. The carriage of trunks shall be optional with the person in charge of the vehicle, but if carried the charge shall be \$1.00 for each trunk.
- f. When more than three passengers engage a taxicab an additional \$0.25 per trip may be charged for each passenger over three in number, except that no charge will be made for children under twelve years of age when accompanied by an adult.
- g. When more than one passenger is picked up and not discharged at the same destination, the fare charged to the first passenger will be according to the taximeter at the destination of the first passenger. After the departure of the first passenger the taximeter flag will be dropped again and the second passenger will then pay the fare according to the taximeter at the destination of the second passenger. The first passenger to be let off shall be the one whose destination is nearest to the point of departure. The same process is to be followed for each passenger in the taxicab.
- h. These rates are subject to change by the Hackney Board.

27.19 Waybills

The driver of a licensed Hackney Vehicle must keep on a form approved by the Chief of Police and produce upon demand of the Chief of Police or any officer designated by him or her, a record of all trips made by said vehicle and containing all information requested on the such approved form for each calendar day, said forms to be kept by the licensed owner for a period of one hundred eighty days.

27.20 Lost Property

Hackney drivers shall immediately, after delivering any passenger, search said vehicle for any property which may have been left, and any such property found shall be delivered by the finder within twenty-four hours to the Chief of Police.

27.21 Display of Rate of Fare, Hackney Vehicle License, and Hackney Vehicle Driver's License

The driver of a Hackney Vehicle shall display on the inside of the vehicle in a clear view of the passengers a card indicating the current rate of fare, his or her hackney driver's license, and a Hackney Vehicle license, except in the case of public automobiles where no rate card is to be displayed. If a company requires a minimum charge for a credit card, or does not accept credit cards, that fact must be clearly displayed for all passengers to see.

27.22 Conduct of Hackney Vehicle Drivers

- a. No driver in charge of a licensed taxicab while awaiting the employment of passengers, shall stand the same in any public street or place other than at a stand, nor shall any driver of such taxicab interfere with the proper and orderly access to or egress from any public event; but any licensed taxicab driver may accept employment while driving through any public street or place without stops other than those due to obstruction of traffic and at such speed as not to interfere with or impede traffic.
- b. No driver of any licensed taxicab shall solicit and pick up passengers within one hundred feet of an established stand when there are Hackney Vehicles on the said stand.
- c. While at a designated taxi stand, a taxicab driver must remain in his or her taxi except for the purpose of assisting a passenger to or from the front door of a building. Should a taxicab driver need to leave his or her cab, such as to use a restroom, he or she must move his or her taxicab from the stand to a legal parking spot and forfeit his or her place in line.
- d. No taxicab driver shall park for a period of more than ten minutes or loiter within one thousand feet of a designated taxi stand.
- e. A driver of a licensed taxicab shall not refuse, unless previously under hire or unless the conditions are such as those described in this section, to carry any passenger lawfully entitled to be carried in a taxicab.

- f. Except as permitted by this Regulation, a taxicab driver shall not demand from any passenger more than the fare recorded on the taximeter, regardless of the number of passengers conveyed except as provided for elsewhere on these regulations; i.e. baggage, extra passenger, etc..
- g. No driver having charge of any licensed taxicab shall take up or carry any other passenger after the taxicab has been occupied or engaged by any prior passenger, until any such prior passenger shall have discharged said taxicab, without the consent of such prior passenger. Any such prior passenger shall not be obliged or requested to pay any extra fee or fare for refusing such consent.

27.23 Dress Code for Taxi Drivers

Every driver having charge of a licensed taxicab in a public place shall be hygienically clean, well groomed, and neat and clean in appearance, suitably dressed.

27.24 Taxicab Service

- a. Calls received for services inside the town limits of the Town shall be answered as soon as possible and if service cannot be rendered within a reasonable time, the prospective passenger shall be notified how long it will be before the said call can be answered.
- b. Any licensed owner who refuses to accept a call anywhere in the Town limits at any time when such owner has available taxicabs, or who shall fail or refuse to give over-all service, shall be deemed a violator of this by-law and licenses granted to such owner may be revoked at the discretion of the Hackney Board.

27.25 Out-of-Town Hackney Vehicles

No person, firm, or corporation not having a Hackney Vehicle driver's license issued by the Chief of Police of the Town shall drive or have charge of a Hackney Vehicle, nor shall any person, firm, or corporation set up and use a Hackney Vehicle in the Town without a Hackney Vehicle license, provided, however, that nothing here contained shall be construed as prohibiting a driver of a Hackney Vehicle licensed outside the Town from driving through the Town or from delivering in the Town a passenger accepted outside Town or from accepting within the Town passengers for hire if summoned by or at the request of said passengers by radio or telephone to do so.

27.26 Number of Hackney Licenses

In order to provide adequate coverage to the Town and ensure healthy competition, the Hackney Board may limit the number of licensed Hackney Vehicles. The Hackney Board may also limit the number of Hackney Vehicle licenses issued to any one company.

27.27 Violations and Penalties

- a. Violations enforced by means of a non-criminal citation will follow the appeals process as outlined in M.G.L. c. 40, § 21D.

- b. All other complaints and violations of these Regulations against Hackney Vehicle drivers and owners shall be brought before the Chief of Police or his or her designee who shall hear the facts, and render a decision within fourteen days of said hearing. If the Hackney Vehicle driver or owner is found in violation of the complaint or violation, the Chief of Police may suspend or revoke the license of the offending owner or driver.
- c. Any person or corporation violating any of the provisions of these Regulations shall forfeit and pay a fine not exceeding one hundred dollars for each offense.
- d. Any Tewksbury Police Officer may stop a licensed Hackney Vehicle to verify Hackney Vehicle and Driver's License status.
- e. These Regulations may be enforced by any Tewksbury Police Officer.

27.28 Insurance

All hackney business owners must at all times maintain bodily injury and property damage insurance at the minimum amounts required by the State. On an annual basis the owner must submit Certificates of Insurance to the Chief of Police.

27.29 Appeal

Any Hackney Vehicle driver or owner or any person or persons claiming to be aggrieved by a finding of the Chief of Police shall have the right to appeal to the Hackney Board, as follows:

- a. The appeal shall be filed in writing within five days of the date of the finding. Pending a final determination of said appeal, no decision of the Chief of Police shall be put into effect.
- b. Appeals shall be heard by the Hackney Board which shall hold a hearing within fourteen days of the filing of the appeal.
- c. The appellant shall have the right to be represented by counsel at said hearing, to introduce such evidence as he or she may desire, and to cross examine all witnesses. The Hackney Board shall file its report and findings with the Chief of Police within forty-eight hours of the termination of the hearing, said report and finding to be final and binding on all the parties. The Chief of Police shall act pursuant to such report and findings, and immediately notify all parties involved.

27.30 Suspension or Cancellation

The Chief of Police may either suspend or cancel any license granted pursuant to these Regulations if the Chief of Police in his or her sole discretion determines that such suspension or cancelling is warranted to protect public safety.

