

# Town of Lunenburg Select Board



## Policies and Procedures

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# **TOWN OF LUNENBURG**

## **Select Board Policies and Procedures**

### **ARTICLE I. Procedural Policies**

#### **Section 1.01 Purpose**

These policies and procedures shall address those topics that cannot be dealt with elsewhere. Its content should be considered supplemental and subordinate to language embodied in state statute, Town Charter and Town By-law.

Subjects which are more appropriately addressed in statute, by-law or regulation shall not be included in this format, except in reference. The individual policies and procedures embodied herein are severable. If any of them are held to be unconstitutional or invalid, the remaining policies and procedures shall not be affected thereby.

#### **Section 1.02 Establishment of Policies and Procedures**

Draft policies and procedures will be placed on the agenda for any regularly scheduled meeting of the Board. Drafts will be in writing, and may be introduced only by a member of the Board or the Town Manager. Upon receipt of a draft, the Board may choose to discuss the policy immediately or schedule the discussion for a future meeting. The Board may schedule any hearings or meetings it deems necessary for discussion. The Board may distribute a draft for comment to appropriate officials as it deems necessary.

The Board will not vote on a policy at the same meeting that it is first introduced. This rule may be waived if the majority of the Board votes that prompt action is necessary. A unanimous vote of a three member board or four votes of a five member board is necessary for adoption. Policies and Procedures will be distributed to all new board members.

The Town Manager shall be responsible for the maintenance of all policies and procedures, for updating the policy manual with new and amended policies, and for ensuring that copies of the Board's policies and procedures are distributed to newly elected Board members. Copies of the policy manual shall be made available to the public at the Select Board's Office and at the Office of the Town Clerk.

#### **Section 1.03 Authority**

The Select Board is an elected board and derives its authority and responsibilities from the statutes of the Commonwealth of Massachusetts, and from the Town Charter and bylaws of the Town of Lunenburg.

## **Section 1.04 Authority of the Town Manager**

According to the Charter, the Board is responsible for appointing a Town Manager who functions as the Town's Chief Administrative Officer. The primary responsibilities of the Town Manager are defined in the Charter, Article 4 Section 4-2, & Section 4-3.

The Town Manager must maintain a close working relationship with all members of the Board. He/she shall brief the Board of all important issues.

## **Section 1.05 Duties & Responsibilities –Code of Conduct**

A member of the Board, in relation to his/her responsibility to the community, shall recognize that his/her primary role is to set policy, with responsibility for administration delegated to the Town Manager;

- a) recognize that he/she is a member of the Board, and shall abide by all Board votes once they are made;
- b) be well informed concerning the duties of a Board member on both state and local levels;
- c) remember that he/she represents the entire community at all times;
- d) accept the Office of the Select Board as a means of unselfish public service, not to benefit personally or professionally from his/her Board activities;
- e) in all appointments, avoid political patronage by judging all candidates on merit, experience and qualifications only; and
- f) abide by the provisions established by the Commonwealth in M.G.L.,c.268A as they apply to municipal officials.

As a member of the Board, a Select Board member shall:

- a) endeavor to establish sound, clearly defined policies which will direct and support the administration for the benefit of the people of the Town;
- b) recognize and support the administrative chain of command and refuse to act on complaints as an individual outside the administrations;
- c) give the Town Manager full responsibility for discharging his/her decisions and solutions;
- d) not make statements or promises of how he/she will vote on matters that will come before the Board until he/she has had an opportunity to hear the pros and cons of the issue at a Board meeting;
- e) make decisions only after sufficient facts on a question have been presented or discussed;
- f) uphold the intent of executive session and respect the privileged communication that exists therein and;
- g) treat with respect the rights of all members of the Board despite differences of opinion.

## **Section 1.06 Organization**

The Chairman shall be elected annually at the first regular meeting following the Annual Town Election. The Board may remove the Chairman at any time. A majority vote shall constitute an election. The immediate past Chairman shall preside as Chairman pro tem until the Chairman is elected. If there is no immediate past chairman, the senior member in terms of current service shall serve as Chairman pro tem. In the case of members with the same amount of seniority, the member

receiving more votes in the most recent election shall serve. If a vacancy occurs in the office of Chairman, the Board shall elect a successor. The Board shall further elect a Vice-Chairman and Clerk under the same provisions for the Chairman.

## **Section 1.07 Responsibilities of Officers**

The Chairman shall:

- preside at all meetings of the Board at which he/she is present. In doing so, he/she shall maintain order in the meeting room, recognize speakers, call for votes, and preside over the discussion of agenda items;
- sign official documents that require the signature of the Chairman, following a vote of the Board;
- call special meetings of the Board in accordance with the Open Meeting Law;
- prepare meeting agendas with the Town Manager;
- represent the Board at meetings, conferences, and other gatherings unless otherwise determined by the Board or delegated by the Chairman;
- serve as spokesman of the Board at Town Meetings and present the Board's position unless otherwise determined by the Board or delegated by the Chairman;
- make liaison assignments, as appropriate, and assign overview responsibilities for projects and tasks to Board members unless otherwise determined by the Board, and;
- arrange for the orientation of new members, unless otherwise noted
- ensure that the Board maintains a legal and open level of communication.

The Chairman shall have the same rights as other members to offer and second motions and resolutions, to discuss questions, and to vote thereon.

The Vice Chairman shall act in the place of the Chairman during his/her absence at Board meetings. Should the Chairman leave office, the Vice Chairman shall assume the duties of the Chairman until the Board elects a new Chairman.

The Clerk shall sign all official documents requiring the signature of the Clerk, with the authorization of the Board and shall be responsible for recording minutes of any portion of meetings held in executive session for which the Town Manager is not present.

## **Section 1.08 Meeting Procedures**

The Select Board functions only when acting as a Board in a legally constituted session. The Board functions as a body in all policy decisions and all other matters as required by law or determined by a vote of the Board in formal session. Selectmen are elected officials with responsibility to represent all segments of the community and there should be no restraint in the proper and reasonable exercise of this responsibility. The individual members of the Board shall respect their responsibility to other members of the Board so that the discharge of these duties may be accomplished in an expeditious and productive manner. Extended orations or arbitrary declarations are not conducive to intelligent and factual solutions to problems before the Board.

Meetings are to be conducted in accordance with generally accepted rules of parliamentary procedure and the Open Meeting Law. All meetings of the Board shall be held in places accessible to the handicapped.

A quorum shall consist of three members of the Board. As a practical courtesy, action on critical or controversial matters, the adoption of policy or appointments shall be taken whenever practicable with the full Board in attendance. Actions and decisions shall be by motion, second, discussion, and vote.

Split votes will be identified by name in meeting minutes. The Chair will announce the outcome of each vote taken.

Regular meetings of the Board will be held in the Joseph F. Bilotta Meeting Room as scheduled by the Board unless otherwise noted. Typically meetings shall be televised on the local cable access channel. Meetings falling on a legal holiday shall be rescheduled by the Board.

Meetings of the Board may be convened at the direction of the Chair whenever circumstances require. These will normally be convened to address unfinished business, respond to emergency situations, or to conduct informal working sessions. The Board will post notice and record minutes of all meetings as required by the Open Meeting Law and town bylaws.

## **Section 1.09   Agenda**

The Town Manager bears primary responsibility for coordinating and planning the agenda for regular meetings of the Board. The Town Manager, in consultation with the Chair, shall prepare the agenda, and schedule a realistic time period for each appointment, interview, conference, or other scheduled item of business. All items to be considered must be submitted to the Select Board's office by the close of business the Tuesday prior to the scheduled meeting date. Items of an emergency nature that develop after the close of the agenda may be added to the agenda by the Chair. The agenda for a regularly scheduled Board meeting shall be prepared by the end of the work day on Thursday the week prior.

Members of the staff, Town Manager or others who prepare background materials for a meeting should have such materials available by the close of business on the Thursday prior to the scheduled meeting date. If background information is insufficient or complex, any member should feel free to ask for additional time for careful study of an issue or a motion.

The agenda shall be available to the public and the press at the Select Board's Office and shall be posted on the bulletin board in accordance with Massachusetts General Law and posted on the Town's website.

Copies of the minutes of previous meetings and all important correspondence, reports and other pertinent background materials shall be held in the Select Board's office for inspection by interested parties and the press.

For all other matters, the Town Manager's Office will make all reasonable attempts to notify all known persons who will be directly affected by proposed Board discussion or action will be



notified of the date and time of the meeting at which the matter will be discussed or acted upon by the Board.

### **Section 1.10 Executive Session**

Where practical, executive session shall be scheduled at the end of the open meeting of the Board. Only items clearly allowed under the Open Meeting Law shall be included in executive session. Prior to calling for a motion to adjourn into executive session, the Chairman shall state the reasons for which an executive session is sought. The Chairman shall also state whether or not the Board will reconvene in open session. A majority of the members present and voting must vote to enter executive session by roll call vote.

### **Section 1.11 Public Comment**

In recognizing that it both represents and is accountable to the residents of the Town, it is the policy of the Board to make every effort to strengthen communications with citizens. The Board will act to increase citizen participation, encourage citizen input into government decision, and to keep residents informed of all actions contemplated or taken by the Board which will affect them. To this end, the Board will take the following steps:

- Public comment shall be limited to fifteen minutes with no more than three minutes allowed per speaker except at the discretion of the Chair.
- Individuals may address topics which are within the scope of responsibility of the Select Board.
- In addition to public comment, a resident or group of residents may request a meeting with the Board by contacting the Select Board's office, stating precisely the reason for the appearance and the Board action desired and by naming a spokesman for the group. As circumstances permit, such a meeting will be incorporated into the agenda of the next regularly scheduled Board meeting. Participants shall be allowed to make a reasonable presentation through the spokesman and to express opinions, and to ask for pertinent information. Residents making such presentations are encouraged to prepare written materials for the Board's review;
- If the Board is considering matters of citizens' concern at a regular meeting, the public will be allowed to ask questions or make statements relative to the matter under consideration at the discretion of the Chairman;
- The Town Manager and Board will ensure that all citizen questions and complaints are answered promptly by the appropriate body. Matters requiring the attention of the full Board shall be included in the agenda of a future regular Board meeting.

### **Section 1.12 Town Meeting**

The Annual Town Meeting is held the first Saturday in May (per Town bylaw). The deadline for filing articles is 47 days before the date of the meeting. Town Meeting shall be convened and conducted in accordance with Article I of the General Bylaws and Section 2.4-2.9 of the Charter.

## **Section 1.13 Designer Selection Procedures (Adopted 11/14/17)**

1. 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. 7C, §§ 44-57. Any other local law governing the procurement of services will be inapplicable to these procurements.
2. The Town Manager for the Town of Lunenburg ("Approving Body") has the authority to conduct the designer selection process for the Town of Lunenburg as the awarding authority ("Awarding Authority"). The Approving Body may delegate any duties described herein to the extent such delegation is permissible by law.
3. The Approving Body shall designate the individual or group of individuals (hereinafter referred to as "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.
4. A Request for Qualifications (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.
5. The advertisement shall contain the following information:
  - 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.
- 6. The RFQ shall include the current "Standard Designer Application Form for Municipalities and Public Agencies not within DSB Jurisdiction," which is available for download from the Massachusetts Designer Selection Board website at Procedures for Municipalities and Public Agencies not within DSB Jurisdiction. The Application Form may be amended to include additional information on a project-specific basis.
- 7. 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.
- 8. 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.
- 9. 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.

The list must 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.

- 10. 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.
- 11. 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.

12. 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.
13. The Approving Body may allow a designer who conducted a feasibility study to continue with the design of a project. However, the Approving Body 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 Approving Body otherwise complies with the statutory requirements for selecting a designer under Chapter 7C of the General Laws, including those set forth in M.G.L. c. 7C, § 54(a)(i).
14. 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).

All fees shall be stated in design contracts, and in any subsequent amendments thereto, as a total dollar amount. Contracts may provide for equitable adjustments in the event of changes in scope or services.

15. 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.

16. 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.

17. 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.

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.

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

19. 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.

20. The Awarding Authority shall evaluate designers' performance on contracts using the Designer Selection Board evaluation form(s) in accordance with M.G.L. c. 7C, § 48(g), and file completed evaluations with the Board and any other agency named in M.G.L. c. 7C, § 48(g).

21. 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.

22. 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 must 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.

#### **Section 1.14 MGL C. 61, 61A, 61B First Right of Refusal Procedure (Adopted 8/21/18)**

- I. Purpose: To serve as a guide outlining general steps to be followed when landowners in the Town of Lunenburg intend to transfer, convert, or sell their Chapter 51, 61A, or 61B land.

- II. Procedure:

1. Notification Requirements (per MGL C61, Sec. 8, C61A, Sec. 14, or C61B, Sec. 9):

- a. The landowner provides a Notice of Intent, by certified mail, to each of the following: the Select Board, Board of Assessors, Planning Board, Conservation Commission, and State Forester (c/o Commissioner of DCR) to sell or convert classified land.

- i. The notification shall include:

1. Cover letter notifying Select Board of intent to transfer, sell or convert the land, specifying proposed use of the land (in the event the transfer, sale or conversion is exempt provide details as to why it is exempt from Town's First Refusal Option);
        2. Contact information for landowner, including name, address and telephone number;
        3. If Intent to sell, copy of the purchase and sales agreement specifying purchase price and all terms and conditions of proposed sale, and any additional agreements;
        4. Survey of land (or map if survey is unavailable); and
        5. Location and acreage of land, shown on a map drawn at the same scale as the assessors' map.

2. Town Counsel Review:

- a. The Select Board's Office will immediately forward a copy of the Notice to Town Counsel for review. Town Counsel will notify the Select Board, within 15 working days, as to whether:
      - i. The Notice is sufficient;
      - ii. If sufficient whether the Town has a First Refusal Option; or
      - iii. The Town does not have a First Refusal Option. In the event the Town does not have a First Refusal Right the Town Counsel will prepare an appropriate Waiver Form.

3. Insufficient Notice:

- a. In the event the Notice does not contain all of the material and information, as required, the Town shall, within 30 days after receipt, notify the landowner, in writing, that the Notice is insufficient and does not comply. The landowner must resubmit the Notice with all required information and material to restart the process.
4. One Hundred and Twenty Day Period for Town to Exercise Right of First Refusal:
- a. The day after sufficient notification is mailed to all appropriate parties, as shown by the certified mail receipt, begins the 120-day period for the town to consider whether to exercise its first refusal option or assign this right to a conservation organization. Note: If the notification from the landowner is insufficient and the Town has given notice of such insufficiency, within 30 days, the landowner must then resubmit his/her notification, re-starting the 120-day period.
5. Town Action:
- a. The Select Board's Office will coordinate the following activities:
    - i. Confirms that Town Counsel has been provided a copy of Notice and has responded;
    - ii. Confirms that the following Boards have received the required Notification: Conservation Commission, Planning Board and Board of Assessors. Advises said Boards to provide Select Board with any input not later than 30 days from the mailing of the Notification.
    - iii. Notifies such other Town Boards and Commissions, as have requested notification, that said Notice has been received and provide a copy. Advises said Boards to provide Select Board with any input not later than 30 days from the mailing of the Notification.
    - iv. Notifies at least one nonprofit conservation organization (i.e. North County Land Trust) that said Notice has been received and provide a copy. Advises said organization(s) to provide Select Board with any input not later than 30 days from the mailing of the Notification.
    - v. Notifies the foregoing boards and organizations, referenced in paragraphs ii., iii., and iv. above, in the event the Town has notified the Landowner that the Notice is insufficient.
    - vi. Select Board - Schedules and organizes a meeting to discuss the First Refusal Option opportunity within two weeks from the end of the 30 day time period from the date of mailing of the Notification, unless an earlier meeting date is possible. At the meeting the Select Board will review all input received.
    - vii. In the event the response from a town board or committee is not received by the 25<sup>th</sup> day, the Select Board's office will contact the town entity. It will be assumed that any entity not submitting a response by the 30 day

deadline provided by the Select Board's Office does not wish to make any recommendation that the Town exercise or not exercise its First Refusal Option.