27.31 Provisions Severable

If any part, section, or subdivision of these Regulations, or their application shall be held invalid, unconstitutional, or inoperative as to any particular person, persons, or conditions, such invalidity shall not affect other provisions or applications of these Regulations which can be given effect without the invalid provision or application, and to this end the provisions of these Regulations are declared to be severable.

ARTICLE XXVIII FRAUD RISK ASSESSMENT POLICY

28.1 Applicability

This Policy applies to all employees of the Town.

28.2 Fraud

Fraud can cover many activities; however this Policy is directed primarily at financial matters. It may include, but is not limited to:

a. Misappropriation of Assets

- (1) Forgery, alteration or misappropriation of checks, drafts, promissory notes or securities.
- (2) Unauthorized use, or disposition of funds or property (for example, misuse of Town-owned computer hardware, software, data and other records; use of Town-owned equipment, vehicles or work time for non-town purposes).
- (3) Embezzlement.
- (4) Theft.
- (5) Falsifying time sheets or payroll records.
- (6) Falsifying travel or entertainment expenses and/or utilizing Town funds to pay for personal expenses or for personal benefit
- (7) Fictitious reporting of receipt of funds.

b. Fraudulent Financial Reporting

- (1) Improper revenue recognition.
- (2) Improper expense/expenditure recognition.
- (3) Overstatement of assets.
- (4) Understatement of liabilities.

c. Expenditures and Liabilities for Improper Purpose

Payments in money or other property, including but not limited to such things as jobs for families and friends, discounted or free services in exchange for benefits and other things of value, bribes and kickbacks.

28.3 General Policy and Responsibilities

The Town will investigate any suspected acts of fraud, or misappropriation of property. An objective and impartial investigation will be conducted regardless of the position, title, and length of service or relationship with the Town of any person, group or organization reasonably believed to have committed fraud. Each Department Head is responsible for instituting and maintaining a system of internal control to provide reasonable assurance for the prevention and detection of fraud, misappropriation and other irregularities. Management should be familiar with the types of improprieties that might occur within their area of responsibility and be alert for any indications of such conduct.

The Town Manager has the primary responsibility for overseeing the investigation of all suspected fraudulent acts defined in this policy. The Town Manager will immediately notify the Select Board.

All department heads or individuals, upon discovery of any violation of this policy, must notify the Town Manager of the violation. If it is determined that corrective action may be able to be provided internally within the department, the department head or individual will notify the Town Manager as to the steps taken to correct the violation.

Upon conclusion of the investigation, the results will be reported to the Select Board. Where there are reasonable grounds to believe that a fraud may have occurred, the Town Manager may report the incident to the appropriate authorities, which shall include the Select Board and the Chief of Police, in order to pursue appropriate legal remedies. The Town Manager will pursue every reasonable effort to obtain recovery of the assets.

28.4 Procedures for Reporting

Any employee who has knowledge of any occurrence of fraudulent conduct, or has reason to suspect that a fraud has occurred, shall immediately notify the Town Manager in writing. The written report should be sufficiently detailed and inclusive to ensure a clear understanding of the issues raised. In cases where the employee has a reason to believe that the Town Accountant and/or Finance Director may be involved, the employee shall immediately notify the Town Manager orally, unless the Town Manager is also believed to be involved, then the Chair of the Select Board should immediately be notified. Such oral notification shall be followed by a written report. However, in certain circumstances, it may be appropriate for employees to report suspected instances of fraud or irregularity directly to the Chief of Police.

28.5 Investigation

Upon notification or discovery of a suspected fraud, the Town Manager shall immediately investigate the fraud. The Town Manager will make every reasonable effort to keep the investigation confidential. When deemed necessary, the Town Manager shall coordinate the investigation with the internal auditor and/or appropriate law enforcement officials. Legal Counsel will be involved in the process, as deemed appropriate.

28.6 Security of Evidence

Once a suspected fraud is reported, immediate action to prevent the theft, alteration, or destruction of relevant records shall be initiated. Such actions may include, but are not limited to, removing the records and placing them in a secure location, limiting access to the location where the records currently exist, and preventing the individual suspected of committing the fraud from having access to the records. The records shall be adequately secured until the investigation is complete.

28.7 Confidentiality

All participants and all persons questioned in a fraud investigation shall keep the details and results of the investigation confidential so as not to violate an individual's expectation of privacy. The employee will be notified of his or her right to inform the union representative about the findings of the investigation.

28.8 Personnel Actions

If a suspicion of fraud is substantiated by the investigation, disciplinary action, up to and including dismissal and appropriate legal action, shall be taken by the Town Manager.

28.9 Whistle-Blower Protection

No employee of the Town or person acting on behalf of the Town in attempting to comply with this policy shall:

- a. Be dismissed or threatened with dismissal;
- b. Be disciplined, suspended, or threatened with discipline or suspension;
- c. Be penalized or any other retribution imposed, or
- d. Be intimidated or coerced.

Violation of this section may result in a disciplinary action, up to and including dismissal.

If an allegation is made in good faith, but it is not confirmed by the investigation, no action will be taken against the originator. If, however, the allegations were made in bad faith or without a justifiable basis, appropriate disciplinary action up to and including termination from employment may be taken against the originator making the erroneous allegation.

ARTICLE XXIX INVESTMENT POLICY

29.1 Purpose

The purpose is to establish guidelines that oversee the management of the Town's investments being defined as cash, cash equivalents, short-term investments and long-term investments. These guidelines shall include:

- a. Identifying the Town's cash management strategies,
- b. Identifying the Town's investment goals, including its investment strategies and objectives, and
- c. Establishing and maintaining appropriate internal controls encompassing effective operational procedures.

29.2 Scope

This guideline shall apply to all funds maintained by the Town Treasurer including the general fund, special revenue funds, debt service funds, capital project funds, trust and agency funds, the Town's enterprise funds, and other funds unless specifically exempt.

29.3 Investment Objectives

Short Term Operating Funds - General Funds:

- a. M.G.L. c. 44, § 55B, requires the Town Treasurer to invest all public funds except those required to be kept liquid for purposes of immediate distribution.
- b. Funds are to be placed at the highest possible rate of interest reasonably available, taking account safety, liquidity and yield. Therefore, these guidelines are intended to further the objective of securing the highest return that is consistent with safety of principal while meeting the daily cash requirements for the operation of the Town's business.
- c. The primary objectives, in priority order, shall be:
 - (1) **Safety:** Safeguarding principal is the primary objective of the Town's investment policy. Investments shall be made in a manner that preserves the portfolio's capital/principal investment. In consideration of maximizing safety objectives; the Town shall minimize both credit and interest rate risks. The Town will minimize interest rate risk by diversifying in a "laddered" type of investment to spread out maturities of Certificates of Deposit, Treasuries and Government Agency Bonds.
 - (2) **Liquidity:** The investment portfolio shall remain sufficiently liquid to meet all operating requirements. The Treasurer shall consider both static and dynamic liquidity when measuring liquidity. Additionally, a portion of the portfolio shall be maintained in money market and local government investment pools, e.g. the Massachusetts Municipal Depository Trust (MMDT).

- (i.) Static Liquidity; structuring the portfolio in order to match investment maturities with anticipated uses.
 - (ii.) Dynamic Liquidity; maintaining investments with active secondary and resale markets.
- (3) Yield: The investment portfolio shall be designed with the objective of attaining a market rate of return taking into account the investment risk constraints and liquidity needs. The Town's investments shall be restricted to the list of legal investments as maintained by the Division of Banks as proscribed by M.G.L. c. 167, § 15A and 15B for Trust and Agency Funds and M.G.L. c. 44, § 55, for the General Fund. No exceptions to this list shall or can be approved.
 - (4) Local Considerations: Funds may be invested for the betterment of the local economy provided that such investments provide, and can demonstrate, a direct community benefit.

Short Term Investment Instruments - General Funds:

- a. Public investments in Massachusetts are not protected through provisions in State law. Therefore, they are largely uncollateralized. Many banking institutions are willing to put up collateral, although at a cost to the Town of a lower interest rate. The Treasurer negotiates for the highest rates possible, consistent with safety principles.
- b. The Treasurer may invest in the following instruments:
 - (1) Massachusetts State Pooled Fund: Unlimited amounts.
 - (2) U.S. Treasuries that will be held to maturity: Unlimited amounts (up to one year maturity from date of purchase).
 - (3) U.S. Agency obligations that will be held to maturity: Unlimited amounts (up to one year maturity from date purchased).
 - (4) Bank accounts of Certificates of Deposit: Unlimited amounts (up to one year insured by F.D.I.C. and in some cases also the Depository Insurance Fund of Massachusetts).
 - (5) Unsecured bank deposits of any kind such as checking, savings, money market, or Certificates of Deposit accounts at banks that do not fit the above categories. These investments are subject to the following limitations: These investments will be limited to no more than five percent of an institution's assets and no more than ten percent of a municipality's cash. Their credit worthiness will be tracked by Veribanc or other bank credit worthiness reporting systems, and they will be diversified as much as possible. Exceeding these limits will place the excess amounts on a watch list.

Trust and Stabilization Funds:

Trust Funds may be co-mingled and invested in any instrument allowed by the Legal List issued by the Banking Commissioner. Each trust fund must be accounted for separately. Stabilization funds shall not exceed ten percent of the equalized valuation of the Town, and any interest shall be added to and become a part of the fund. The Treasurer may invest the proceeds in the following:

- a. National Banks,
- b. Savings Banks,
- c. Cooperative banks or trust companies organized under Massachusetts laws,
- d. Securities legal for savings banks as described on the Legal List,
- e. Federal Savings and Loan Associations situated in the Commonwealth,
- f. Massachusetts Municipal Depository Trust, and
- g. Equity Holdings from Division of Banks-List of Legal Investments.

29.4 Investment Parameters

The Town's policy is to diversify its investment portfolio. To eliminate risk of loss resulting from an over-concentration of assets, all investment securities shall be diversified by asset class, maturity, issuer, and class of security. Diversification and asset classification strategies shall be determined, reviewed at least quarterly, and revised when appropriate. In establishing asset allocation strategies, the following components shall be considered:

- a. Equities, fixed income, and cash investments,
- b. Equity holdings will adhere to Division of Banks-List of Legal Investments,
- c. Bond maturities shall be staggered and provide stability of income and liquidity, and
- d. Risks of market volatility shall be controlled through equity and maturity diversification.

29.5 Equity Allocation

Equity holdings will be permitted in Pooled Trust funds (including Stabilization). Holdings shall be selected from the Division of Banks-List of Legal Investments. The Treasurer will work with the Town's financial advisor to determine appropriate allocations.

Equity Allocation Parameters

<u>Account</u>	<u>Minimum (%)</u>	<u>Target (%)</u>	<u>Maximum (%)</u>
Cemetery Funds	0	12	30
Conservation Funds	0	12	30
Escrow Accounts	0	12	30
Library Funds	0	12	30
Miscellaneous Funds	0	12	30
Planning Board	0	12	30
Scholarship Funds	0	12	30
Stabilization Funds	0	12	30
Community Preservation	0	12	30

29.6 Operational Procedures and Internal Controls

Authorized Financial Institutions: The Town shall only conduct business with qualified/authorized financial institutions as recommended by GFOA best practices.

ARTICLE XXX OVERALL FINANCIAL MANAGEMENT POLICIES

30.1 Introduction

The following financial principles set forth the broad framework for overall fiscal planning and management of the Town's resources. In addition, these principles address both current activities and long-term planning. The principles are intended to be advisory in nature and serve as a point of reference for all policymakers, managers, and advisors. Town Meeting retains the full right to appropriate funds and incur debt at levels it deems appropriate, subject of course to statutory limits such as Proposition 2 ½. The principles outlined in this policy are designed to ensure the Town's sound financial condition now and in the future. Sound Financial Condition may be defined as:

- a. Cash Solvency - the ability to pay bills in a timely fashion,
- b. Budgetary Solvency - the ability to annually balance the budget,
- c. Long Term Solvency - the ability to pay future costs, and
- d. Service Level Solvency - the ability to provide needed and desired services.

Equally important is that the Town maintains flexibility in its finances to ensure that the Town is in a position to react and respond to changes in the economy and new service challenges without measurable financial stress.

30.2 Definitions

Fund Balance: The difference between assets and liabilities reported in a governmental fund. Also known as fund equity.

Undesignated Fund Balance: Monies in the various government funds as of June 30 that are neither encumbered nor reserved and are therefore available for expenditure once certified as part of free cash.

Stabilization Fund: A fund designed to accumulate amounts for capital and other future spending purposes, although it may be appropriated for any lawful purpose (M.G.L. c. 40, § 5B). Communities may establish one or more stabilization funds for different purposes and may appropriate into them in any year an amount not to exceed ten percent of the prior year's tax levy. The total of all stabilization fund balances shall not exceed ten percent of the community's equalized value, and any interest shall be added to and become a part of the funds. A two-thirds vote of Town Meeting is required to establish, amend the purpose of, or appropriate money into or from the stabilization fund.

Free Cash (Also Budgetary Fund Balance): Remaining, unrestricted funds from operations of Policy Statements the previous fiscal year including unexpended free cash from the previous year, actual receipts in excess of revenue estimates shown on the tax recapitulation sheet, and unspent amounts in budget line-items. Unpaid property taxes and certain deficits reduce the amount that can be certified as free cash. The calculation of free cash is based on

the balance sheet as of June 30, which is submitted by the Town's accountant. Important: free cash is not available for appropriation until certified by the Director of Accounts.