- viii. Select Board's Office, within 10 days of the meeting described in the paragraph vi, prepares and distributes to all parties a document that summarizes the results of the meeting and the recommendations of the various committees, and indicates whether or not there seems to be interest in exercising the Town's First Refusal Option, or assigning it to an appropriate organization. A copy of all written committee, organization, and individual recommendations should be attached to this document.
  - ix. Select Board vote whether to pursue the Town exercising its First Refusal Option. In the event that there is a majority vote of the Select Board to pursue the Town exercising its First Refusal Option, the Select Board shall schedule a public hearing (giving public notice in accordance with the Open Meeting Law) regarding the Town exercising its First Refusal Option. (Note - the town cannot exercise its First Refusal Option without a public hearing.) It is advisable that the public hearing take place by the halfway point in the 120-day period, or earlier if possible, in order that issues such as associated contracts and identification of funding may be resolved before the 120 days expire.
  - x. Select Board votes, after the Public Hearing (within the 120-day time frame), to do one of the following:
    - 1. Exercise the First Refusal Option;
    - 2. Assign the First Refusal Option to a qualified nonprofit conservation organization or agency;
    - 3. Decline to exercise the First Refusal Option.
6. Requirements for each option:
- a. If option (a) is chosen: The Select Board must execute and record with the Northern Worcester County Registry of Deeds a *Notice of Exercise*, containing the name of the owner of record and a description of the premises adequate for identification, and send notice to the landowner by *certified mail*, accompanied by a proposed purchase and sale agreement to be consummated within 90 days, or such extended time as may be agreed upon by the parties.
  - b. If option (b) is chosen: The Select Board must execute and record a *Notice of Assignment*, stating the name and address of the organization or agency which is expected to exercise the option and the terms and conditions of the assignment. If the land trust or agency elects to exercise the option, it must send notice to the landowner by certified mail, and record its Notice of Exercise, containing the name of the owner of record and a description of the premises adequate for identification, plus propose a purchase and sale agreement to be consummated within 90 days, or such extended time as may be agreed upon by the parties.



- c. If option (c) is chosen: The Select Board should sign and deliver a *Notice of Non-Exercise*, containing: the name of the owner of record; a description of the premises adequate for identification; and a brief description of the terms contained in the original Notice, to the landowner, sending it by certified mail to the landowner's address as set forth in the Notice of Intent.

Note: If neither the Notice of Exercise nor the Notice of Assignment is recorded within the 120-day period, or the Town gives Notice of Non-Exercise the Town's option expires and the landowner is free to sell, but only upon the original terms spelled out in the purchase and sale agreement that accompanied his/her original Notice of Intent.

### **Section 1.15 Placement of Questions on a Local Election Ballot (Adopted 9/8/20)**

I. Purpose: The purpose of this policy is to formalize a process if a town board, committee, or commission requests the governing body (the Select Board) to place a question on a local election ballot if allowed under Massachusetts General Law.

II. Process:

1. Ballot questions initiated by the Select Board:

a. Vote and Form of the Question: The Select Board may decide to place a question on a local election ballot provided that it is allowable under Massachusetts General Law. The Board must take a vote of the exact wording of the final form of the question that is reflected in the minutes of the meeting that is approved by a majority of the Board. If the Board votes to place a question on the Annual Town Election ballot, the vote must take place 60 days or more before the May Annual Town Election in order to be included in the Annual Town Meeting Warrant booklet that is mailed to every registered voter's household per the Town Bylaw §81-1. Following the vote of the Board to place a question on the local election ballot that includes the exact wording of the question(s), the Town Manager (or his/her designee) will provide the Town Clerk written notification of the exact wording of the ballot question by the end of the month of March preceding the May Annual Town Election. The written notification provided to the Town Clerk from the Town Manager will request a certified copy in return from the Town Clerk that will indicate the date/time that the notification was received by the Town Clerk.

b. Signing of the Election Warrant: If the ballot question is intended to be placed on the Annual Town Election warrant, the Select Board will vote and sign the required copies of the Annual Town Election warrant at the first Tuesday of the month of April preceding the May Annual Town Election. If the question is intended to be

placed on any other local election ballot other than the Annual Town Election ballot, the Select Board will vote and sign the required copies of the election warrant at least 35 days prior to local election date.

2. Ballot questions initiated by a Board, Commission, Committee other than by the Select Board:

a. Vote and Form of the Question: If a Board, Commission, or Committee other than the Select Board requests the Select Board to place a question on a local election ballot, the Select Board, may or may not choose to place the question on the ballot and may only do so if allowed under Massachusetts General Law. The requesting Board, Commission, or Committee must submit a written request to the Select Board's Office at least 90 days before the date of the election with the exact wording of the question. This will allow a minimum of 30 days to review the request, provide legal review, and a formal vote of the Select Board to place a question on the ballot. The Board must take a vote of the exact wording of the final form of the question that is reflected in the minutes of the meeting that is approved by a majority of the Board. If the Board votes to place a question on the Annual Town Election ballot, the vote must take place 60 days or more before the May Annual Town Election in order to be included in the Annual Town Meeting Warrant booklet that is mailed to every registered voter's household per the Town Bylaw §81-1. Following the vote of the Board to place a question on the local election ballot that includes the exact wording of the question(s), the Town Manager (or his/her designee) will provide the Town Clerk written notification of the exact wording of the ballot question by the end of the month of March preceding the May Annual Town Election. The written notification provided to the Town Clerk from the Town Manager will request a certified copy in return from the Town Clerk that will indicate the date/time that the notification was received by the Town Clerk.

b. Signing of the Election Warrant: If the ballot question is intended to be placed on the Annual Town Election warrant, the Select Board will vote and sign the required copies of the Annual Town Election warrant at the first Tuesday of the month of April preceding the May Annual Town Election. If the question is intended to be placed on any other local election ballot other than the Annual Town Election ballot, the Select Board will vote and sign the required copies of the election warrant at least 35 days prior to local election date.

3. Ballot questions for non-binding referenda questions submitted by petitioners:

Article I. A petition may be presented to the Select Board with the signatures of ten registered voters requesting that such a question be placed on the ballot. Petitioners are advised to do this at a time that will allow the Select Board to make such a decision at

least 90 days before the date of the election. The Board may choose to place the question on the ballot or may choose not to.

If the Board chooses, at least 90 days before the date of the election, not to place the question on the ballot, then the petitioners can obtain the signatures of at least ten percent of the registered voters of Lunenburg requesting that the non-binding question be placed on the ballot and submit them to the Town Clerk. The Town Clerk has seven days to certify the signatures. If the signatures of at least ten per cent of the registered voters of Lunenburg are so certified, then the question will be placed on the ballot of the next town election held more than 35 days after such certification.

Petitioners should understand that the Board's decision to place a non-binding question on the ballot will be made by determining whether there is sufficient reason and interest to place the question on the ballot. For example, it requires only ten signatures to place an article on the warrant at an annual town meeting, one hundred signatures to place an article on the warrant for a special town meeting, and two hundred signatures to require that a special town meeting be held. The Board may decide that to show that there is a sufficient level of interest in this matter, that the petitioners gather the signatures of ten per cent of the registered voters without the Board taking a particular stand on the question itself.

## **Section 1.16 Senior Work Off Program Policy**

### **I. Introduction**

The Town of Lunenburg voted to accept the provisions of Massachusetts General Laws Chapter 59, §5K authorizing the Select Board to create a Senior Property Tax Work-Off Program at the May 13, 2000 Annual Town Meeting. The purpose of the program is to provide eligible seniors that are taxpayers a reduction in their property tax bill in exchange for volunteering their services to the Town of Lunenburg.

### **II. Statutory Authority**

Massachusetts General Laws Chapter 59, §5K provides for the establishment of a program to allow persons over the age of 60 to volunteer to provide services to a town. In exchange for such volunteer services, the town shall reduce the real property tax obligations of such person and any reduction so provided shall be in addition to any exemption or abatement to which any such person is otherwise entitled. Per the statute, no such person shall receive a rate of, or be credited with, more than the current minimum wage of the Commonwealth per hour for services nor shall the reduction of the real property tax bill exceed \$1,500 in a given tax year. It shall be the responsibility of the town to maintain a record for each taxpayer including, but not limited to, the number of hours of service and the total amount by which the real property tax has been reduced and to

provide a copy of such record to the Assessor's Office in order that the actual tax bill reflects the reduced rate.

### **III. Administration**

This policy/procedure shall be implemented and administered by the Assistant Town Manager/HR Director. The Assistant Town Manager/HR Director will coordinate with the Council on Aging Director, the Treasurer/Collector's Office, the Assessor's Office, and Finance Department in order to effectively administer and process all applications and process tax credits to participating seniors.

### **IV. Eligibility Guidelines**

1. Applicants must be 60 years of age or older as of January 1<sup>st</sup> for the relevant year they are participating in the program;
2. Only one (1) applicant per real estate tax paying household may apply;
3. Applicant must be the assessed owner and occupy the property for which Town of Lunenburg taxes are paid. If the property is subject to a trust, the senior must have legal title (i.e. be one of the trustees);
4. Meet the income guidelines of gross household income not exceeding \$50,000 for a single person or \$75,000 for married person;
5. Meet the minimum skills required for the assigned position;
6. Successfully pass a Criminal Offender Record Information (CORI) check;
7. Submit to all applicable Town of Lunenburg policies; and
8. Applicant must complete an application and provide all necessary verification.

### **V. Program Limitations**

1. Currently, pursuant to M.G.L. Chapter 59 §5K, the hourly payment cannot exceed the state minimum wage and the maximum amount each participant can earn is fixed at \$1,500 for the Senior Tax Work-Off Program. The Town will pay the current state minimum wage and if the state minimum wage increases, the hourly rate for all participating seniors will increase as well.
2. The maximum number of hours of work time cannot exceed the maximum allowed amount of credit a participating senior can receive.
3. Hours worked cannot be shared.
4. The actual credit received will be net of any federal withholdings, Medicare withholdings and OBRA withholdings according to state rules. The net credit received will be applied to the 3rd quarter real estate tax bill.

### **VI. Procedure**

#### **A. Program Notification**

1. Applications will be made available on the Town's website and at the Town Hall and Senior Center for eligible Town residents.
2. Posting for the program will be placed on the Town's website, local access cable, local newspapers, and flyers in prominent locations throughout the Town.

3. All Town departments will be contacted annually and asked to submit a request for workers and job skills required.

#### B. Application Process

1. Completed applications must be submitted by close of business on the second (2<sup>nd</sup>) Thursday in December.
2. The Assistant Town Manager/HR Director will determine which department that the applicant may be assigned based on the type of work the applicant is interested in and qualified to perform.
3. All applicants will be scheduled for an interview with the relevant department head.
4. Approved applicants will complete the following with the Assistant Town Manager/HR Director upon hire:
  - Information sheet
  - Confidentiality Agreement Form
  - CORI
  - Form W-4 - Employee's Withholding Certificate
  - I-9 Employment Eligibility Verification
  - SSA-1945
  - Activities Release Form

#### C. Selection of Candidates

If there are more qualified applicants than authorized positions in a particular year, positions will be filled on a first come, first served basis.

#### D. Completion and Documentation of Hours

1. The time period for the Program runs between January 1<sup>st</sup> and November 1<sup>st</sup> of each year. The hours may be completed in a short timeframe or over the entire course of the program between January 1<sup>st</sup> and November 1<sup>st</sup>.
2. All hours worked must be documented and signed off by the designated supervisor in the Town department.
3. The designated supervisor will return the signed timesheet at the end of the term to the Assistant Town Manager/HR Director.
4. The Assistant Town Manager/HR Director will be responsible for submitting all necessary documentation to the Assessor's Office for the proper accounting of tax abatement.
5. Earnings are not subject to state tax withholdings but are subject to Federal and Medicare tax withholdings and are also subject to OBRA (7.5%) of earnings, if the participant is not receiving a pension from Worcester Regional Retirement or Massachusetts State Teachers Retirement. Participating senior will receive a W2.

## **VII. Exemption Related to Senior Tax Abatement Programs**

1. The State Ethics Commission allows an exemption related to senior tax abatement programs under 930 CMR 6.17 in order to allow participants in senior tax abatement programs to hold additional municipal positions and to have financial interests in municipal contracts and vice versa.
2. A participant in a senior tax abatement program may hold additional municipal positions and have financial interests in municipal contracts without violating M.G.L. c. 268A, §20, provided that the employee does not participate in or have official responsibility for the administration of such program or decision-making with respect to the award of benefits or relief under such program.

## **VIII. Program Benefit Limits and Amendments**

The Town Manager shall, from time to time, propose and the Select Board may adopt amendments to this policy based on changes to applicable laws and/or changes to program limitations.

## **Article II. Operational Policies**

### **Section 2.01 Access to Town Counsel (Amended 10/16/18)**

All requests for the use of Town Counsel must be submitted in writing or verbally to the Town Manager with the exception of town counsel monthly office hours. Use of Town Counsel monthly office hours is restricted to town employees, board, committee, and commission members and legal questions must directly pertain to matters within their realm of jurisdiction and cannot be for personal interests. The Town Manager may assist citizens interested in submitting citizens' petitions for town meetings and may seek the advice of Town Counsel relative to the form and substance of these petitions, and their lawfulness and effect. Legal matters that require further legal review outside of monthly office hours must receive approval from the Town Manager. The Town Manager will henceforth act as the contact point between Town Counsel and the governmental body of the Town unless an alternate contact person is designated by the Town Manager.

The information furnished to the Town Manager must include:

- The request or the question
- What date a response is needed by
- What type of response (written/verbal) is needed
- Any additional information you may feel is necessary

The Town Manager will log in this request for Town Counsel's services and will respond as necessary for each request for services.

Emergency situations should they arise, will be handled by contacting Town Counsel directly. Then, immediately notifying the Town Manager as to the subject matter of the request as well as an explanation as to why it was determined to be an emergency situation.

When a governmental body becomes aware that litigation is probable or imminent the Town Manager and the Select Board shall be notified immediately. A meeting shall then be scheduled by the Town Manager with all pertinent parties in attendance, including but not limited to; the governmental body involved, the Select Board, Town Manager and Town Counsel, to review strategy, risk assessment and cost limitations.

## **Section 2.02 Remote Participation (Adopted on 05/22/2013; Amended 8/11/20)**

### Purpose Statement

The Office of the Attorney General amended the Open Meeting Law regulations at 940 CMR 29.00 to allow members of public bodies, in limited circumstances, to participate remotely in meetings. While members of Town Boards should make every effort to attend meetings in person, the new regulations seek to promote greater participation in government meetings by allowing members to participate remotely when certain specific circumstances prevent them from being physically present.

The intent of this policy is to establish clear guidelines on the practice of remote participation by Town Boards under the Open Meeting Law, M.G.L. c.30A, §§18 – 25.

### Enabling Authority-940 CMR 29.10(8)

A municipality may adopt a policy that prohibits or further restricts the use of remote participation by public bodies within its jurisdiction.

### Applicability

The Select Board on May 22, 2012, voted to authorize the adoption of 940 CMR 29.10 so that remote participation is permitted in the Town. The Select Board may revoke its adoption of 940 CMR 29.10 by simple majority vote at any time.

This policy and 940 CMR 29.10 shall apply to all Town boards, committees, commissions, sub-committees, task forces and working groups (“Town Boards”) regardless of whether such Town Boards are appointed or elected. Where the Remote Participation Policy is more stringent than 940 CMR 29.10, the Policy shall control.