Overlay Surplus: Any balance in the overlay account of a given year in excess of the amount remaining to be collected or abated can be transferred into this account. Within ten days of a written request by the Town Manager, the assessors shall provide a certification of the excess amount of overlay available to transfer, if any. Overlay surplus may be appropriated for any lawful purpose. At the end of each fiscal year, unused overlay surplus is "closed" to surplus revenue; in other words, it becomes a part of free cash.

Net Assets Unrestricted (formerly Retained Earnings): An equity account reflecting the accumulated earnings of an enterprise fund that may be used to fund capital improvements, to reimburse the general fund for prior year subsidies, to reduce user charges and to provide for enterprise revenue deficits (operating loss).

Recurring Revenue Source: A source of money used to support municipal expenditures, which by its nature can be relied upon, at some level, in future years.

Non-Recurring Revenue Source: A one-time source of money available to the Town. By its nature, a non-recurring revenue source cannot be relied upon in future years. Therefore, such funds should not be used for operating or other expenses that continue from year-to-year.

30.3 Policy Statements

- a. The Town Manager shall annually prepare a balanced budget and comprehensive Budget Message as required by state law, Town Charter, and/or By-laws.
- b. Budgets will be established, and funds managed, using "generally accepted" accounting principles.
- c. Finances will be managed to maintain financial stability over the long term.
- d. Maintain facilities and provide services at a level that will ensure the public well-being and the safety of residents.
- e. The Town will avoid budgetary procedures that balance current expenditures at the expense of meeting future years' expenses, such as postponing expenditures, accruing future years' revenues, or rolling over short-term debt.
- f. Ongoing operating costs will be funded by ongoing operating revenue sources. This protects the Town from fluctuating service levels and avoids concern when one-time revenues are reduced or removed. In addition:
 - (1) Fund Balances such as Certified Free Cash, Stabilization Fund, Overlay Surplus and Water and Sewer Net Assets Unrestricted (formerly Retained Earnings) should be used only for one-time expenditures such as capital improvements, capital equipment

and unexpected or extraordinary expenses. In all cases, use of Fund Balances should be avoided for routine and recurring operational expenses.

- (2) Annually, after Free Cash Certification:
 - (i) At least \$600,000 will be set aside for potential snow and ice deficit,
 - (ii) At least twenty-five percent of the remaining certified free cash will be used to fund the capital budget and one-time capital expenditures, and
 - (iii) At least twenty-five percent of the remaining certified free cash will be placed into the Stabilization Fund.
 - (iv) After above percentages are met, the town will evaluate if additional funds from free cash should be allocated to fund Other Post Employment Benefits (OPEB). The additional funding would be in addition to the minimum service costs highlighted in OPEB section 1. This additional allocation will be based on a recommendation from the Town Manager.
 - (v) When the town borrows, refunding (“refinancing”) opportunities will be explored with the town financial advisors. If the town does not borrow, it will evaluate refunding opportunities during budget preparation. The town manager will make a recommendation to refund any debt that materially saves the town debt service costs.
- g. New operating costs associated with capital projects should be funded through the operating budget but reflected in the capital improvement plan.
- h. Fiscal conditions may affect the implementation of these guidelines. In the event the guidelines aren’t met in a particular fiscal year, the Town would make up the allocations in the following fiscal year. Additionally, the allocations here stated do not mean that additional funds cannot be allocated to the Stabilization Fund from Free Cash but means that these are minimum amounts recommended for the certified Free Cash.
- i. The Town will maintain a Stabilization Fund as its main financial reserve in the event of an emergency or extraordinary need and to be used to fund on-time expenses, capital projects or capital equipment. The Town’s goal is to achieve and maintain a balance in the Stabilization Fund of five percent to ten percent of its operating budget.
- j. Enterprise Funds pursuant to M.G.L. c. 44, § 53F 1/2, shall be designed to generate sufficient revenues to support the full cost (direct and indirect) of operations and debt and provide debt service coverage, if applicable, and to ensure adequate and appropriate levels of working capital with the exception of stormwater salaries which will be funded through the general fund. Fees should be reviewed annually in relation to the cost of providing the service. Ongoing routine, preventive maintenance should be funded on a pay-as-you-go basis. The term of debt for enterprise funds generally shall not exceed the useful life of the asset and in no case shall the term exceed thirty years. All enterprise funds shall maintain a reserve of Retained Earnings which is at a minimum from five percent to ten percent of its operating budget.

- k. Debt service payable, when taking into consideration debt, exempt from Proposition 2 ½ and financed directly with additional taxes, on an annual basis should be no more than ten percent or less than two percent of the annual operating budget. The Town will strive to issue debt for shorter periods than the maximum allowable when the statutory limit exceeds ten years. The requirements for debt financing shall be an expenditure of at least \$100,000 and a useful life in excess of five years. The term of long-term debt generally shall not exceed the expected useful life of the capital asset being financed and, in no case, shall it exceed twenty years. Long-term debt should not be incurred without a clear identification of its financing sources. The General Fund Non-exempt Debt Service shall not exceed ten percent of General Fund Revenues. Excess appropriated bond issues shall remain in the Capital Projects Fund at the end of a project completion until appropriated out by Town Meeting vote. Betterments may be assessed on all capital projects where applicable. The Town will attempt to maintain a long-term debt schedule so that at least fifty percent of outstanding principal will be paid within ten years.

- l. Current OPEB obligations will be funded on a pay as you go basis by utilizing annual budgetary appropriations of at a minimum \$650,000 appropriated in the general fund budget and apportioned at the recommendation of the Actuary services. The Water Enterprise Fund, Sewer Enterprise Fund, Stormwater Enterprise Fund and Cable Enterprise Fund will appropriate the service costs associated with OPEB liability. The appropriations will be transferred into the Other Post-Employment Benefits (OPEB) Trust Fund.
 - (i) Upon the full funding of the Middlesex County Retirement System (the “System”) between 2035 and 2040, the Town’s annual required appropriations to the system will decline significantly. At that time, one hundred percent (100%) of the funds previously appropriated to the System will be directed to the OPEB Trust Fund until such time as it is fully funded.

 - (ii) Additional Other Post-Employment Benefits (OPEB) Funding: The Town plans to fully fund the Town’s OPEB liability by 2040 by making affordable annual appropriations. These appropriations would be made by utilizing the future pension liability savings and use of potential surplus funds and other available funds such as but not limited to Free Cash, Town and School Health Insurance annual fiscal year Budget Surpluses and Overlay Surplus. These funds will be utilized based on the recommendation of the Town Manager.

ARTICLE XXXI TOWN BOARD REMOTE PARTICIPATION POLICY

31.1 Introduction

The Select Board authorize remote participation for all appointed and elected Town Committees, in accordance with the requirements of the Massachusetts Open Meeting Law, M.G.L. c. 30A, § 20(d), and 940 CMR 29.10: Remote Participation, in the following manner. The Select Board emphasize that, pursuant to the requirements of the Remote Participation provisions of the Regulations issued by the Attorney General, a quorum of the public body, including the chair or, in the chair's absence the person authorized to chair the meeting, must be physically present at the meeting location, as required by M.G.L. c. 30A, § 20(d); and members of public bodies who participate remotely may vote and shall not be deemed absent for the purposes of M.G.L. c. 39, § 23D.