### Minimum Requirements for Remote Participation

No member of a Town Board shall participate in a meeting remotely unless the following requirements are met:

a. Members of the Town Board who participate remotely and all persons present at the meeting locations shall be clearly audible to each other and, if the meeting is televised, the

- member participating remotely shall be audible to the television viewing audience;
- b. A quorum of the Town Board, including the chair or the person authorized to chair the meeting shall be physically present at the meeting location;
- c. To the greatest extent practical, and to ensure informed discussion and decision-making, members of the Town Board who participate remotely should have access to the materials being used at the meeting location.

#### Permissible Reasons for Remote Participation

It is the expressed intent of the Select Board that remote participation in meetings be an infrequent event, for both individual board members and Town Boards as a whole. Chairs of Town Boards are encouraged to interpret these rules in a strict fashion and encourage all members to attend meetings in person as a general rule, due to the inherent benefits of physical presence in a meeting.

A member of a Town Board may be permitted to participate remotely in a meeting if the member determines that one or more of the following factors makes the member's physical attendance unreasonably difficult yet still leaves that member able to actively participate in the meeting:

- a. Personal Illness or illness of person board member is caring for;
- b. Personal disability;
- c. Emergency;
- d. Military Service; or
- e. Significant geographic distance.

#### Technology

The following media are acceptable methods for remote participation. Accommodations shall be made for any Town board member who requires TTY service, video relay service, or other form 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.

When video technology is in use, the remote participant shall be clearly visible to all persons present in the meeting location.

The focus of the chair should always be on maintaining the flow of the meeting. If the chair determines that technical difficulties are inhibiting the progress of the meeting, the chair may elect to terminate the participation of the remote member. If technical difficulties arise resulting in the loss of connection with the remote participant, that participant's attendance shall be terminated. Either such event shall be noted in the meeting minutes.

Each individual Town Board that anticipates using remote participation shall determine which



of the acceptable methods may be used by its members.

#### Procedures for Remote Participation

1. Any member of a Town Board who wishes to participate remotely shall as soon as reasonably possible prior to a meeting, notify the person chairing the meeting of his or her desire to do so and the reason for and facts supporting his or her request.
2. The meeting chair shall make any necessary arrangements with appropriate Town personnel to ensure that the required equipment is available and to the greatest extent practical, provide access to all meeting materials.
3. At the start of the meeting the chair shall announce the name of any member who will be participating remotely and the reason for his or her remote participation. This information shall be recorded into the minutes.
4. Members participating remotely may vote and shall be counted as present for the meeting.
5. All votes taken during any meeting in which a member participates remotely shall be by roll call vote.
6. Remote participation shall not be allowed when the Town Board is participating in an Executive Session.
7. The Town shall not be responsible for the reimbursement of any out-of-pocket costs associated with the remote participation of Board Members.
8. Members participating remotely are cautioned that the same obligations of consideration apply as in any physical meeting. Remote participants should direct all their attention to the meeting and should make their decisions based upon the same information as is available to all the other participants in the meeting. The remote participant shall also state at the beginning of any meeting that no other person is in proximity who could exert undue influence on the participant and shall inform the chair if that situation changes.
9. The chair of any committee for which a request is received to participate remotely shall provide to the Select Board, no later than December 31 of each year, a report that indicates the date(s) of any meetings for which remote participation was requested, the name(s) of the individuals making the request, and a summary of any logistical, technical and compliance issues related to remote participation.
10. Remote participation may not always be available in all meeting locations at all times.

**Exception to this policy: In the event the State suspends the regulations related to Remote Participation and allows full remote participation, this policy is not in effect.**

### **Section 2.03 Use of Information Technology Resources Policy for Appointed and Elected Board/Committee Members**

## Policy

It is the policy of the Town of Lunenburg (the “Town”) to ensure effective business communications among all individuals within the Town and with others outside of the Town, in particular the Town’s citizens. It is important that all forms of communication, whether verbal, written or transmitted via the Town’s electronic communications systems, promote an atmosphere of professionalism, courtesy and respect.

## Town Communications

- All communications regarding Town procedure and administration or which may affect the Town or its personnel as a whole, will either originate from or be approved by the Town prior to distribution. No individual in the Town is to send or distribute any communication to “All Personnel” or “All Users” without prior authorization from the Town. Individual Boards and Committees, through their Chair or the Chair’s designee, are authorized to send or distribute communications regarding their Board or Committee’s area of responsibility.
- Bulletin Boards. The Town maintains a bulletin board, which is designated for the posting of Town notices. All official notices shall be posted on the designated bulletin board(s).
- Solicitations. Board and Committee members are prohibited from soliciting others, including employees, during working time and from distributing materials in work areas. Work time does not include rest periods, breaks or lunch periods. Board and Committee members are prohibited from selling or buying merchandise at any time.

## Electronic Communication Devices

Electronic communication devices as defined in this policy include, but are not limited to, the Town’s telephone system (including voicemail), facsimiles, electronic mail, instant messaging, text messaging, Internet services, Intranet, cell phone services, pagers, copy machines, Town-owned laptops, tablets and computers provided for home use (“electronic communication devices” or collectively referred to as “electronic communication systems”). Electronic communication devices are Town-owned resources and are provided as business communication tools. All information or transmissions that are created, sent, received or stored on the Town’s electronic communication systems (“electronic communications”) are the sole property of the Town.

This policy governs all use of Town-owned electronic communication devices, electronic communications and electronic communication systems and also governs electronic communications which occur using electronic communication devices or electronic communication systems not owned by the Town but that occur in connection with the Town’s activities whether on or off the Town’s premises. Electronic messages should be communicated with the same thought and care devoted to written or verbal communications. Individuals should

not transmit any form of electronic communication that they would not be comfortable writing in a letter or memorandum. All individuals of the Town must adhere to the following, while on the Town's premises and off-site, and use good judgment when using the Town's electronic communication devices.

- Privacy. There can be no guarantee of privacy for electronic communications regardless of whether an employee is required to use a password to access any electronic communications system. The Town reserves the right to review and/or monitor all electronic records and communications, at any time, with or without notice, including individual user folders and other information stored on the Town's electronic communication systems. In accessing the Internet, users should assume that all connections and sites visited will be monitored and recorded. This examination helps to ensure compliance with Town policies, assists when internal investigations must be conducted and supports the management of the Town's information systems. Use of the Town's electronic communication devices constitutes acceptance of such monitoring.

Board and Committee members should also be aware that communications through non-Town electronic communication devices or systems for Town business may subject their personal devices, systems and/or accounts to review in response to a public records request. Board and Committee members are, therefore, strongly encouraged to use only Town issued electronic devices and systems for Town-related business.

- Security. The Town's electronic communication systems are to be used only by authorized persons. An electronic mail (e-mail) account is assigned to each user with a username and password. Any communication sent from that account is the responsibility of the user assigned to the account. Except when specifically authorized by the Town, users shall not (i) disclose their passwords to others; (ii) use someone else's password; (iii) provide their e-mail address to any non-business related Internet Website; or (iv) transmit their user names or passwords through the e-mail. Passwords are designed to provide security of the Town's electronic communication systems from unauthorized users, not to provide privacy to individual users of the Town's electronic communication systems.
- Workplace Environment. The Town is committed to maintaining an environment free from all forms of abuse and harassment. Use of the Town's electronic communication systems to send abusive, vulgar, offensive or discriminatory messages is prohibited. Among those that are considered offensive are any messages that contain profanity, overt sexual language, sexual implications or innuendo or comments that offensively address someone's age, gender, race, sexual orientation, religious beliefs, national origin, or disability.<sup>1</sup> Individual Board and

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<sup>1</sup> Sexual harassment and harassment on the basis of race, color, religion, creed, national origin, ancestry, gender, age, as defined by law, physical or mental disability, sexual orientation, as defined by law, gender identity or expression, genetic information, or military status, are covered by the Town's *Sexual Harassment Policy* for Appointed and Elected Board/Committee Members and Harassment of Individuals in Protected Classes Policy and

Committee members are responsible for the content of all text, audio or images that they place or send over the Internet and for ensuring that the Internet is used in an effective, ethical and lawful manner. The transmission or downloading of any sexually explicit materials including abusive, profane or offensive language or images is prohibited. The Town reserves the right to access and monitor all messages and files as it deems necessary and appropriate.

- Effective Business Communications. While e-mail and voicemail may be the quickest and easiest way to communicate, it may not always be the most appropriate or effective way to communicate when managing or conducting the Town's business. Board and Committee members should avoid using e-mail when the message that must be communicated involves extremely important, confidential or sensitive internal Town matters (e.g., discussions regarding an employee's work performance or a candidate's application for employment). Such communications, including dialogues that call for extensive back-and-forth discussion, are best held in person or on the phone.
- Confidential Information. Users of the Town's electronic communication systems should be careful in creating e-mail messages that contain confidential information or providing such information through access to Internet web sites. E-mail is inherently insecure, as E-mail messages are sent over the Internet unencrypted, and can be intercepted and read by a third party. Even when a message has been deleted or Internet access terminated, the information may still exist in a printed or electronic version, may be recreated from a back-up system, or may have been forwarded by the recipient to someone else.
- Protected Health Information. Board of Committee members will generally not have access to Protected Health Information ("PHI"). In the event they do, they must take reasonable steps to ensure that access to electronically transmitted PHI is password protected. Electronically stored PHI, including such information residing in electronic messages, electronic document files, databases, removable media and other computer files must be password-protected and accessible only by individuals who have a need for access. Reasonable steps must also be taken to ensure that all incoming facsimiles and print jobs containing PHI are viewable and retrievable only by individuals of the Town with a legitimate need for access. PHI that no longer needs to be retained after use should be deleted or shredded, unless subject to record retention policies and procedures.<sup>2</sup>
- Electronic Discussion Groups or Subscription Services. Participation by any Board or Committee member in an electronic discussion group, such as a list-serv, newsgroup, website comments section, or an e-mail subscription service, shall be allowed only if such participation relates to the business of the Town. No participation in such groups for personal reasons, while using the Town's electronic

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Procedures for Appointed and Elected Board/Committee Members and should be referenced for those specific requirements.

<sup>2</sup> Subject to the Town's *HIPAA Privacy Compliance Program*.

communications systems, is allowed whether during, before, or after normal business hours except in limited situations (e.g., CNN Breaking News) and pre-approval has been obtained from the Human Resources Director. Board and Committee members should be mindful that no confidential information may be shared with other group participants.

- Viruses. Any files downloaded from e-mail or Internet web sites and any removable media received from outside sources must be scanned with the Town's virus detection software before installation or use. Downloading programs (including self-installing software and upgrades) is prohibited without prior approval. Any viruses detected, tampering or system problems must be reported immediately to the Technology Department.
- Personal Use. The use of the Town's electronic communication devices is primarily for business purposes. Personal use of electronic communication devices is prohibited except in limited situations when communication is of a time-sensitive nature and another means of similar communication is not reasonably available. Individuals may not abuse this privilege for any significant amount of personal use or activity. Any communication sent is the responsibility of the user assigned to the account.
- Specific Prohibited Uses. In addition to requiring compliance with this policy, the Town expressly prohibits the use of the camera feature on any electronic device while engaged in Town business, except for otherwise public proceedings, e.g., open session meetings, public events at which you are representing the Town. The Town also expressly prohibits certain specific types of misuse of the Town's electronic communication devices or systems. Board and Committee members shall not use the Town's or other electronic communication devices or electronic communication systems to:
  - engage in any illegal activity including, but not limited to, pornography, terrorism, espionage, theft, drugs, gambling or hacking;
  - send, receive, access, create, print or distribute or otherwise transmit any form of offensive, discriminatory, obscene, pornographic, harassing, defamatory, derogatory, disruptive or otherwise inappropriate communication, at any time, to any person or entity;
  - send, receive, access, create, print, distribute or otherwise transmit inappropriate language or images that offensively address someone's age, gender, race, sexual orientation, religious beliefs, national origin or disability;
  - release any communication that violates the Town's confidentiality requirements including divulging confidential or privileged information;
  - use or disclose Protected Health Information ("PHI") unless pursuant to the Town's *HIPAA Privacy Compliance Program*;

- authorize other individuals to send e-mail from their account or use another account to send e-mail communications for their own purposes;
- send, receive, access, copy, print, distribute or otherwise transmit copyrighted materials, including music, articles and software, movies, trade secrets or proprietary financial information in violation of Town policy or written agreements or without prior authorization;
- install personal software on Town-owned devices or install Town-owned software on computers that are not owned by the Town without the prior written approval of the Technology Department;
- operate a business, solicit outside business ventures, or otherwise engage in endeavors for any purpose other than Town business including solicitation in connection with political, religious or personal causes (except as described in subsection I above); and
- engage in unethical activities or content, or activities or content that could damage the Town's reputation.

All such instances as specified in this subsection J must be reported immediately to the Chair of your respective Board or Committee and the Town Manager. It is important to note that while this policy sets forth specific prohibited uses of the Town's electronic communications, electronic communication devices and electronic communication systems as outlined above, the policy is not designed or intended to limit the Town's authority to discipline or take remedial action for inappropriate use of the Town's electronic communications, electronic communication devices and electronic communication systems it deems unacceptable, regardless of whether it is specified in this policy.

- Deletion of E-Mails and Messages. The Town reserves the right to delete e-mails or messages, or other communications, at any time without notice. E-mail messages are archived for a period of seven years or longer, if required by the State Public Records Law.
- Cell Phones. Use of cell phones to discuss Town-related information must be done with extreme caution so as to eliminate the possibility of a breach of confidentiality or the inadvertent disclosure of confidential information. The Town will not be liable for the loss of personal cellular phones brought onto the Town's premises. Board and Committee members who are charged with traffic violations resulting from the use of their cell phones while driving on Town business will be solely responsible for all liabilities that result from such actions.

Safety studies have shown that drivers who use a cellular telephone while their vehicle is in motion are at a higher risk of being in an auto accident than non-callers. The Town recommends that Board and Committee members not use a cellular phone while driving. However, should a situation arise in which an individual of the Town needs to use a cell phone while driving, the following safety guidelines shall be followed:

- choose as your first option to pull off to the side of the road and safely stop the vehicle before placing or accepting calls when utilizing your phone in your vehicle;
- do not use your phone while driving to send or review emails or text messages;
- use a hands-free device when available to avoid having to handle the phone while in traffic, read your instruction manual before driving in order to become acquainted with features such as speed dial and redial and do not take notes or look up contact information while driving;
- position your phone within easy reach so that you can access it without taking your eyes off the road;
- use your phone sensibly by assessing the traffic beforehand and place a call while at a red light, stop sign or otherwise stopped and avoid altogether, if possible, using the phone while in traffic;
- keep verbal communications to a minimum, suspend such communications during heavy traffic or hazardous weather conditions and let the person with whom you are communicating know you are driving and may be interrupted;
- avoid stressful or emotional communications while driving by either pulling over or ending the communication; and
- use your phone to call for help by dialing 911 in emergency situations.
- Misuse of Electronic Devices. Electronic devices are provided, including those assigned to Board and Committee members for the purpose of board or committee work. Board and Committee members may be issued a tablet or laptop in connection with appointed or elected duties or for a limited duration. Although devices will generally be provided on equal terms to members of a specific committee, the Town reserves the right not to issue a member a device based on the Town's available resources and/or the member's adherence to the terms of this Policy. Board and Committee members shall be responsible for any damage, loss or theft resulting from their misuse of any electronic devices, and particularly those, such as tablets and laptops, that are used outside of the office.

### Violation of Policy

Violation of this Policy may constitute good cause for removal of appointed Officials under the Town Charter. Any appointed Official who violates this Policy shall be subject to appropriate discipline, up to and including removal from office. Elected Officials may be subject to a request for their resignation, public censure or reprimand or a recall petition in accordance with the Town Charter. The Town intends to follow each provision of this policy but reserves the right to change any provision at any time if circumstances warrant or require and also reserves the right to terminate or restrict access to any part of the Town's electronic communication systems on an individual or group basis at any time for any reason. A failure to

enforce this policy does not constitute a subsequent waiver of any violation of this policy. This policy should be read and interpreted in conjunction with all other Town policies and procedures.

### Complaints or Problems of Misuse

Should any individual of the Town receive a harassing, offensive, threatening or intimidating communication from inside or outside of the Town, the individual should initiate a complaint by contacting the Harassment Grievance Officer as soon as possible. The current Harassment Grievance Officer is Heather Lemieux, Town Manager. She can be reached at Town Hall, 17 Main Street, 2<sup>nd</sup> floor, Lunenburg, MA 01462, and her telephone number is (978) 582-4144. If you would prefer, you may contact Nancy O'Rourke, Payroll and Benefits Coordinator and Risk Manager, who has been designated as the Alternate Harassment Grievance Officer. She can be reached at Town Hall, 17 Main Street, 1<sup>st</sup> floor, Lunenburg, MA 01462 and her telephone number is (978) 582-4134.

## **Section 2.04 Email by Boards/Committees and Compliance with O.M.L.**

All Governmental Bodies within the Town of Lunenburg should not exchange emails between a quorum (simple majority) of the Board, Committee or Commission, either on a collective basis or on a serial basis on substantive matters as a matter of abiding by the Open Meeting Law. Distribution of a meeting agenda, scheduling or procedural information, or reports or documents that may be discussed at a meeting generally does not constitute deliberation, provided that, when these materials are distributed, no member of the public body expresses an opinion on matters within the body's jurisdiction to other members of the public body. Communication among less than a quorum of the members of the public body will not be a deliberation, unless there are multiple communications among the members of the public body that together constitute communication among a quorum of members. When members of a public body communicate in a serial manner in order to evade the Open Meeting Law, this is a violation of the law.

## **Section 2.05 Social Media Policy for Appointed and Elected Board/Committee Members (Adopted 10/15/2019)**

### **I. Policy:**

A. Introduction. The Town of Lunenburg (the "Town") depends upon an environment of tolerance and respect for the achievement of its goals in serving the citizens of the Town.

B. Purpose. The purpose of this policy is to provide notice to appointed and elected board and committee members that their use of social media must conform to the law and this policy. This policy is designed to promote and govern the professional and personal use of social media in a responsible manner and to avoid uses that can: (1) breach confidentiality by revealing protected information about the Town, its citizens, or its employees; (2) expose the Town to liability for behavior that may be harassing, offensive, or maliciously false; or (3) interfere with productivity and/or ability to perform the duties



and responsibilities as Officials of the Town.

## **II. Definitions:**

1. The Town: Town of Lunenburg.
2. Official: An individual who holds office in the Town, whether elected or appointed.
3. Social Media: Online forums in which individuals participate in the exchange of ideas, messages, and content, including but not limited to, blogs, microblogs, and social networking sites (e.g., Facebook, LinkedIn, Twitter).
4. Electronic Media: All forms of electronic communication, transmission, or storage, including but not limited to, websites and any content contained therein or related thereto.

## **III. General Provisions:**

A. While Officials may maintain and use personal web pages and websites, blogs, microblogs, social networking sites and other forms of social media while off-duty, their status as Officials of the Town requires that the content of any postings on those social media sites or other web pages not be in violation of existing Town by-laws, policies, directives, rules or regulations. The Town's image as a professional organization comprised of professionals is critical to maintaining the respect of its constituents. Although the Town recognizes that Officials may choose to express themselves by posting personal information upon electronic media sites through personal websites, social networking sites, blogs, microblogs, chat rooms, or other electronic means or by making comments upon electronic sites hosted by other persons, groups or organizations, this right of expression should not interfere with the operation of the Town. That is, although the Town acknowledges its Officials have the First Amendment right to free speech, the right is not absolute and extends only to matters of public concern. Therefore, Officials should exercise caution with respect to comments they post, particularly those concerning the Town and the business of the Town.

B. This section describes acceptable and unacceptable uses of all social media by Officials. Officials should use their best personal judgment when using any form of social media and must ensure that their use does not violate this or any other Town policy.

C. Use of social media is also subject to the Town's Computers and Communications Policy, Sexual Harassment Policy, and Harassment of Individuals in Protected Classes Policy, as well as the Town's other policies and standards of conduct, rules, regulations, and by-laws.

D. All use of social media is subject to the following conditions:

1. There is no guarantee of privacy for electronic communications through Town systems or equipment. The Town reserves the right to review and/or monitor all electronic records and communications, at any time, with or without notice, including individual user folders and other information stored on the Town's electronic communications

systems. In accessing the Internet, including social media sites, users should assume that all connections and sites visited using the Town's network will be monitored and recorded. This examination helps to ensure compliance with Town policies, assists when internal investigations must be conducted and supports the management of the Town's information systems. Use of the Town's electronic communication devices including, but not limited to, Town-issued email accounts, Internet services, Intranet, Town-owned lap tops and computers provided for remote use, and computer software constitutes acceptance of such monitoring. Content maintained electronically is also subject to the Public Records Law.

2. All Officials are expected and required to conduct themselves in a manner consistent with the Town's policies and standards of conduct.
3. Officials must not reveal any confidential or privileged information about the Town, its constituents, or its contractors. Officials must be particularly careful to protect against the inadvertent disclosure of confidential information.
4. Officials must not harass others in contravention of the Town's Computers and Communications Policy, Sexual Harassment Policy, and Harassment of Individuals in Protected Classes Policy, regardless of the time, place, form, or manner in which the information is posted or transmitted. Comments may be deemed to violate this Policy even if the Town's name or the name(s) of any individual is not specifically referenced.
5. Officials should be honest and accurate when posting information or news, and if they make a mistake must correct it quickly. Officials should not post any information they know to be false about the Town, its employees, constituents, officials, suppliers, vendors, contractors or any other entities or individuals.
6. Officials may express only their personal opinions and should never represent themselves as a spokesperson for the Town, their board or committee unless designated to do so. If the Town is a subject of the content created by an Official, the Official should be clear and open about the fact that he/she is an Official of the Town and should make it clear that his/her personal views do not represent those of the Town, or its employees, officials, suppliers, vendors, or any other agent of the Town unless designated to do so. Officials who publish blogs or other online posts related to their role with the Town should make clear that they are not speaking on behalf of the Town (unless designated to do so). Further, an Official's decision to express their

personal opinions does not alleviate their responsibility as an Official to take appropriate action under the circumstances, which may include, but not be limited to, taking action themselves or reporting an issue to a supervisor.

7. Officials must also recognize that posting content regarding Town-related matters may result in the violation of the Open Meeting Law. Officials should consult the Open Meeting Law Guide provided to them by the Town Clerk's Office for more information. Town Counsel may also be consulted subject to the prior approval of the Town Manager.
8. Officials are expressly prohibited from using social media to engage in any activity or conduct that violates federal, state, or local law (e.g., software or data piracy, child pornography, etc.).
9. Officials are prohibited from using social media to engage in any activity that constitutes a conflict of interest.
10. Officials are not authorized to provide employee references and are prohibited from using any review or recommendation feature or system on a social media site (e.g., LinkedIn) to post reviews or other comments about employees.
11. Officials must be mindful that residents, property owners and others appearing before Town boards or committees come from all walks of life. Public comments, in any forum, that contain racial slurs, express bigotry toward a group based on their race, religion, national origin, sexual orientation, gender, gender identity or any other legally protected classification shall be considered conduct unbecoming a Town Official and shall constitute good cause for removal for any appointed Official.

E. The Town encourages anyone who uses social media in contravention of this policy to be honest and admit the error as soon as it occurs. Although errors cannot always be erased, prompt notification can make a significant difference in the Town's ability to correct or remedy the issue.

F. Beyond the above general provisions, appointed and elected board/committee members are strongly encouraged to consider the impact of their statements before making them. The Town strives to be professional in its operations and processes. Posts that suggest a likelihood of more or less favorable treatment toward any individual or group of individuals, e.g., based upon race, gender, national origin, sexual orientation, reflects poorly on the individual making an inappropriate statement as well as the Town and its citizens. Further, comments suggesting such treatment can expose the Town to liability and legal costs. All are strongly encouraged to

carefully consider their comments before posting them.

#### **IV. Complaints or Problems of Misuse:**

Should any Official receive or become aware of a violation of this policy, the Official should report the violation to the Town Manager as soon as possible. The current Town Manager is Heather Lemieux, who can be reached at the Town Hall located at 17 Main Street, Lunenburg, MA 01462, (978) 582-4130.

The Town prohibits taking action against anyone for reporting a possible violation of this Policy or for cooperating in an investigation.

#### **V. Questions:**

Anyone who is unsure whether a particular posting or contribution to online social media violates this policy is encouraged to ask the Town Manager.

#### **VI. Discipline.**

Violation of this Policy may constitute good cause for removal of appointed Officials under the Town Charter. Elected officials may be subject to a request for their resignation, public censure or reprimand or a recall petition in accordance with the Town Charter. A failure to enforce this Policy does not constitute a subsequent waiver of any violation of this Policy.

This Policy shall be read and interpreted in conjunction with all other Town policies and procedures.

### **Section 2.06 Smoking**

Smoking is prohibited in public buildings and outside areas in accordance with Massachusetts General Laws Chapter 270 Section 22.

## **Section 2.07                      Appointments                      (Amended 12/20/22)**

### **I.    Volunteer Applications**

The Town Manager will ensure the availability of up-to-date Volunteer Applications in Town Hall, other Town buildings, and on the Town's website. She/he will also ensure that completed Volunteer Applications are maintained in an organized and easily retrievable manner, that receipt of each completed application is acknowledged, and that residents who submit applications are given a copy of the appointment process.

As Select Board-appointed vacancies occur, the Town Manager will ensure that local newspapers are advised of the vacancies, and that vacancy notices are posted on the Town bulletin boards and advertised on the Town's website and local cable television channel. Vacancies shall be so advertised on the Town's bulletin board for no less than ten days per Section 7-10 of the Town Charter. As practice, the Select Board shall appoint on or after the twenty-first day following the posting of a vacancy.

### **II.   Appointments**

Subject to applicable State Law and the Town Charter, the Select Board shall make its annual appointments at the first and second regular meetings in June. Appointments made at those meetings shall have terms beginning on July 1 and expiring on June

30. In addition, as the need arises, the Select Board may make appointments throughout the year for terms to take immediate effect with expiration dates of June

30. Terms shall not exceed three years, unless specifically allowed by Massachusetts General Law.

Appointments shall be based on merit and qualifications that relate to the duties of the subject board, committee, or position. Where possible, the Select Board will seek variety in backgrounds, interest, ages, genders, and geographic areas of Town, so that multi-member bodies reflect a true cross-section of the community. In order to attract qualified and interested applicants, the Town Manager will provide a list of vacancies to the Select Board by March 15 and employ a multimedia strategy by April 1, to advertise all vacancies. Volunteer Applications shall be submitted by May 15 for consideration during the Select Board's annual appointments in June.

The Town Manager will ensure that the Select Board receive all necessary material for the first and second meetings in June, a list of vacancies to be filled by the Select Board that includes all applicants, with notations for those seeking reappointment.

The Select Board shall conduct interviews when there are multiple applicants for a vacancy or any new applicant to a position. Select Board Members may also request, before May 25, for all applicants to an identified board or committee to have scheduled interviews.

### **III. Reappointments**

Reappointment shall not be automatic. Instead, the Select Board will consider the applicant's contributions in the role into which they are seeking reappointment. As part of the annual appointment process, the Town Manager will ask incumbents whose terms will expire on June 30 to complete and return a Reappointment Application by May 15. Shortly thereafter, the Town Manager's Office will forward the Reappointment Application to the other members of the multi-member body to which an applicant is seeking reappointment, wherein said members may provide their review and response. The Select Board will review and consider such comments.

When the Select Board conducts interviews for vacancies, the Select Board shall interview applicants seeking reappointment with all others seeking appointment.

### **IV. Ad Hoc Committees**

The Select Board may from time to time appoint standing or advisory committees to aid on matters under the Select Board's jurisdiction. The use of such committees provides greater expertise and more widespread citizen participation in the operation of government. The Select Board will give each advisory committee a written charge, which shall include the work to be undertaken, the time in which it is to be accomplished, and the procedures for reporting to the Select Board. The Select Board will discharge committees upon completion of their work. The charges and membership of advisory committees shall be reviewed at least annually to assess the necessity and desirability of continuing each such committee.

### **V. Exclusion**

This policy does not apply to appointments made to an elected Board vacancy which are controlled by the Town Charter.

### **VI. Guidance for Appointed Officials**

**Swear In:** Appointees must contact the Town Clerk to be sworn in and be provided with information on the Open Meeting and Conflict of Interest Laws.

**Learn:** All appointees should familiarize themselves with the Policies and Procedures of the Select Board, with attention to the procedural and operational policies identified in Articles I and II. Appointees should also familiarize themselves with the Town Charter and all applicable bylaws and regulations related to the body of which they are a member. Robert's Rules of Order helps inform general parliamentary procedure, though multi-member bodies may employ a myriad of modifications.

**Collaborate:** Service to the Town in an appointed position of trust requires collaborative and honest work in an environment that encourages diversity of viewpoint and perspective. All

who serve have a duty to exhibit the highest standards of interpersonal decency and demonstrate respect and consideration for others while in the performance of their duties.

**Agendas and Minutes:** All multi-member bodies appointed by the Select Board shall ensure that all agendas and minutes are submitted to the Town Clerk for posting on the Town's website and comply with all other Open Meeting posting requirements.

Bodies that require assistance with minute-taking should contact the Town Manager's office for staff assignment, if available.

**Organization:** Each multi-member body should establish written operating procedures and have an elected chair and other officers to facilitate meetings and the operations of the body. All written operating procedures and policies should be submitted to the Select Board at least 14 days prior to being in effect.

**Reporting:** Each multi-member body must provide an annual report in writing each November or in person each fall that includes a summary of the body's work throughout the calendar year and recommendations to enhance or advance the operations of the body.

**Town Employees:** While Town employees do not report to appointed officials or boards, many work with them. Appointees who work with staff are encouraged to develop a positive rapport with them, to help ensure a positive feedback loop between policy and best-practices. Ineffective professional relationships with staff should be first addressed with the individual's supervisor or manager; concerns that remain unresolved should be discussed with the Town Manager.

**Removal:** A decision to terminate an appointment may be made by a majority of the Select Board subject to notice and a right to be heard per the Town Charter.

## **VII. Key Dates**

**March 15:** List of upcoming vacancies provided to the Select Board

**April 1:** Town Manager employs multimedia strategy to advertise upcoming vacancies and provides Reappointment Applications to appointees with terms to expire on June 30

**May 15:** Appointment and Reappointment applications are due to the Town Manager's office

**May 25:** Deadline for Select Board members to identify boards for in-person interviews.

**First and Second Tuesday in June:** Annual Select Board Appointments

**September - November:** In-person or written annual updates to the Select Board by appointed multi-member bodies or their representative



## Volunteer Application

Lunenburg Town government needs citizens who are willing to offer their time and skills in service of the community. The Volunteer Application was adopted by the Select Board as a means of compiling names of interested residents to serve on a voluntary basis on boards, committees, and in other capacities. Your completed application will be available for use by the Town Moderator and Select Board. Applications received on or before May 15 will be considered for appointments effective July 1; applications received after May 15 will be used to fill vacancies that occur or kept on file.

For a complete description of all positions noted below, please be sure to visit the Lunenburg Town website at [www.lunenburgma.gov](http://www.lunenburgma.gov), then select "Government" and "Boards and Commissions." Please complete the information below and then rank up to five (5) areas of interest on a scale of 1-5, with 1 being your first preference. Please email or hand-deliver your completed application to the Town Manager's office.