Members of a public body who participate remotely and all persons present at the meeting shall be clearly audible to each other.

31.2 Reasons for Remote Participation

Only if the member's physical attendance would be unreasonable difficult. See 940 CMR 29.10(5).

31.3 Approved Technology for Remote Participation

The following media are acceptable methods for remote participation. Remote participation by any other means is not permitted. (Accommodation shall be made for any public body member who requires TTY service, video relay service, or other forms of adaptive telecommunications).

- a. Telephone, internet, or satellite enabled audio or video conferencing.
- b. Any other technology that enables the remote participant and all persons present at the meeting location to be clearly audible to one another.
- c. When video technology is in use, the remote participant shall be clearly visible to all persons present in the meeting location.
- d. The chair, or in the chair's absence, the person chairing the meeting, may decide how to address technical difficulties that arise as a result of utilizing remote participation, but is encouraged, wherever possible, to suspend discussion while reasonable efforts are made to correct any problem that interferes with a remote participant's ability to hear or be heard clearly by all persons present at the meeting location. If technical difficulties result in a remote participant being disconnected from the meeting, that fact and the time at which the disconnection occurred shall be noted in the meeting minutes.
- e. The amount and source of payment for any costs associated with remote participation shall be determined by the Select Board.
- d. The public body using remote participation may determine which of the foregoing acceptable methods will be used by its members.

31.4 Procedure for Utilizing Remote Participation

Step 1: Any member of a public body who wishes to participate remotely shall, as soon as reasonably possible prior to a meeting, notify the chair or, in the chair's absence, the person chairing the meeting, of his or her desire to do so and the reason for and facts supporting his or her request.

Step 2: At the start of the meeting, the chair shall announce the name of any member who will be participating. This information shall also be recorded in the meeting minutes.

Step 3: All votes taken during any meeting in which a member participates remotely shall be by roll call vote.

Step 4: A member participating remotely may participate in an executive session, but shall state at the start of any such session that no other person is present and/or able to hear the discussion at the remote location, unless the presence of that person is approved by a simple majority vote of the public body.

Step 5: When feasible, the chair or, in the chair's absence the person chairing the meeting, shall distribute to remote participants, in advance of the meeting, copies of any documents or exhibits that he or she reasonably anticipates will be used during the meeting. If used during the meeting, such documents shall be part of the official record of the meeting, and shall be listed in the meeting minutes and retained in accordance with M.G.L. c. 30A, § 22.

31.5 Revocation of Right

The Select Board reserves the right to revoke Town Board remote participation at any time under 940 CMR 29.10(3).

31.6 Remedy for Violation

If the Attorney General determines after investigation, that 940 CMR 29.10 has been violated, the Attorney General may resolve the investigation by ordering the public body to temporarily or permanently discontinue its use of remote participation.

This policy shall be reviewed within one year of implementation.

ARTICLE XXXII DESIGNER SELECTION PROCEDURES

32.1 Selection of Designers

These procedures govern the selection of designers for any municipality or local public agency building project subject to the state designer selection law, M.G.L. c. 7, §§ 38A½ - 38O. Any other local law governing the procurement of services shall be inapplicable to these procurements.

32.2 Authority to Conduct Designer Selection Process

The Town Manager (Approving Body) has the authority to conduct the designer selection process for the Awarding Authority. The Approving Body may delegate any duties described herein to the extent such delegation is permissible by law.

32.3 Designation of Committee

The Approving Body shall designate the individual or group of individuals (the Committee) who will conduct the designer selection process. No member of the Committee shall participate in the selection of a designer for any project if the member, or any of the member's immediate family:

- a. Has a direct or indirect financial interest in the award of the design contract to any applicant;
- b. Is currently employed by, or is a consultant to or under contract to, any applicant;
- c. Is negotiating or has an arrangement concerning future employment or contracting with any applicant; or
- d. Has an ownership interest in, or is an officer or director of, any applicant.

32.4 Advertising a Request for Qualifications (RFQ)

An RFQ for each contract subject to these procedures shall be advertised in a newspaper of general circulation in the locality of the building project, in the Central Register published by the Secretary of the Commonwealth, and in any other place required by the Approving Body, at least two weeks before the deadline for filing applications.

The advertisement shall contain the following information:

- a. A description of the project, including the specific designer services sought, the time period within which the project is to be completed, and, if available, the estimated construction cost;
- b. If there is a program for the building project, a statement of when and where the program will be available for inspection by applicants;
- c. When and where a briefing session (if any) will be held;
- d. The qualifications required of applicants;
- e. The categories of designers' consultants, if any, for which applicants must list names of consultants they may use;

- f. Whether the fee has been set or will be negotiated; if the fee has been set, the amount of the fee must be listed in the advertisement;
- g. When and where the RFQ can be obtained and the applications must be delivered.

32.5 Standard Designer Application Form

The RFQ shall include the current "Standard Designer Application Form for Municipalities and Public Agencies not within DSB Jurisdiction" forms. The Application Form may be amended to include additional information on a project-specific basis.

32.6 Evaluation of Applicants

The Committee shall evaluate applicants based on the following criteria:

- a. Prior similar experience;
- b. Past performance on public and private projects;
- c. Financial stability;
- d. Identity and qualifications of the consultants who will work with the applicants on the project; and
- e. Any other criteria that the Committee considers relevant to the project.

32.7 Selection of Finalists

The Committee shall select finalists as follows:

- a. The Committee shall select at least three finalists. Finalists may be required to appear for an interview or provide additional information to the Committee, provided that all finalists are afforded an equal opportunity to do so.
- b. The Committee shall rank the finalists in order of qualification and transmit the list of ranked finalists to the Approving Body. No person or firm, including applicants' listed consultants, debarred pursuant to M.G.L. c. 149, § 44C, shall be included as a finalist on the list.
- c. The selection shall be accompanied by a written explanation of the reasons for selection including the recorded vote, if any. The written explanation and recorded vote, if any, shall be public records and shall be maintained in the contract file.
- d. If the fee was set prior to the selection process, the Approving Body shall select a designer from the list of finalists. If the Approving Body selects a designer other than the one ranked first by the Committee, the Approving Body shall file a written justification for the selection with the Committee and maintain a copy in the contract file.
- e. If the fee is to be negotiated, the Approving Body shall review the list of finalists and may exclude any designer from the list if a written explanation of the exclusion is filed with the Committee and maintained in the contract file. The Approving Body shall request a fee proposal from the first ranked designer remaining on the list and begin contract negotiations. If the Approving Body is unable to negotiate a satisfactory fee with the first ranked designer,

negotiations shall be terminated and undertaken with the remaining designers, one at a time, in the order in which they were ranked by the Committee until agreement is reached. In no event may a fee be negotiated which is higher than the maximum fee set by the Approving Body prior to selection of finalists.

- f. If the Approving Body is unable to negotiate a satisfactory fee with any of the finalists, the Approving Body shall recommend that the Committee select additional finalists.
- g. The Awarding Authority may allow a designer who conducted a feasibility study to continue with the design of a project. However, the Awarding Authority may commission, at its discretion, an independent review, by a knowledgeable and competent individual or business doing such work, of the feasibility of the designer's work to insure its reasonableness and its adequacy before allowing the designer to continue on the project, provided the Awarding Authority otherwise complies with the statutory requirements for selecting a designer under M.G.L. c. 7, including those set forth in M.G.L. c. 7, § 38K(a)(1).

32.8 Contract for Design Services

Every contract for design services shall include the following:

- a. Certification that the designer or construction manager has not given, offered, or agreed to give any person, corporation, or other entity any gift, contribution, or offer of employment as an inducement for, or in connection with, the award of the contract for design services;
- b. Certification that no consultant to, or subcontractor for, the designer or construction manager has given, offered, or agreed to give any gift, contribution, or offer of employment to the designer or construction manager, or to any other person, corporation, or entity as an inducement for, or in connection with, the award to the consultant or subcontractor of a contract by the designer or construction manager;
- c. Certification that no person, corporation, or other entity, other than a bona fide full-time employee of the designer or construction manager, has been retained or hired by the designer or construction manager to solicit for or in any way assist the designer or construction manager in obtaining the contract for design services upon an agreement or understanding that such person, corporation, or other entity be paid a fee or other consideration contingent upon the award of the contract to the designer; and
- d. Certification that the designer has internal accounting controls as required by M.G.L. c. 30, §39R(c), and that the designer has filed and will continue to file an audited financial statement as required by M.G.L. c. 30, § 39R(d).
- e. All fees shall be stated in design contracts and in any subsequent amendments as a total dollar amount. Contracts may provide for equitable adjustments in the event of changes in scope or services.

32.9 Insurance

The Awarding Authority shall not enter into a contract for design services unless the Awarding Authority or the designer has obtained professional liability insurance covering negligent errors, omissions, and acts of the designer or of any person or business entity for whose performance the designer is legally liable arising out of the performance of the contract. The total amount of such

insurance shall at a minimum equal the lesser of one million dollars or ten percent of the project's estimated cost of construction, or such larger amounts as the Awarding Authority may require, for the applicable period of limitations. A designer required by the Awarding Authority to obtain all or a portion of such insurance coverage at its own expense shall furnish a certificate or certificates of insurance coverage to the Awarding Authority prior to the award of the contract.

32.10 Changes in Contract

Every contract for design services shall include a provision that the designer or its consultants shall not be compensated for any services involved in preparing changes that are required for additional work that should have been anticipated by the designer in the preparation of the bid documents, as reasonably determined by the individual responsible for administering the design contract.

32.11 Emergency Precluding Normal Use of These Procedures

In the event of an emergency that precludes the normal use of these designer selection procedures, the Approving Body may elect to authorize expedited procedures to address the emergency. The Approving Body shall document in writing the reasons for the emergency declaration, the proposed scope of work, the estimated cost of construction, the established fee for the needed design services, and any other relevant information.

32.12 Selecting Finalist from Standing List of Designers

The Approving Body may select three finalists from any standing list of designers who have applied for projects of a similar nature, or may otherwise select three designers to be considered as finalists for the project. The Approving Body shall rank the finalists in order of qualification and select the designer for the emergency work.

32.13 The Central Register

The Awarding Authority shall publish the name of any designer awarded a contract in the *Central Register*.

32.14 Awarding Authority Records

The following records shall be kept by the Awarding Authority:

- a. All information supplied by or obtained about each applicant;
- b. All actions taken relating to the project; and
- c. Any other records related to designer selection.

All records shall be available for inspection by the state Designer Selection Board and other authorized agencies.

32.15 General Provisions

The Awarding Authority shall evaluate designers' performance on contracts using the Designer Selection Board evaluation form(s) in accordance with M.G.L. c. 7, § 38E(g), and file completed evaluations with the Board and any other agency named in M.G.L. c. 7, § 38E(g).

Nothing in these Procedures shall be interpreted to require the establishment of a board or waive or reduce the requirements of any other applicable law or regulation.

For any municipal design or construction project that includes funding provided by the Commonwealth, in whole or in part (such as reimbursements, grants and the like), the Town shall incorporate minority-owned business enterprise and women-owned business enterprise participation goals. If applicable, the Awarding Authority shall take steps to assure that it complies with all State Office of Minority and Women Business Assistance requirements.

ARTICLE XXXIII FIXED ASSEST CAPITLIZATION POLICY

33.1 Definitions

Capital is defined as a tangible asset with a useful life greater than 3 years and a value of \$35,000 or more.

A 5 year capital plan, including both Town and Schools capital needs, will be maintained, and such Plan will be reviewed by the Town Manager at least semiannually before the Annual May Town Meeting and October Special Town Meeting.

All fixed assets (excluding land) should be depreciated using an acceptable and practical form of depreciation, which should not extend beyond an asset’s useful life.

33.2 Fixed Assets and Useful Life

Fixed Assets	Useful Life
Furniture and Equipment	3-5 Years
Police Cruisers	3-5 Years
Other Vehicles (Truck, Fire Engines)	10-20 Years
Building and Land Improvements	10-20 Years
Fire Hydrants	20-25 Years
Roads	40 Years
Sidewalks	40 Years
Sewer and Water Pipes and Tanks	40-50 Years

33.3 Accounting of Fixed Assets

An Asset fully depreciated, with the exception for Infrastructure Assets, should remain in the Fixed Asset Ledger until such asset is no longer in the Town’s possession. The Accounting Department will remove the fixed asset as long as it can be proven that it was properly discarded (e.g. Sold, Traded-in, Scrapped, etc...).

-Infrastructure Assets (Roads, Sidewalks, and Sewer & Water Pipes) similar to other fixed assets, should be recorded and depreciated in the Fixed Asset Ledger, but will be removed for tracking purposes as soon as they become fully depreciated.

ARTICLE XXXIV

FUEL EFFICIENT VEHICLE POLICY

34.1 Policy Statement

In an effort to reduce the Town of Tewksbury's fuel consumption and energy costs, the Tewksbury Select Board hereby adopts the Tewksbury Fuel Efficiency Vehicle Policy which will result in reduced fuel consumption, energy costs and carbon emissions. Under the policy, all Town of Tewksbury's department and divisions shall purchase Fuel Efficient Vehicles when they are available and financially viable and meet the operational needs of the Town.

34.2 Applicability

This policy applies to all Town of Tewksbury vehicles with the noted exemptions below.

34.3 Guidelines

The Town of Tewksbury will maintain an annual vehicle inventory for non-exempt vehicles and a plan for replacing these vehicles with vehicles that meet, at a minimum, the fuel efficiency ratings contained in the most recent guidance for Criteria 4 published by the MA Department of Energy Resources' Green Communities Division. The fuel efficiency ratings contained therein are based on the most recently published US Environmental Protection Agency combined city and highway MPG ratings for vehicles. The Green Communities' Guidance for Criteria 4 must be checked for updates prior to ordering new vehicles.