Name: \_\_\_\_\_ Date: \_\_\_\_\_

Address: \_\_\_\_\_

Occupation: \_\_\_\_\_ Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Identify the unique skills or talents that you possess that will further benefit the board/committee to which you are seeking reappointment: \_\_\_\_\_

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- |  |                               |
|--|-------------------------------|
| _____ Agricultural Commission                        |                               |
| _____ Americans with Disabilities Act Commission     |                               |
| _____ Architectural Preservation District Commission |                               |
| _____ Bylaw Review Committee                         | _____ Capital Planning        |
| _____ Conservation Commission                        | _____ Council on Aging        |
| _____ Cultural Council                               | _____ Finance Committee       |
| _____ Green Communities Committee                    | _____ Historical Commission   |
| _____ Personnel Committee                            | _____ Stormwater Task Force   |
| _____ Public Access Cable Committee                  | _____ Zoning Board of Appeals |
| _____ Other (please list): _____                     |                               |

\_\_\_\_\_  
**Signature** **Date**





## Volunteer Reappointment Application

Lunenburg Town government depends on the many residents who offer their skills and talents for the benefit of the public good. Reappointments are not automatic, and as you have served in an appointed position that is due to expire this June 30, please complete this application to request reappointment. All incumbents seeking reappointment must return this application to the Town Manager's office by May 15. The Town Manager's office will provide your complete application to your colleagues on the board/committee on which you serve to solicit comments prior to Annual Appointments in June. Thank you for your willingness to continue to serve the Town of Lunenburg!

Name: \_\_\_\_\_ Date: \_\_\_\_\_

Address: \_\_\_\_\_

Occupation: \_\_\_\_\_ Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Request reappointment to: \_\_\_\_\_

Please detail how you contributed to the board/committee during your current appointment: \_\_\_\_\_

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Identify the unique skills or talents that you possess that will further benefit the board/committee to which you are seeking reappointment: \_\_\_\_\_

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What resources are needed to facilitate the operations of the board/committee on which you serve? \_\_\_\_\_

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\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## **Section 2.08 Flag Policy (Adopted 8/21/18)**

### **I. Statement of policy:**

The purpose of this policy is to establish uniform guidelines for the lowering of the United States Flag to half-staff flown over municipal property.

### **II. Policy:**

1. The United States Flag at town buildings and the cemeteries will be flown at half-staff according to the federal and state mandate.
2. The United States Flag may be lowered to half-staff by declaration of the Select Board.
3. The Town Facilities staff shall monitor the compliance of this policy at the Town Buildings and the Cemetery Superintendent shall monitor the compliance of this policy at the Town Cemeteries.

## **Section 2.09 Recycled Product Procurement Policy (Adopted 8/13/2019)**

In recognition of the need to make more efficient use of our natural resources, create markets for the materials collected in recycling programs, reduce solid waste volume and disposal costs, and serve as a model for private and public institutions, the Town of Lunenburg is committed to purchasing products which are environmentally preferable and/or made of recycled materials whenever such products meet quality requirements and are available at reasonable prices and terms.

To the maximum extent practicable, the following standards should be adhered to:

- a) For all purchases of printing and writing paper for in-house use or custom printed materials by professional printers, including copier paper, forms, stationary, envelopes, tablets, notepads and file folders, the minimum content standards shall be no less than 30% post-consumer recycled materials.

The decision not to procure recycled content printing and writing paper meeting these standards shall be based solely on a determination that a satisfactory level of competition does not exist, that items are not available within a reasonable time period, or that items fail to meet reasonable performance standards or are only available at an unreasonable price.

- b) When purchasing office, custodial, and maintenance products or any other product(s) purchased by a Town employee for Town use, due consideration will be given to purchasing said product(s) in a form containing recycled-content material. Said recycled products must be competitively priced and of comparable quality, performance, and availability.

- c) Town departments shall ensure that all contracts for printing require the inclusion of an imprint identifying the recycled content of the paper whenever practicable, along with the recycling symbol.
- d) Each department shall implement paper reduction techniques through the use of scanned documents sent electronically whenever possible, sharing and circulating materials, and reuse of discarded paper for draft work, scrap paper and internal messages.
- e) Each department head shall incorporate waste prevention and recycling in daily operations.
- f) The Town shall request its contractors and consultants to use and specify recycled products in fulfilling contractual obligations wherever practical.
- g) Town employees with purchasing authority shall become familiar with and utilize Massachusetts State Contracts for recycled products and make purchases through the state contract whenever feasible.

## **Section 2.10 Contractors**

Contracting with an outside individual or agency requires adherence to public procurement laws including the use of a written contract and a disclosure form, obtainable from the Select Board's Office or the Finance Director/Town Accountant. Copies of all bid documents must be sent to the Chief Procurement Officer, and a copy of the contract must also be sent to the Finance Director/Town Accountant.

Should a copy of the executed contract not be on file with the accounting office at the time a voucher for payment is submitted, the voucher will be returned for insufficient information.

## **Section 2.11 Town Communications**

All communications regarding Town procedure and administration or which may affect the Town or its personnel as a whole, will either originate from or be approved by the Town Manager prior to distribution. No individual in the Town is to send or distribute any communication to "All Personnel" or "All Users" without prior authorization from the Town Manager. Managers are authorized to send or distribute communications regarding their area's business.

## **Section 2.12 Conflict of Interest/Financial Disclosure**

Town employees must comply with the requirements of Chapter 268A of the Massachusetts General Laws that governs conduct as a municipal public official or public employee.

The purpose of the conflict of interest law is to ensure that a public employee's private financial interests and relationships do not conflict with his or her public obligations to act objectively and with integrity. The law is broadly written to prevent a public employee from becoming involved in a situation which could result in a conflict or give the appearance of a conflict.

Conflict of interest situations include but are not limited to:

- Taking Bribes
- Accepting Gifts (the law allows up to \$50)
- Acting on Own/Family's/Business' Financial Interests
- Obtaining Municipal Contracts and Multiple Jobs – employees are generally prohibited from obtaining municipal contracts or appointments although some exceptions do apply.
- Misuse of an Official Position to obtain unwarranted privileges for themselves or anyone else.
- Accepting outside employment inherently incompatible with a public position.
- Representing Private Parties in Town Matters.

Chapter 268A also requires all municipal officials and employees to complete an online training once every two years and to file their Certificate of Completion with the Town Clerk.

In any remotely questionable situation, employees are encouraged to get advice and an advisory opinion from the State Ethics Commission at (617) 371-9500.

## **Article III. Financial**

### **Section 3.01 Borrowing (Amended 07/18/2017; 10/11/2018)**

- A. The Town incurs debt either through exempt borrowing or through regular borrowing.
- B. The Town incurs debt either through exempt borrowing or through regular borrowing.
- C. Definitions:
  - 1. Exempt borrowing is funded by an increase in the tax levy outside the limits of proposition 2 ½ for the duration of the debt only. This requires the Town's prior approval, through a referendum vote, to raise the property tax levy. Exempt borrowing is also referred to as excluded borrowing.
  - 2. Regular Borrowing is borrowing funded by the revenues of the Town and does not increase the tax levy. Regular borrowing is referred to as non-exempt or non-excluded borrowing.

The Town may choose to fund the purchase of an asset through regular borrowing, provided the asset:

- 1) Costs more than \$100,000, and
- 2) Has a projected useful life of no less than ten years.

Note: The Town records debt service costs from exempt borrowing and regular borrowing in the Debt Service Schedules spreadsheet maintained by the Town Accountant.

- 3. Debt service costs incurred and paid by Enterprise Funds (e.g. Sewer and Water Departments) are excluded from this policy and from all calculations on debt service cost ratios set forth in section C. Payment of these costs is from revenue sources separate from the Town's tax levy.
- 4. The Regular Tax Levy is the sum of the prior year levy, plus an increase allowed by prop 2 ½, plus new growth. The regular tax levy is exclusive of all revenues from debt exclusion overrides.

Note: The Town's property tax levy information by fiscal year is shown on the Revenues/Expenditure sheet of the Town's Annual Budget document.
- 5. The Total tax levy includes the regular tax levy and all additions to the regular levy from debt exclusion overrides.

- C. Limits on debt service costs.
1. Regular borrowing debt service costs should not exceed four percent of the regular tax levy.  
The formula: Net debt service costs from regular debt divided by the regular tax levy.
  2. Aggregate annual debt service costs of all exempted debt should not exceed 11% of the total tax levy.  
The formula: Net debt service costs from exempted debt divided by the total tax levy.
  3. Aggregate debt service costs of debts financed by regular borrowing and by debt exclusion overrides should not exceed 14 percent of the total tax levy. The formula: (Net debt service costs from regular debt + Net debt service costs from exempted debt) divided by the Total tax levy.
  4. Irrespective of the method of funding debt (regular borrowing or exempt borrowing) the term of any bond to pay for an asset should not exceed the anticipated useful life of the asset.

**D. Process and borrowing to pay for emergencies.**

1. In accordance with MGL Ch. 44, Section 2, and any other applicable laws, the Town may authorize debt to acquire any asset(s) through regular borrowing only by at least a two-thirds vote in favor at a Town Meeting.
2. In the case of borrowing to pay costs arising from an emergency the Town should repay the debt over as short a period as is practicable up to a maximum of five years, considering the effect that funds to repay this debt may have on the Town's ability to pay operating expenses.

**Section 3.02 Capital Budget (Amended 09/02/2014; Amended 7/13/21)**

**A. Capital Projects: Definition, criteria**

1. Capital Projects (also referred to as capital assets) are any tangible item that costs \$20,000 or more and has a useful life of three years or longer.
2. Individual items that cost at least \$20,000 and groups of items of the same purpose that cost at least \$20,000 are both capital items.

**B. Capital Plan: Acquisitions and Expenditures**

1. The Capital Plan includes all proposed capital projects.

- a) This includes projects proposed but not yet acquired in prior fiscal years and those projects proposed during the current fiscal year.
- b) Initial purchase of a group of items to establish a new program or new use shall be in the Capital Plan, with sustaining future purchases to be handled through the departmental operating budget unless these re-purchases meet the requirements of capital projects set forth in Section III. A. 1 and 2 above.
- c) Each submittal of each item to the Capital Planning Committee shall include a financial impact statement regarding its effect on the relevant departmental operating budget(s).

2. Expenditures for Capital Projects:

- a) Expenditures to acquire capital assets that do not involve financing through a debt exclusion override vote (see Section 2. (f) below) will be presented to the Town Meeting for approval or disapproval.
- b) If costs of any approved capital project exceed the amount voted for at Town Meeting, the department which will use the capital equipment may pay the additional costs from their operating budget.
- c) Another option is that because the capital budget is presented to Town Meeting as a lump sum, money may be moved from one item to another as necessary after Town Meeting without further approval from a subsequent Town Meeting. The Town Accountant should notify the Capital Planning Committee of any reallocation of funds within the capital budget from one capital project to another.
- d) If a capital project cannot be acquired for the amount approved at a Town Meeting and the department cannot pay the additional cost out of their current budget (see III. B. 2 c. above) the amount for the capital project may remain in the original approved article, and a request for the project may remain in the original approved article and a request for the additional amount needed may be added to the original approved article and presented to be voted on at a subsequent Town Meeting.
- e) Any unspent monies for capital expenditures that are less than the amount appropriated will be applied in the following fiscal year to another capital project. If these monies are from the unexpended balance of a loan, the Town may appropriate this balance to another capital project. The Town will attempt to insure that the term of borrowing for the new capital project is of equal or shorter duration than the projected life of the project.

**Financing Large Capital Projects (eg. Buildings)**

In cases that a proposed capital project or acquisition is sufficiently costly, a temporary increase (not to exceed 30 years) in the tax levy may be used to fund the project or acquisition. This is a

Capital Outlay Expenditure Exclusion, also referred to as a debt exclusion override. Debt exclusion overrides require:

- A. Approval by the Select Board by two thirds vote, and
- B. Approval by two-thirds vote at Town Meeting, and
- C. Approval by a simple majority of a town vote at the ballot.

When the Town finances purchase of capital assets through borrowing, the term of borrowing shall not exceed the anticipated useful life of the capital asset.

### **The Capital Planning Process**

- A. The Capital Planning Committee (CPC) creates a Capital Plan that consists of all capital requests made by each town department for the next five fiscal years.
- B. The CPC reviews all the capital projects requests as a group.
- C. The CPC meets with each department head to discuss and review each capital project request that department made.
- D. Based on these individual meetings, the CPC prioritizes all the capital project requests for the next fiscal year and presents the prioritized list to the Town Manager.
- E. The Town Manager may modify and/or add to this list of capital projects as part of the proposed budget for the next fiscal year. This budget will be presented at the Annual Town Meeting, amended as necessary to reflect the will of Town Meeting, and voted on.

### **Section 3.03 Free Cash (Amended 09/02/2014; 10/18/2018)**

#### **A. Free Cash, Definition, Process of Establishing**

- 1. Free cash is the remaining, unrestricted funds of operations of the Town's previous fiscal year net after certain revenue deficits (e.g. unpaid property taxes) Free cash is a non-recurring source of revenue. It includes:
  - a) Unexpended Free Cash from the previous year,
  - b) Actual receipts in excess of revenue estimates, and
  - c) Unspent amounts in budget line-items.

B. Provided monies from these three sources are neither encumbered nor reserved, they comprise the Town's undesignated fund balance [UFB] at the end of the previous fiscal year.

- 1. The Town cannot spend monies in the UFB until the MA Dept. of Revenue [DOR] certifies that portion of the UFB is available to be expended by the Town.



2. Certification of the UFB by the DOR involves identifying if the Town has revenue shortfalls from the previous fiscal year, (e.g. unpaid property taxes) or other revenue deficits. If so, the Town should apply money from the UFB equal to the amount of these revenue deficits, or if the revenue deficits exceed the amount of the deficits in revenue from the previous year, the entire amount in the UFB.

3. The portion of the UFB that the DOR certifies becomes Free Cash, which the Town can spend.

**C. Priorities for Applying Free Cash:**

1. The highest priority use of Free Cash should be to increase the balance of the Stabilization Account if necessary to a level of at least five percent of the current fiscal year omnibus budget.
2. The next highest priority use of Free Cash should be to fund an amount equivalent to at least 10% of the previous fiscal year's certified General Fund Free Cash for deposit into the OPEB Trust Fund on an annual basis.
3. The third highest priority use of Free Cash should be to fund an amount for deposit into the Special Purpose Stabilization Account provided the deposit is consistent with all stipulations in the policy on Stabilization funds. The amount is to be calculated each fiscal year during the capital planning process and should be based on the cost of upcoming large capital improvement requests.
4. Any monies that remain in Free Cash may be used to fund one-time expenditures for specific departments and/or special projects at the discretion of the Town Manager, subject to appropriation by Town Meeting.

D. Because Free Cash is non-recurring revenue, it should not be used to fund any personnel, program, or initiative that would require expenditures in subsequent fiscal years.

**Section 3.04 Stabilization and General Reserve Fund (Amended 09/02/2014; 10/11/2018)**

**A. Definition and Purpose:**

1. Stabilization Funds are one or more special reserve accounts allowed by MGL c. 40 §§ 5A, 5B, 5C to provide extraordinary or unforeseen expenditures.

a) Cities and towns may appropriate an amount not to exceed ten percent of the amount raised the preceding fiscal year by taxation of real estate and tangible personal property.

b) The aggregate amount in all Stabilization Funds may not exceed ten percent of the equalized

valuation of the Town.

c) The Town Treasurer shall be the custodian of all such funds and may deposit the proceeds and all interest shall be added to and become part of the fund.

d) General stabilization funds may be for any lawful purpose, including without limitation an approved school project under c. 70B or any other purpose for which the city, town or district may lawfully borrow money.

e) Designated stabilization funds are earmarked to be used for a specific purpose. An example of a designated stabilization fund is the Zoning Incentive Stabilization Fund, established to fund projects specifically benefitting the area around the Tri-Town landing development.

f) Any appropriation of funds out of any such fund(s) shall be approved by a two thirds vote at an Annual or Special Town Meeting.