34.4 Inventory

The Tewksbury Department of Public Works will maintain a vehicle inventory list for non-exempt vehicles, updated on an annual basis, and shall develop a plan for replacing these vehicles with vehicles that meet the minimum combined MPG requirements of the Green Communities Program.

See Appendix for current inventory.

34.5 Fuel Efficient Vehicle Replacement Plan

The Town of Tewksbury, under this policy, will develop a fifteen year plan to replace non-exempt vehicles with fuel efficient vehicles as these vehicles are removed from service. The annual Capital Budget is the process that will be used to replace vehicles, and set goals for when the existing fleet will be replaced.

34.6 Questions and Enforcement

All other inquiries should be directed to the Tewksbury Superintendent of Public Works as the party responsible for fleet management and/or fleet procurement. This policy is enforced by the Tewksbury Town Manager.

34.7 Definitions

Combined city and highway MPG (EPA Combined fuel economy): Combined Fuel Economy means the fuel economy from driving a combination of 43% city and 57% highway miles as is calculated as follows: $=1/((0.43/\text{City MPG})+(0.57/\text{highway MPG}))$

Drive System: The manner in which mechanical power is directly transmitted from the drive shaft to the wheels. The following codes are used in the drive field:

- AWD = All Wheel Drive: four-wheel drive automatically controlled by the vehicle powertrain system
- 4WD = 4-Wheel Drive: driver selectable four-wheel drive with 2-wheel drive option
- 2WD = 2-Wheel Drive
-

Heavy-duty vehicle: A vehicle with a manufacturer's gross vehicle weight rating (GVWR) of more than 8,500 pounds. By definition, all trucks over ½ ton are exempt from this policy.

Vehicle Exemptions:

- Heavy-duty vehicles such as fire-trucks, ambulances, and some public works trucks that meet the definition of Heavy-duty vehicle
- Police cruisers, passenger vans and cargo vans are exempt from this criterion as fuel efficient models are not currently available. However, we commit to purchasing fuel efficient police cruisers, passenger vans and cargo vans when they become commercially available. Police and fire department administrative vehicles are not exempt and must meet fuel efficient requirements.

34.8 Related Information

United States Environmental Protection Agency, Green Vehicle Guide

- <http://tiny.cc/greenEPA>

Massachusetts Department of Energy Resources, Green Communities Program

- Green Communities Criteria: <http://tiny.cc/criteria>
- List of Fuel Efficient Vehicles: <http://tiny.cc/vehicles>
- Fuel Efficient comparisons: <http://fueleconomy.gov/>

ARTICLE XXXV

**ELECTIONEERING DURING EARLY VOTING AND
ABSENTEE VOTING**

35.01 Policy

Chapter 54, Section 65 of the General Laws of Massachusetts prohibits “electioneering” (the display or distribution of material intended to influence the actions of voters) at or within 150 feet of the entrance of polling places at an election of federal, state or local officers. In keeping with the requirements of this General Law, during the period designated for in-person absentee voting and the State’s Early Voting Period no signs or attempts to influence voters in any manner will be allowed within 150 feet of the Tewksbury Town Hall or any other location where Early Voting or in-person Absentee Voting is taking place.

ARTICLE XXXVI

DEVELOPER PROCEDURE TO APPLY FOR A LOCAL INITIATIVE PROGRAM (LIP) PROJECT

- 36.1 A Project Application, defined below, shall be submitted to the Select Board for consideration as a Local Initiative Program (LIP) project under Massachusetts General Laws Chapter 40B (“Chapter 40B”), Sections 20-23, 760 CMR 56.00 and DHCD Local Initiative Program (LIP.)
- 36.2 Once the Chair of the Select Board determines that the Project Application is sufficiently complete for review by the entire Board, there shall be a hearing at the next Select Board’s meeting to determine the next steps.
- 36.3 The Project Application to the Select Board shall include the following, unless the Chair as above or the Board members at the hearing, determine less information is sufficient or more information is needed:
- a. The name and address of the Developer and proof of site control;
 - b. the address of the proposed site and site description (to include wetlands, waterways, easements and land holding any conservation, recreation or other restrictions. It should also include a description of any existing buildings and their uses;
 - c. a locus map identifying the site within a plan of the neighborhood, accompanied by photographs of the surrounding buildings and features that provide an understanding of the physical context of the site to include wetland boundaries;
 - d. a tabulation of proposed buildings with the number, size (number of bedrooms, floor area), and type (ownership or rental) of housing units proposed;
 - e. conceptual design drawings of the site plan and exterior elevations of the proposed buildings, along with a summary showing the percentage of the land to be occupied buildings, parking and other paved areas, and by open areas. Also included in the summary shall be the number of parking spaces, and the ratio of parking spaces to housing units;
 - f. a narrative description of the approach to building massing, the relationships to adjacent properties, and the proposed exterior building materials;
 - g. a tabular analysis comparing existing zoning requirements to the Waivers requested for the Project;
 - h. Preliminary soil testing results and locations; as well as estimated or determined wetlands locations to support the viability of the proposed development;
 - i. Traffic impact/study statements
 - j. qualifications and past projects of the Developer, particularly those built under Chapter 40B and/or as a LIP, any past or current litigation involving 40B or LIP

projects as well as a list of references that includes contact name, address and telephone number. All qualifications, past projects, references and results of reference checks shall be documented and made available as a matter of public record.

- k. a LIP application, completed as best as feasibly possible due to timing, from the State's Department of Housing and Community Development (DHCD).
- l. a narrative describing the clear benefits to the community the Project offers. In order to be considered as a LIP project, it is required that the Project be consistent with the State of Massachusetts, Sustainable Development Principles. With that in mind, below are examples of benefits that may be considered:
 - o a larger percentage of affordable units (in excess of the mandatory 25%);
 - o building density that does not maximize development of the site;
 - o a financial contribution from the sale of "market rate units" to the Tewksbury Affordable Housing Trust Fund, or other organization identified by the Select Board.

Other benefits include, but are not limited to:

- o a location that provides convenient access to public transportation, jobs, services and the like for the residents served in the project;
- o architecture and building mass which blends in with and compliments the immediate neighborhood;
- o provision for enhancements to site and surrounding neighborhood (landscaping, parks, walking paths, drainage, etc.);
- o ability to meet other town housing needs (such as: senior housing, workforce housing, rental housing);
- o Energy efficient design and construction;

All benefits shall be clearly identified before a preliminary agreement is entered into between the Town of Tewksbury and the Developer and made available as a matter of public record.

The Developer shall provide eight(8) copies of the Project Application to the Select Board for distribution to the Board and other town entities.

NOTE: All submittals shall also be provided electronically so that the Town will be able to provide this information on the Town of Tewksbury website, enabling residents that may be unable to make such a hearing to be able to view and provide written comments.