## **B. Stabilization Fund Policy/Guidelines:**

1. Fund Balances: A minimum balance equal to five percent of the current omnibus budget should be maintained in the aggregate of the general stabilization fund. The Town should maintain a balance in the general stabilization fund of no less than four percent of the prior year's omnibus budget. The total of all funds should not exceed ten percent of the prior years' omnibus budget.

### **2. Withdrawals from the Stabilization Fund:**

a) Withdrawals from the stabilization fund may be appropriated for any lawful purpose.

b) Because funding of stabilization fund(s) may include funds from non-recurring sources (like free cash), withdrawals should only be used to mitigate a non-recurring, extraordinary, catastrophic or emergency event or events that cannot be supported by current general fund appropriations.

c) Withdrawal of funds should be limited when possible to the amount available above the five percent minimum fund balance.

d) Any appropriations from this fund shall require a two thirds vote at an Annual or Special Town Meeting.

### **3. Replenishing the Fund:**

a) When withdrawals from the Stabilization Fund result in a balance that is below the minimum level of five percent of the current omnibus budget, the Town Manager shall develop a detailed plan that will replenish the fund until it reaches at least five percent of the omnibus budget as expeditiously as practicable, ideally a period not to exceed three years.

b) When increases in proposed omnibus budgets result in a balance in the Stabilization Fund(s) that is less than five percent of the proposed omnibus budget level, sufficient money should be allocated in the proposed omnibus budget to increase the stabilization fund(s) balance to at least five percent of the proposed omnibus budget. If this is not possible, the Town Manager shall develop a plan that replenishes the Stabilization Fund balance to a level that is no less than five percent of the proposed budget level as expeditiously as practicable, ideally a period not to exceed three years.

### **C. General Reserve Account (Fund)**

1. MGL c. 40 § 5C, 6 allows towns to establish General Reserve Funds “to provide for extraordinary or unforeseen expenditures”

2. Before the Town expends funds from the General Reserve Fund to pay extraordinary or unforeseen expenses, the Town should employ other funding mechanisms (e.g. budgetary transfers) to pay for those expenses.

3. The Town’s General Reserve Fund balance is currently set at \$50,000 and the level should be set annually as part of the budget review process. The law limits the General Reserve Fund to an amount not to exceed five percent of the Town’s tax levy for the preceding year but the policy of the Town is that it should not exceed one-half of one percent of the current omnibus budget for the Town.

## **Section 3.05 Warrants**

All warrants must be available for review and signature by 5:30 p.m. on the meeting date.

## **Section 3.06 Investment Policy Statement (Updated 11/8/2018)**

### **I. The Investment of General Funds, Special Revenue Funds, Enterprise Funds, and Capital Projects Funds**

#### **A. Scope**

This section of the IPS applies only to short term operating funds such as general funds, special revenue funds, enterprise funds and capital project funds. Section two applies to trust funds, bond proceeds and any other funds with special circumstances such as stabilization funds. A separate Contributory Retirement Board, either local or county, is responsible for the investment of the pension funds.

#### **B. Objectives**

Massachusetts General Laws, Chapter 44, section 55B requires the municipal treasurer to invest all public funds except those required to be kept uninvested for purpose of immediate

distribution. Modern banking systems enable the public treasurer to maintain even these funds in interest bearing form until the date a disbursement order clears through the banking system.

The state law further requires that invested funds are to be placed at the highest possible rate of interest reasonably available, taking into account safety, liquidity and yield. Therefore, these guidelines are intended to further the objective of securing the highest return available that is consistent with safety of principal while meeting the daily cash requirements for the operation of the Town's business.

- **Safety** of principal is the foremost objective of the investment program. Investments will be undertaken in a manner that seeks to ensure the preservation capital through the mitigation of credit risk and interest rate risk. These risks shall be lessened by the diversification and prudent selection of investment instruments, and choice of bank or brokerage house. Credit risk is the risk of loss due to the failure of the security issuer or backer. Interest rate risk is the risk that the market value of the security will fall due to changes in general interest rates.
- **Liquidity** is the next most important objective. The overall investment portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated. Since all possible cash demands cannot be anticipated, the treasurer shall carry out investment activities in a manner that provides for meeting unusual cash demands without the liquidation of investments that could result in forfeiture of accrued interest earnings, and loss of principal in some cases.
- **Yield** is the third, and last, objective. Investments shall be made so as to achieve the best rate of return, taking into account safety and liquidity constraints as well as all legal requirements.

### C. Investment Instruments

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, albeit at a cost to the town of a lower interest rate. The Treasurer negotiates for the highest rates possible, consistent with safety principles.

The Treasurer may invest in the following instruments:

- Massachusetts State pooled fund: **Unlimited amounts** (Pool is liquid)
  - The Massachusetts Municipal Depository Trust (MMDT), an investment pool for state, local, county and other independent governmental authorities, is under the auspices of the State Treasurer. The Trust invests in high quality “2a-7”-like eligible money market instruments of domestic and foreign issuers, U.S. Government securities, and repurchase agreements. Under Government Accounting Standards Board Regulation (GASB III), it is not considered an uncollateralized product.

- U. S. Treasuries that will be held to maturity: **Unlimited amounts** (Up to one year maturity from date of purchase)
- U.S. Agency obligations that will be held to maturity. **Unlimited amounts** (Up to one year maturity from date of purchase)
- Bank accounts or Certificates of Deposit (“CDs”) (Up to one year) which are fully collateralized through a third party agreement: **Unlimited Amounts**
- Bank accounts and CDs (Up to one year) fully insured by F.D.I.C. and in some cases also Depository Insurance Fund of Massachusetts (D.I.F.) or Share Insurance Fund (S.I.F.).  
All bank accounts and C.D.’s in one institution are considered in the aggregate to receive the \$250,000 insurance coverage.
- **Unsecured bank deposits** of any kind such as other checking, savings, money market, or Certificates of Deposit accounts at Banks that do not fit the above categories. These investments will be limited to **No more than 5% of an institution's assets and no more than 25% of the Town’s cash.** Their credit worthiness will be tracked by Veribanc, or other bank reporting systems. They will be diversified as much as possible. As a general rule, CDs will be purchased for no more than three months and will be reviewed frequently. These limits do not apply to fully insured deposits.
- **Repurchase Agreements (“Repos”)**, not to exceed ninety days.

#### **D. Diversification**

Diversification should be interpreted in two ways: in terms of maturity as well as instrument type and issuer. The diversification concept should include prohibition against over concentration of maturities, as well as concentration in a specific institution. With the exception of U.S. Treasuries or agencies, and M.M.D.T., no more than 25% of the Town’s investments should be invested in a single financial institution unless that institution’s investment is fully insured or collateralized, except during periods of increased cash flows but not longer than two months.

#### **E. Authorization**

The Treasurer and Assistant Treasurer have the authority to invest the Town’s funds, subject to the statutes of the Commonwealth cited above.

#### **F. Ethics**

The Treasurer-Collector and Assistant Treasurer, the Commissioners of Trust Funds, and any other officers authorized to invest town funds, shall refrain from any personal activity that may conflict with the proper execution of the investment program or which could impair their ability to make impartial investment decisions. Said individuals shall disclose to the Town Manager

any material financial interest in financial institutions that do business with the town as defined by Conflict of Interest Law. They shall also disclose any personal financial investment positions or loans that could be related to the performance of the town's investments.

### **G. Relationship with Financial Institutions**

Financial institutions shall be selected first and foremost with regard to safety. The Town shall subscribe to and use one or more of the recognized bank rating services, such as Veribanc or Sheshunoff. Brokers shall be licensed, reputable dealers.

The Treasurer shall require any brokerage houses and broker/dealers, wishing to do business with the municipality, to supply the following information to the Treasurer:

-Audited financial statements

-Proof of National Association of Security Dealers certification. Proof of credit worthiness (minimum standards: at least five years in operation and a minimum capital of 10 million dollars)

### **H. Reporting Requirements**

An annual report containing the following information will be prepared by the Treasurer and given to the Town Manager and Finance Director. The report will include the following information, as a minimum requirement:

- A listing of the individual accounts and individual securities held at the end of the reporting period.
- A listing of the short-term investment portfolio by security type and maturity to ensure compliance with the diversification and maturity guidelines established in the "Diversification" section of this investment policy.
- The Treasurer shall include in the report a brief statement of general market and economic conditions and other factors that may affect the Town's cash position.
- The report should demonstrate the degree of compliance with the tenets set forth in the IPS.

## **II. The Investment of Trust Funds and Bond Proceeds**

### **A. Scope**

This section of the policy applies to funds that could be invested long term (i.e.: bond proceeds, trust funds, and stabilization funds.)

### **B. Bond Proceeds**

Investment of Bond proceeds is governed by the same restrictions as general funds, with the additional caveat of federal arbitrage regulations. The investment goals are the same as those for general funds.

### **C. Trust Funds**

The investment of trust funds for library purposes is subject to the directions of the Board of Library Trustees. Unless otherwise directed by the terms of the trust instrument, all other trust funds are under the jurisdiction of the Commissioners of Trust Funds. The investment goals are long-term preservation of capital and delimited liquidity.

Trust Funds may be co-mingled and invested according to the prudent investor rule set forth in Chapter 203C of the General Laws. Each trust fund must be accounted for separately as to its unexpendable principal (if any), its expendable balance and its income.

### **D. Stabilization Funds**

This paragraph shall apply to all general and special purpose stabilization funds of the Town. The total of all Stabilization Funds shall not exceed ten percent of the equalized valuation of the Town, and any interest shall be added to and become part of the fund. The treasurer may invest the fund according to the prudent investor rule set forth in Chapter 203C of the General Laws.

Stabilization Funds can be expended only upon a two-thirds vote of Town Meeting. Therefore, the investment goals are mid-term preservation of capital with foreseeable liquidity horizons.

### **E. Other Post-Employment Benefits Liability Trust Fund**

The OPEB Trust Fund was established by vote of Town Meeting on November 30, 2010 in accordance with section 20 of Chapter 32B of the General Laws. The Trust Fund shall be invested and reinvested by the Treasurer consistent with the prudent investor rule set forth in Chapter 203C of the General Laws.

The OPEB Trust Fund is intended to ensure the long-term availability of funding of benefits. Current benefit expenditures are not paid from the Fund. Therefore, the investment goals are long-term preservation and appreciation of capital.

## **Section 3.07 OPEB FUNDING POLICY (Approved 01/02/18)**

### **I. Statement of policy:**

The purpose of this policy is to establish guidelines for management of the impact of the Town's Other Post-Employment Benefits liability on the overall budget and credit rating within the context of town's long term obligations to its retirees. The Town's Other Post-Employment Benefits Trust Fund was established in November of 2010 with the acceptance of Chapter 32B, Section 20 of the Massachusetts General Laws, which requires segregation of these funds for this actuarial liability

### **II. Definitions:**

"OPEB": Other Post-Employment Benefits that an employee will receive at the start of retirement. This does not include pension benefits paid to the retired employee but does include medical, dental, vision, life insurance, disability insurance and any other OPEB benefits, whether optional or mandatory, in effect now or to be in effect in the future, at the time of retirement.

"OPEB Trust Fund": Fund established by town meeting vote, separate and apart from the general revenues of the Town, to pay the Town's liability for payment of premiums and/or related expenses in connection with medical and other benefits for its employees after retirement.

### **III. Guidelines:**

- A. The OPEB Trust Fund may be supported by transfers from multiple funding sources, including taxation, enterprise fund revenue and/or Free Cash. At minimum, the Town will request an amount equivalent to at least 10% of certified General Fund Free Cash at town meeting for deposit into the OPEB Trust Fund on an annual basis. In addition, funding will be designated from the individual enterprise funds to offset the funds' overall share of assigned liabilities as determined by the most recent actuarial study. All interest proceeds generated by the accumulated deposits shall accrue to the Trust Fund.
- B. The custodian of the OPEB Trust Fund is the Town Treasurer. The investment goals are long term preservation and appreciation of capital. Transfers into and withdrawals out of the OPEB Trust Fund require a town meeting vote, upon recommendation by the Town Manager.
- C. Current retiree health benefit obligations will be funded on as a pay as you go basis and are not to be paid from the OPEB Trust Fund.



### **Section 3.08 Tax Title Policy and Procedure (Adopted 05/15/2018)**

#### **Purpose**

This policy and procedure will define how the Town of Lunenburg will transition unpaid real estate taxes into the tax title status. The creation of a tax title has proven to be the most effective remedy for enforcement of the collection of taxes on real property. The foreclosure process is an effective payment enforcement tool available to the Town. The Treasurer/Collector can induce a delinquent taxpayer to redeem a tax title by paying the necessary tax and charges or to forfeit title to the property by action of the Land Court.

#### **Time of Taking**

The Treasurer/Collector will process the initial tax taking for each levy year the following fiscal year. The Town has the option of initiating the process as early as 14 days after the demand has been issued, but must complete the taking within 3 years and 6 months from the end of the fiscal year for which the taxes were assessed under Mass General Law Chapter 60 Section 37.

#### **Collection Efforts Prior to Taking**

The Town issues a demand 14 days after the fourth quarter due date each fiscal year. The demand notice is sent out to property owners during the middle of May or before the end of the fiscal year.

#### **Procedure for Tax Taking**

Courtesy letters will be sent out by the Treasurer/Collector to property owners and to the subsequent owner know, reminding them of the previous year's unpaid taxes and informing them that if the taxes remain unpaid that the tax title process will take place.

Before moving forward with preparing for the tax taking, the Treasurer/Collector's office confirms that a demand notice has been issued to the property owner at least 14 days before preparing the Notice of Taking. The Town will begin the tax taking process no later than six months after the demand has been sent, allowing taxpayers a greater amount of time to satisfy the tax obligation.

The Treasurer/Collector will prepare a Notice of Tax Advertising for each parcel. The Notice of Tax Advertising includes the names of all owners known, property location, bill number, parcel number, and book/page. If the owner of the parcel as shown by the Assessor's records at the time of the taking is different from the owner who was assessed for the delinquent taxes, the name of that subsequent owner should be included in the notice of intent to take. This communication makes the property owner aware of when the legal notice of parcels with outstanding taxes for the levy year approaching tax title will be published in the local newspaper. The letter also lists the total amount due and the acceptable forms of payment.

At least 14 days before the tax taking, the Notice of Tax Advertising will be published in a local newspaper and two or more convenient and public places. The two legal posting locations will

be the Town Hall and the Library. As a courtesy and convenience to residents, the Treasurer/Collector will post on the town website and Powell Stone & Gravel.

During the 14 day notice period, partial payments cannot be accepted. Any payments made in full must be made by either: cash, certified check or bank check during the notice period.

At the designated time and place, the Treasurer/Collector announces that he/she takes the property for the Town.

After the taking announcement, an Instrument of Taking is prepared for each parcel. The Instrument must be recorded at the Registry of Deeds within 60 days of the date of taking. The date of the Instrument of Taking should be the date of the actual taking, not the date in which the form is being prepared or recorded. Land identified with a certificate title or document number, rather than a book and page, is registered land and must be recorded in the land court section of the Registry of Deeds.

The Treasurer/Collector will prepare a list of Recorded Takings. A listing of all individuals in tax title status will be provided to all Departments, Boards and Committees which issue licenses or permits pursuant to Massachusetts General Laws (hereinafter "MGL") Chapter 40, Section 57 and the Town Bylaws. The Departments, Boards and Committees shall review the list and implement provisions of the above referenced statute and by-law against any delinquent taxpayers to whom they have issued or are in the process of issuing a license or permit. A copy is provided to the Town Accountant and a copy is filed in the office.

### **Additional Fees and Interest on Tax Title Account**

The tax title obligation will include the original tax, interest accrued to the date of taking, legal fees, advertising fees, certified mailing costs and the fee amount to record the Instrument of Taking.

### **Payment Plans**

The Treasurer/Collector will consider payment plans only after a tax taking lien has been recorded. The lien that is recorded protects the Town's interest and allows the Town at some future time to collect the taxes owed or take ownership of the property. Under other circumstances, the Town can ask the Town's attorney to assist in communicating with the taxpayer to arrange the details of the payment plan. All payment plans require a good faith payment of 25% of taxes owed as well as a commitment to keep the current year's taxes up to date. In collaboration with the taxpayer, a monthly payment amount will then be determined. The goal of payment plans is to assist the tax payer to become current on taxes owed. The monthly amount needs to be an amount that the taxpayer can afford. It should not be set at such a level where the payment plan is doomed to fail.

If the party that has the payment plan with the Town defaults on the terms of the payment plan the Town will begin the foreclosure or tax lien sale process.

### **Certification of Subsequent Tax Takings:**

No later than six months after the demand has been sent, the Treasurer/Collector will certify all unpaid taxes and assessments for parcels of real estate taken into tax title for nonpayment of taxes in prior year(s) and not redeemed 14 days after the demand was issued.

The Treasurer/Collector prepares a list of Subsequent Tax Takings. A copy is provided to the Town Accountant and a copy is filed in the office.

### **Payment of Tax Title Obligation**

Upon payment of the amount outstanding on a tax title property, the Treasurer/Collector will prepare a Certificate of Redemption and will be provided to the homeowner or whoever requested it. This should be filed with the Registry of Deeds by the property owner or requestor and removes the lien that was originally placed on the property. Payment of the tax title obligation can only be redeemed until one year after a petition to foreclose has been filed in the Land Court. (MGL Chapter 60, Section 69A)

### **Foreclosure Proceedings**

The Treasurer/Collector will work with the law offices of the Town's attorney to prepare the parcels that went into tax title status for foreclosure. A copy of each Instrument of Taking is provided to the attorney for review and research.

The law offices of the Town's tax title attorney will mail letters to all the delinquent taxpayers and present owners of properties that were placed in tax title informing them of the importance of redeeming the property and that the next step of the process is to begin foreclosure proceedings if the obligation remains unpaid. The payment amount changes on a daily basis and an exact amount should be obtained before coming to Town Hall.

When the Land Court issues a Final Judgement/Foreclosure Decree, the tax title attorney will record this at the Registry of Deeds. The Tax Title Attorney will then provide a copy of the Decree to the Treasurer, who will also provide a copy to the Town Accountant and Assessor's Office.

Prior to auctioning the property after the one year Petition for Redemption, the Treasurer/Collector will notify all Departments, Boards, and Committees that may have an interest in retaining the parcel for town use.

## **3.09 Tailings Policy (Adopted May 2, 2022)**

### **I. Purpose:**

To minimize the liability posed by uncashed checks and the associated negative impact on cash position certainty, this policy sets guidelines for the timely resolution of tailings.

## **II. Applicability:**

This policy applies to the Treasurer/Collector, Finance Director/Town Accountant, or their designees.

## **III. Policy:**

The town's policy is to identify and research all uncashed checks (tailings) as a part of the timely reconciliation of all bank accounts. All checks that are not cashed within 90 days of the date of issuance will be investigated. Checks that are not cashed after 180 days will be reported to the Finance Director/Town Accountant as uncashed so the General Ledger can be adjusted to increase cash and to record a corresponding liability.

A listing of all uncashed checks shall be published once a year consistent with Massachusetts General Law. Checks not claimed must be reported by the Treasurer to the Finance Director/Town Accountant so that revenue can be increased and the liability can be eliminated.

## **IV. Procedures:**

- All town bank accounts shall be reconciled each month; uncashed checks (tailings) will be identified and investigated as part of this process.
- The Treasurer/Collector shall identify all checks that have not cleared the bank account, and shall record on a spreadsheet a listing of uncashed checks, the date of issuance, and amount of check, name and address of check recipient.
- The Treasurer/Collector shall investigate the uncashed check by reviewing the check register run on the date of disbursement of checks on the weekly accounts payable warrant. The uncashed payroll checks shall be checked by reviewing the payroll vendor's check disbursement report.
- The Treasurer/Collector's Office shall send a notice of the uncashed check and the amount to the recipient at their last known address and retain evidence of this mailing.
- If the check has not been cashed 180 days after the date of issuance, the Treasurer/Collector, consistent with Massachusetts General Law, shall submit a List of Uncashed Checks to the Finance Director/Town Accountant so that cash can be adjusted and the liability of the tailings/abandoned property can be recorded on the General Ledger.
- The Treasurer/Collector shall publish the List of Uncashed Checks consistent with state law.
- The Assistant Treasurer shall prepare a List of Abandoned Property/Uncashed Checks for all checks that are not claimed after the public advertisement and submit it to the Treasurer/Collector for approval.
- After signing the document, the Treasurer shall submit the List of Abandoned Property/Uncashed Checks to the Finance Director/Town Accountant. The Finance Director/Town Accountant will increase the revenue of the Town on the General Ledger and eliminate the liability.

## **V. References:**

This policy is allowed through the town's acceptance of M.G.L. c. 200A § 9A, which occurred at the Special Town Meeting on November 20, 2010.

## **VI. Adoption by the Select Board:**

This policy was revised by a vote of the Select Board on May 3, 2022. Article IV.

### **3.10 AMBULANCE BILLING COLLECTION PROCEDURE (Adopted June 14, 2022)**

#### **PURPOSE:**

The purpose of this procedure is to establish a uniformed process for addressing aging ambulance billing receivables and hardship requests on ambulance billings.

#### **BACKGROUND:**

The Town of Lunenburg contracts with an outside billing company to administer the billing and collections for ambulance service provided by the Town through its Fire Department.

The Town of Lunenburg, as part of an agreement with the outside billing company, requires a standard method of pursuing collections to ensure payment is secured that is owed to the Town, under prices set by the Town and allowable under federal or state medical reimbursement expenses. In order to achieve these goals, the Town may hire a credit and collection company or alternative means to pursue delinquent accounts.

#### **PROCEDURES:**

### **A. WRITE-OFF OF UNCOLLECTIBLE AMBULANCE RECEIVABLES**

1. The Town of Lunenburg shall receive and review a monthly balance of accounts, including all aging and current accounts, prepared by the outside billing company. Said monthly statement shall be reconciled by the Town and outstanding balances and receipts received shall be confirmed. The Town and outside billing company will determine whether or not the billing company has the correct mailing address for the outstanding accounts and the correct insurance information. Any differences must be immediately resolved and corrected between the Town and the outside billing company.
2. The Town of Lunenburg shall meet/review with the outside billing company on a quarterly basis to discuss aging receivables that have shown no activity within the prior 180 days to review the processes utilized by the billing company to pursue said collection on accounts. Said methods of collections that are considered to be a fair and reasonable effort at collection are:
  - a. Correspondence to the insurance company, if the patient was insured, or to the patient directly, if uninsured;

- b. Facsimile transmissions to the patient or their insurance company.
3. The Town of Lunenburg after receiving proof that items 1 and 2 have been met and collection has not been successful, may authorize the billing company to write-off these receivables as uncollectible accounts. Said determination does not constitute a forgiveness of the debt and it is still payable by the debtor.

The Town of Lunenburg authorizes the billing company to turnover to the Town's designated collection agency the write-offs for further collection activity. This turnover will exclude residual balances after MassHealth, Medicare payments where no secondary insurance has been identified and/or those serviced that are found to qualify as "proven to be living under 200% Federal Poverty."

4. The Collection Agency will remit their collection activities to the Town's billing company on a monthly basis for deposit to the Town's bank account. The Collection Agency shall report said collections to the Town separately from the Town's billing company.
5. The Collection Agency shall report to the Town on a semi-annual basis a synopsis of their collection efforts and recommendations for further write-offs as bad debt.

The Town of Lunenburg shall review the recommendations, and make a final determination if any of the accounts should be written off as bad debts. Said determination is to be based upon the inability of the collection agency, the billing company, or any agents they or the Town may use, to locate or obtain direct contact to the patient, either by a registered receipt letter or some other means. Upon the preparation of said final list of determination, this shall be forwarded to the Town Manager. Upon approval, that said final list will be deemed uncollectible and removed from collection and forwarded to the Town Accountant.

## **B. HARDSHIP REQUESTS**

1. Requests for waiver of a portion or all of an ambulance bill shall be submitted by the patient to the outside billing company for review and determination of financial conditions of the patient and ability to pay. The request may be required to be submitted upon approved forms supplied by the outside billing company and may require documentation, such as hospital free care confirmation, a signed copy of the income tax return for the prior year, a letter from a third party such as a social worker, or a letter from the patient himself attesting to such hardship that has been signed under the pains and penalties of perjury.
2. The outside billing company will review all requests for waivers based upon financial hardship and shall issue a recommendation based on the Mass. HUD income guidelines whether a waiver should be granted by the Town of Lunenburg. The Town will make the final determination.

3. Amounts due of \$50.00 or less to which patient returns the bill proving hardship with supporting documentation will be written off.
4. The Fire Chief will have the authority to recommend if a waiver shall be granted where the balance is \$250.00 or less and the Town Manager shall have the authority to determine if the waiver shall be granted. They will report the approval to the Town Accountant.
5. For balances in excess of \$250.00, the Town of Lunenburg through the Town Manager shall review the decision of the outside billing company for each requested financial hardship waiver. Unless mitigating information is presented or obtained that would require a new review of the request, the Town Manager shall confirm the decision of the outside billing company relative to the requested financial hardship waivers.
6. The Town of Lunenburg shall notify the outside billing company of the decision of the Town relative to their action on the requested financial hardship waivers within ten (10) days of the decision and it shall be so documented in the accounts receivable issued by the outside billing company.

All information received as a result of this policy, including patient name and address and financial information, may not be a public record and is subject to compliance with federal, state and local laws relative to medical, personal and financial information for purposes of records retention and public records access.

## **Regulatory**

### **Section 4.01 Liquor Licenses**

In issuing the regulations, the License Commission is setting forth the expectations of the citizens of Lunenburg as to the conduct of the Town's liquor license holders. A significant objective of the regulations is the prevention of violations. In familiarizing themselves with these regulations, license holders will realize that much is expected of them. The License Commission believes that violations will be prevented because these regulations will at last require license holders to operate in accordance with a clearly defined, higher standard.

#### **1. Identification of the Town of Lunenburg Licensing Authority**

- a. The Licensing Authority for the Town of Lunenburg shall consist of the Select Board.

#### **2. Scope of and Statutory Basis for Promulgation of Rules**

- a. The statutory basis for the promulgation of these rules is set forth within the applicable sections of G.L. c. 138. Each reference to a statute shall include any amendment thereto.
- b. These rules are supplementary to any statutory requirements and to the rules of the Alcoholic Beverages Control Commission.

#### **3. Definitions**

- a. Whenever the word **“Licensee”** is used herein it shall mean an individual licensee and each member of a partnership licensee and each officer, director, manager and stockholder of a corporate licensee and any agent of a licensee including those employees who work in the public areas of the premises.
- b. Whenever the word **“License”** is used herein it shall mean a revocable privilege granted by the licensing authority.
- c. Whenever the word **“Licensing Authority”** or **“Authority”** are used herein it shall mean those groups having legal authority to grant licenses and/or regulate the operation of the licensed premises. The specific licensing authority for the Town of Lunenburg shall be the Select Board.
- d. Whenever the word **“Patron”** is used herein it shall mean a customer who is legally on the licensed premises.
- e. Whenever the word **“Premises”** is used herein it shall mean all land and buildings associated with the operation of the license.
- f. Whenever the phrase **“Rules and Regulations”** is used herein it shall mean a compilation of regulations, ordinances and laws set up by a licensing authority to regulate the manner in which businesses under its authority shall operate.

## **SECTION ONE: GENERAL LICENSING RULES FOR LICENSEES**

### **1.0 Applicability of Rules and Regulations**

- a. This section shall apply to all Town licensees, unless specifically provided otherwise.

#### **1.01 Availability of Rules and Regulations**

- a. All licensees of the Licensing Authority for the Town shall ensure that a copy of the Rules and Regulations of the Authority is kept on the premises at all times and is available for inspection upon request by a member of the public or an agent of the Authority.
- b. The licensee is responsible for ensuring that all employees who work in the public areas of the premises read the Rules and Regulations of the Licensing Authority and comply with all rules and laws.

#### **1.02 Posting and Signs**

- a. Licenses issued by the Authority shall be posted in a conspicuous place easily seen by the public where they can be read without difficulty and without the assistance of employees at the premises.
- b. All other licenses, permits and certificates affecting the licensed premises shall be posted conspicuously; provided, however, that no such document shall be posted in such a way as to cover over any part of the license issued by the Authority.



- c. No dress code or preferred customer program or cover charge or other admissions policy shall be put into effect at the premises except upon proper posting pursuant to section 1.03 (“Admissions”) below.

### **1.03 Admissions to the Premises**

- a. No licensee shall permit any rule, policy or action, express or implied, which makes any distinction, discrimination, or restriction on account of race, color, religious creed, national origin, sexual orientation, or ancestry, physical or mental disability, relative to the admission or treatment of persons from the general public or employees at the licensed premises; provided however, that premises licensed pursuant to section 12 of the General Laws, Chapter 138, may make rules regulating the admission of minors to the premises when such rules are not inconsistent with other rules and regulations stated herein; provided further that private club licensees shall not discriminate, as aforesaid, with regard to guests at the licensed premises or with regard to who may be invited to the premises as guests.
- b. No licensee shall institute dress requirements of any kind except according to the following rules:
  - 1. A sign shall be posted at the entrance stating dress requirements or dress restrictions with specificity that may also include restrictions to footwear. (Examples: “Jackets required”, “Ties and jackets required”, “Shirts with collars required, no sneakers”).
  - 2. No signs shall be posted which state that, “Proper dress required” or which otherwise announce a dress policy without stating specifically, item by item, what dress is required or what dress is prohibited.
- c. No licensee shall institute privileged entrance requirements of any kind except according to the following rules.
  - 1. A licensee may issue special passes.
  - 2. The special passes shall state the calendar year on the face of the pass.
  - 3. The special pass shall not entitle the pass holder to free drinks or to a discount on drinks.
  - 4. The licensee shall keep a list of the names and addresses of all pass holders and must have such a list available if requested by the Authority.
  - 5. The licensee is responsible for ensuring that persons are picked to be pass holders on a rational basis and not on any basis that is discriminatory in violation of law or these regulations.
- d. No licensee shall require any person to pay a minimum charge or cover charge unless a sign is conspicuously posted at every entrance to any dining room or rooms where such charge is required, in letters no less than one inch in height, stating that a minimum charge or cover

charge shall be charged and also stating the amount of the charge; provided however, that no such licensee shall require a person under thirteen years of age to pay a minimum charge or cover charge. Such cover charge shall not be collected in advance of gaining entrance to the licensed premises and can only be charged upon written or printed receipt, permanently recorded and numbered serially, presented to each individual customer or group of customers. Records of such receipts shall be kept by the licensee for a period of not less than two years. Cover charge shall mean all admission fees or admission charges. Such charges must also be posted on the outside of the licensed premises. Nothing in this regulation shall be construed to prohibit advance ticket sales.