- 36.4 At the Select Board hearing, the Board shall meet with the Developer to review the information presented in the Project Application. Public comment shall be at the discretion of the Chair and the Board. Based upon the discussion at the hearing and information provided, the Board shall determine the next steps of the process. The Board may;
- a. require more information, to be presented for review at a later meeting,
- or

- b. decide that the project is not suitable for endorsement as a LIP and end the process,
or
- c. decide to endorse the project based on the information at hand and move directly to the Zoning Board of Appeals phase;
or
- d. decide to move ahead with a public input phase as described below: The Select Board may choose to omit the Planning Board hearing process and move ahead only with the Local Housing Partnership Public Workshop at their sole discretion.

NOTE: The Select Board shall be kept informed of the public input processes and the Chair may choose to re-meet with the Developer should a need arise, due to significant changes or as determined by the Chair or the Board of the Select Board.

- 36.5 The Local Housing Partnership shall hold a Public Workshop allowing for resident input within 45 days of the Select Board's hearing. At the Developer's cost, abutters within 300 feet shall be notified by mail, no later than one week prior to the workshop. Within 30 days of the Public Workshop the Local Housing Partnership shall submit a summary of the public comments and a recommendation to the Planning Board and Select Board in writing.
- 36.6 The Planning Board will hold a duly posted public hearing, (including legal abutters notice), within 30 days after receipt of all the information indicated in the above paragraphs for the Developer to present the proposed project and for the public, other Town Boards and other Town entities to comment and/or raise concerns. All information and documents, as described in paragraphs 1 through 5, shall be made available for that public hearing. The Planning Board shall allow a minimum of 30 days following the close of the public hearing for all interested parties to submit written comments, which shall be accepted and made part of the public record.
- 36.7 The Zoning Board of Appeals shall be excluded from this process in order to preclude any potential issues of prejudice or bias should the project result in an Application for a Comprehensive Permit.
- 36.8 Within thirty (30) days following the close of the public hearing, the Planning Board shall decide whether or not to recommend a LIP endorsement and within 10 business days, submit their recommendation and supporting information to the Select Board.
- 36.9 Within thirty (30) days following the Planning Boards recommendation, the Select Board shall inform the Developer of its decision and should the Select Board decide to proceed with a LIP Application, the Select Board shall provide a written report to support the decision and include all of the information, documents, results of reviews and comments made by the Planning Board, Board of Health, Conservation Commission, the public and other interested parties as part of the LIP Application. This information shall also be included in the Comprehensive Permit Application to the Zoning Board of Appeals.

ARTICLE XXXVII

PUBLIC PROPERTY NAMING

PURPOSE

The Select Board believes that the naming of public property such as buildings, parks, squares, and ways is a matter of great importance and deserves careful consideration. The Board, therefore, establishes this policy to establish a systematic and consistent approach for the naming of Town-owned property.

APPLICABILITY

This policy shall apply to all Town-owned property subject to the care, custody, and control of the Select Board. Such property is comprised of all the real estate and personal property owned by the Town, that is not by law or Town Meeting vote placed in the charge of another particular board, committee, officer or department.

GUIDELINES

The naming of public property should be done sparingly, with compelling reasons stated by the petitioners. As part of the naming process, it is the Select Board's goal to inform a wide cross-section of the public when a proposal to name public property is brought before the Board for consideration. When considering naming of any public property or portion thereof, the Board may consider the following guidelines:

1. Priority should be given to names carrying geographical, historical or cultural significance to the area in which the property is located or to the Town as a whole.
2. The property may be named after an individual or organization that has made significant financial and/or civic contributions to the Town or that has made a direct financial grant to the Town for the purposes of developing a particular property.
3. Suggestions for the naming of any public property or portion thereof may come to the Board from any town official or member of the public.

PROCESS

1. A written request to name a public property must be submitted to the Select Board signed by a minimum of seventy-five (75) registered voters. This written request must clearly explain the rationale and/or compelling reasons for naming said public property.
2. Within fourteen (14) days of receipt of the public property naming request by the Select Board, the Town Clerk shall certify the signatures as voters registered in the Town of Tewksbury.

3. Following certification by the Town Clerk, the Select Board shall schedule a public hearing to discuss the public property naming request and shall publish a public hearing notice in a paper of local circulation at least thirty (30) days prior to the hearing. The proponents of the public property naming request are strongly encouraged to publish information supporting the request in the local paper prior to the hearing date. Further, the Board may solicit the advice of the Tewksbury Historical Commission, surrounding property owners, residents, affected parties, other Town officials, groups or individuals that the Board believes may contribute meaningful input.
4. The Select Board shall publish a second notice of the public hearing regarding the public property naming request in a paper of local circulation at least fifteen (15) days prior to the hearing.
5. The Select Board holds a public hearing on the public property naming request.
6. Following the close of the meeting in which the public hearing on the public property naming request was held, and at a subsequent, regularly scheduled meeting of the Select Board, the Board will vote on the public property naming request.

This policy is meant to serve as a guide to those persons seeking to name a public property. Nothing herein shall be construed so as to limit the Board's authority to use its discretion based on the facts and circumstances surrounding a particular issue.

This Policy may be amended or rescinded by the Board by majority vote.

ARTICLE XXXVII

FLAG POLICY

Purpose

This policy is intended to maintain the Town of Tewksbury's local government as an apolitical entity under the rules, laws, values, and ideals of the United States of America and the Commonwealth of Massachusetts.

Scope

The only flags and signs authorized to be flown or placed on Town property are the American Flag, Massachusetts State Flag, Town of Tewksbury Flag and POW/MIA Flag.

Notwithstanding anything in this Policy, the permanent flag pole on the Common shall remain dedicated to the display of the American Flag and nothing herein shall require the Board to replace the American Flag with any other flag. These Flags shall be displayed in accordance with applicable provisions of the United States Flag Code. If the Governor or other appropriate authority orders that the U.S. Flag be flown at half-staff, no other flag may be flown higher than the U.S. Flag. If ordered, flags may be lowered to comply with the U.S. Flag Code.

At the request of a department head, flags and signs not listed as authorized may be flown or placed on Town property for exceptional occasions and for a limited period of time which shall be mutually agreed upon by the department head and Town Manager. Informational signs, (including electronic signage), related to health, safety, general welfare, opening and closing information, school/town events and ceremonies may be placed on Town property at the direction of department heads without the prior approval of the Town Manager. This policy does not pertain to commonly used emblems, such as but not limited to, police, fire, ambulance, and DPW logos and/or color schemes and selections used to identify apparatus and/or facilities.

ARTICLE XXXVIV

AFFORDABLE TRUST FUND RECIPIENT POLICY

Purpose:

“It shall be the policy of the Town to require all recipients of the Affordable Trust Funds to agree that none of the awarded funds can be used to support housing that includes sex offenders. All applicants for Affordable Trust Funds must certify that they will comply with this requirement. Violation of this agreement may result in suspension or revocation of award proceeds.”