- e. No minimum charge for the purpose of alcoholic beverages or minimum alcoholic beverage drinking requirements shall be imposed upon any customer of a G.L. c. 138 § 12 licensee.
- f. A licensee who charges a minimum charge for the purchase of food and/or nonalcoholic beverages shall include a specific statement in a posting stating that there is no minimum charge for alcoholic beverages. Such minimum charge, for food and/or non-alcoholic beverages shall not be collected in advance of gaining entrance to the premises. No licensee shall impose a minimum charge for food and/or non-alcoholic beverages upon any customer who incurs charges for alcoholic beverages equal to, or greater than, the posted minimum charge for food and/or non-alcoholic beverages.
- g. Licensees shall refuse entrance to the premises to a person who appears to be intoxicated or unruly; and shall evict such a patron, except that in such a case the licensee should call the police and should offer assistance to an intoxicated person when possible.
- h. Licensees shall not permit entrance to the premises by more persons than the maximum occupancy limit established by the Building Department and stated on their Certificate of Occupancy
- i. Licensees who permit persons to wait in line for a table or a seat or for entrance to the premises shall obey the following rules:
  - 1. Persons who wait inside the premises shall be kept in an orderly line and must not be permitted to block fire aisles or exits. The number of such persons waiting inside the premises shall not exceed the number of persons allowed as standees.
  - 2. Persons who are permitted to wait in line outside the premises shall be supervised by an employee of the licensed premises. Such employees shall stand outside with the line during all times when the line exceeds ten persons and shall announce no further admissions to the premises if persons in the line are being loud and disorderly or if the line is blocking the sidewalk or is of a size that could reasonably be expected to cause noise or other problems for residents of the area or for passersby. To the extent that lines in front of a licensed premises become the subject of public complaints the licensee shall have been deemed to be inviting a public nuisance and shall be subject to disciplinary proceedings for same. It is recommended that licensees in residential areas discourage lines of more than ten persons.

- j. Licensees shall not lock the front door of the premises until the last patron has exited from the premises.
- k. Licensees shall not allow any patron or any guest or any employee who is not working that shift to enter the premises after the closing hour posted on the license or prior to the opening hour posted on the license.
- l. M.G.L. Chapter 138 §12 club license holder will be considered in violation of these regulations for having an “open door” policy or serving non-members. The License Commission Regulations allow the following:

Clubs may serve alcoholic beverages only to members of the Club. However, one (1) guest of a member may be served alcoholic beverages after he/she has been introduced by the member as a guest. This introduction will be in the form of a guest book noting the member’s name, guest’s name, date and time of introduction. Should the member at any time leave the premises the guest may no longer be served and the guest must vacate the premises. The guest book must be available at all times for inspection by the License Commission and/or its agents.

#### **1.04 Hours of Operation**

- a. The hours of operation shall be restricted to those set by the Licensing Authority and stated on the face of the license. No patrons shall be on the premises before the official opening hours or after the official closing hours. Last call is a minimum of thirty (30) minutes prior to closing time. Customers must be up and out once the closing hour of the licensed premises has been reached. No drinks shall be consumed after closing hours.
- b. The rules for employees on premises after closing hours are as follows: owners and employees must be off the premises no later than sixty (60) minutes after the official closing hour, provided however, that such owners and employees or other hired personnel may be on the premises at any time for the purpose of cleaning, making emergency repairs, providing security for the premises, or preparing food for the next day’s business or opening or closing the business in an orderly manner.
- c. Licensees shall ensure that their patrons leave the premises in an orderly manner. Licensees who have a clientele that regularly fails to leave the area in a quiet and orderly manner should hire security personnel to police the leave-taking of the patrons at closing time.

#### **1.05 Physical Premises**

- a. The licensed premises shall conform to the floor plan approved by the Authority with regard to the structures and the walls at the premises, as well as with regard to all tables, chairs, booths, bars, counters, bar stools, dance floors or areas, railing partitions, and other barriers at the premises. Any change in the floor plan or any renovations of any kind shall not be made without notification to the Authority, approval of the Authority and approval by the Alcoholic Beverages Control Commission. This includes substantial changes in the arrangement of moveable furniture.
- b. No licensee shall have two occupancies listed on their Certificate of Occupancy (i.e. one occupancy with tables and chairs and one occupancy without tables and chairs). The licensed

premises shall conform to the floor plans approved by the Authority as stated above in Section A.

- c. All premises covered by the license shall be kept in a clean and sanitary condition.
- d. No outside area shall be used as a gathering place for patrons unless approved by the Authority. Any extension of premises for outdoor patio seating must be approved by the Authority and the Alcoholic Beverages Control Commission and must conform to the guidelines established by the Alcoholic Beverages Control Commission.
- e. The premises shall be lighted in all public areas in a manner sufficient for the safety of the patrons and in a manner sufficient for the agents of the Authority to make observations at the premises without the need to identify themselves or the need to seek assistance.
- f. The capacity set for the premises by the Building Commissioner shall be the maximum potential capacity for the premises.
- g. Licensees shall not invite the members of the public to private areas of the premises which are approved by the Authority for storage or for an office or for a kitchen or for a music or video projection room or for any similar non-public use. Only owners and employees of the licensed premises shall be in these areas.
- h. No advertising matter, screen, curtain or other obstruction which in the opinion of the License Authority, Liquor Officer or its Agents, prevents a clear view of the interior of the premises shall be maintained in or on any window or door thereof after the Authority has ordered the removal of such obstruction.
- i. The interior of the premises shall be sufficiently lighted at all times and all exits shall be properly designated by lighted "Exit" signs, as same may be mandated by the Building Commissioner or by the Fire Department. A copy of the Certificate of Occupancy signed by the Building Commissioner and Fire Department shall be posted in a visible location at all times.

#### **1.06 Business Arrangements of Licensees**

- a. Person or entities obtaining or renewing a license shall demonstrate proof of a legal right to the licensed premises for term of the license. Such proof shall include ownership papers or a tenancy document or a management contract; provided, however, that all parties to such ownership or leasehold interest or management contract shall be known to the Authority and the terms of such agreements or contracts shall be made known to the Authority.
- b. No licensee shall hire any employee or contract for goods or services in any name other than that of the licensee, nor shall the licensee pay for any such employment, goods, or services by any means other than its own cash or bank accounts in its own name. Cash transactions shall be recorded in a manner suitable for review by the Authority. Such records shall be kept for a period of three years.

- c. No licensee shall permit any person to have a direct or indirect financial or beneficial interest in the licensed business or to receive any revenue from the business or to manage the premises other than the persons properly approved of by the Authority and the salaried employees of such persons.
- d. No licensee shall permit any person to work at the licensed premises or to hold themselves out as a person in a position of authority at the premises except for those persons who are owners and officers or who are salaried employees for whom payroll records are available. No licensee shall pay an employee any percentage of the profits of the business or pay an employee in any manner other than by salary or hourly rate except upon approval of the Authority.
- e. No licensee shall pay a landlord or creditor of any kind a percentage of the profits of the business except upon complete disclosure to the Authority and the receipt of the Authority's approval.
- f. No licensee shall lease out any part of the business without the approval of the Authority. No licensee shall lease out the food or beverage service without the approval of the Authority.
- g. No licensee shall enter into an agreement with an independent contractor to provide beverages or food or entertainment or management at the premises without the approval of the Authority.
- h. No licensee shall pledge the stock in the licensed business or the license itself without the approval of the Authority pursuant to M.G.L. Chapter 138 §15A. No licensee shall pledge a license without obtaining the approval of the Authority pursuant to M.G.L. Chapter 138, §15A. The approval of a pledge does not give the pledgee the authority to operate the business.
- i. No licensee shall take a loan secured by any direct or indirect interest in the licensed business without the approval of the Authority.
- j. No licensee shall contract bills for its licensed premises under any corporation or trade name other than that under which it is licensed.
- k. The Manager in a licensed premises shall not be changed until the Authority and the Alcoholic Beverages Control Commission have approved such change.
- l. Any licensee intending to close its place of business shall notify the Authority in writing and obtain permission before such closing. The request shall state the reason for such closing and identify the length of the closing.
- m. Assignment of the stock of corporate licensees for purposes of collateralizing loans or notes, etc., gives no right to the assignee to conduct the business of the licensee. Licensees shall immediately notify the Authority when the assignee forecloses under such assignment of stock or when other proceedings are brought which affect the economic and financial rights and abilities of the licensee.

- n. Licensees shall enter into no agreement or understanding which sets a minimum requirement for gross sales of food and beverages at the premises.
- o. Licensees shall not use any trade name, assumed name, or abbreviated name in connection with the licensed business unless the same appears on the license certificate issued by the Authority or unless written permission is first obtained from the Authority. The use of any unauthorized name on the books, records, stationary or interior or exterior of the licensed premises or for advertising purposes or telephone listing is prohibited unless permission is first obtained from the Authority.
- p. Licensees are responsible for maintaining a legal right to access to, and control of, the premises which is covered by the license. Failure to have a legal right to the named licensed premises shall result in the revocation or non-renewal of the license.
- q. Licenses for automatic amusement devices shall be granted only to the licensee on whose premises the machine is to be operated, and not to the distributor and/or vendor. It is, therefore, the responsibility of the licensee to apply for, and obtain, such license and not to accept any delivery of a machine that has not been licensed. If the License Commission determines that there is an unlicensed amusement device on a premises it shall constitute cause to suspend or revoke the license for any other such machine that may be on said premises. It shall also be cause for a hearing to show cause why the establishment's liquor license should not be subject to discipline.

Acceptance of an unlicensed machine from a distributor and/or vendor is the licensee's responsibility, and every licensee must be certain to apply for and receive a license before accepting delivery of a machine.

- r. Annually, at the time of the license renewal, the licensee shall submit to the License Commission a listing of the names and addresses of all its directors, officers and employees as of January first. Each licensee shall also maintain a current list during the year, which shall be available for inspection on the premises at all times.

### **1.07 Alcoholic Beverage Sales and Laws**

- a. No alcoholic beverages shall be sold for less than the actual cost of the beverage to the licensee. An admission charge shall not be credited towards the purchase price of any alcoholic beverage.
- b. All licensees shall maintain a schedule of the prices charged for all drinks to be served and drunk on the licensed premises or in any room or part thereof. Such prices shall be effective for not less than one calendar week.
- c. No licensee or employee or agent or a licensee shall:
  - 1. offer or deliver any free drinks to any person or group of persons;
  - 2. deliver more than two drinks to one person at one time;

3. sell, offer to sell or deliver to any person or group of persons any drinks at a price less than the price regularly charged for such drinks during the same calendar week, except at private functions not open to the general public;
  4. sell, offer to sell, or deliver to any person an unlimited number of drinks during a set period of time for a fixed price, except at private functions not open to the general public;
  5. sell, offer to sell, or deliver drinks to any person or group of persons on any one day at prices less than those charged to the general public on that day, except at private functions not open to the public;
  6. sell, offer to sell, or deliver malt beverages or mixed drinks by the pitcher except to two or more persons at any one time; increase the volume of alcoholic beverages contained in a drink without increasing proportionately the price regularly charged for such drink during the same calendar week;
  7. encourage or permit, on the licensed premises, any game or contest which involves drinking or the award of drinks as prizes;
  8. advertise or promote in any way, whether within or without the licensed premises, any of the practices prohibited under this section.
- d. Nothing contained in the preceding section shall be construed to prohibit licensees from offering free food or entertainment at any time; or to prohibit licensees from including a drink as part of a meal package; or to prohibit the sale or delivery of wine by the bottle or carafe when sold with meals or to more than one persons; or to prohibit those licensed under Chapter 138, § 15, from offering free wine tastings; or to prohibit those licensed under MGL Chapter 38, § 12 from offering room services to registered guests.
  - e. Licensees shall not permit alcoholic beverages to be brought on the licensed premises by patrons or employees.
  - f. Licensees shall be responsible for ensuring that minors are not served alcoholic beverages and are not drinking alcoholic beverages on the licensed premises, whether served to them by an employee or handed to them by another patron. Licensees who do not have the ability to keep track of the drinking activity of minors at the premises shall exclude minors from coming onto the premises in order to meet the burden of ensuring that there is no underage drinking at the premises. Sufficient security personnel shall be employed to monitor the premises to ensure that patrons do not pass alcoholic beverages to minors.
  - g. Any establishment licensed to sell alcoholic beverages to be drunk on the premises shall post a copy of the penalties for driving under the influence set forth in Section 24 of General Laws Chapter 90. Establishments licensed to sell alcoholic beverages not to be drunk on the premises shall post a copy of the penalties for operating a motor vehicle while drinking from

an open container. Said copies shall be posted conspicuously in said establishments. Said copies are available at the Alcoholic Beverages Control Commission.

- h. Food service shall be available in all areas of the licensed premises where alcoholic beverages are served, this to include dining areas and lounge areas. This does not include any area approved as a waiting area by the Licensing Authority.

#### **1.08 Environs of Licensed Premises**

- a. It shall be the obligation of licensees to ensure that a high degree of supervision is exercised over the conduct of the licensed establishment at all times. Each licensee shall be accountable for all violations that are related to the licensed premises to determine whether or not the licensee acted properly in the given circumstances.
- b. No licensee may have upon the premises any automatic amusement machine unless same has been approved and separately licensed by the Town of Lunenburg. Types of machines and location of machines on the premises must be approved. The Licensee shall make application, not the distributor.
- c. Licensees shall act reasonably and diligently to disperse loiterers or patrons who attempt to congregate in front of or at the licensed premises. Failure of the licensee to keep persons from congregating at the licensed premises may lead to disciplinary action against the licensee for allowing a public nuisance. Action to be taken by the licensee shall include: (1) maintaining the front door in a closed position; (2) asking loiterers to disperse; (3) promptly notifying the police if loiterers refuse to disperse; (4) hiring a security guard or stationing a security employee at the front door to disperse loiterers; (5) refusing to allow patrons to walk in and out of the premises at short intervals; (6) maintaining order in lines of patrons waiting outside to get in; (7) announcing that no further patrons will be allowed into the premises if lines become too long or disorderly or loud.
- d. Licensees shall take such steps as are necessary to ensure that patrons or employees do not leave the premises with alcoholic beverages. Such steps shall include: (1) having an employee stationed at the door to watch patrons as they leave; (2) refusing to serve beer in bottles; (3) refusing to serve alcoholic beverages in disposable cups. When patrons are observed leaving the premises with beer bottles, beer cans, or cups or glasses filled with liquids that smell like alcoholic beverages to the Authority's agents, it shall be presumed that the vessels contain alcoholic beverages.
- e. When any noise, disturbance, misconduct, disorder, act or activity occurs in the licensed premises, or in the area in front of or adjacent to the licensed premises, or in any parking lot provided by the licensee for the use of its patrons, which in the judgment of the Authority adversely affects the protection, health, welfare, safety or repose of the residents of the area in which the licensed premises are located, or results in the licensed premises becoming the focal point for police attention, the licensee shall be held in violation of the license and subject to proceedings for suspension, revocation or modification of the license.



- f. At all times the public areas of the licensed premises must be continuously illuminated to the degree of not less than one foot candle (measured 30 inches from the floor) except those portions of the room under furniture.
- g. No physical additions, alterations or renovations shall be made unless a plan is submitted and approved by the Authority and the Alcoholic Beverages Control Commission.
- h. No licensee shall keep for sale, store or sell alcoholic beverages in any part of the premises not specified on this license.
- i. Except for package stores, all alcoholic beverages sold must be opened and consumed on the licensed premises.
- j. All State and Local Laws and Regulations apply to the licensed premises whether during regular hours, after hours or private functions.

### **1.09 Inspections and Investigations**

- a. The licensed premises shall be subject to inspection by the members of the Licensing Authority and its duly authorized agents. Any hindrance or delay of such inspection caused by an employee of the licensee shall be cause for action against the license. It shall be the responsibility of the licensee to ensure that procedures are in place, be it posting a doorman or otherwise, to allow Police and authorized agents of the Authority, immediate entrance into the premises at any time employees are on the premises. Any delay in providing such access shall be cause for action against the license.
- b. Licensees shall maintain a current list of all their employees and shall have it available at all times for inspection upon the request of an authorized agent of the Authority. Licensees shall mail this list to the Lunenburg License Commission on June 1st of every year and again as part of the end of year license renewal packet. Licensees who contract with entertainment entities to provide entertainers must maintain a current list of the names of such entertainers and said entertainers shall be held to the same rules as other employees at the premises.
- c. No device or electronic equipment shall be utilized by a licensed premise for the purpose of signaling employees that agents of the Licensing Authority are present.
- d. All complaints and reports shall continue in force until they have been reviewed and disposed of by the Licensing Authority.
- e. All Police Officers, regardless of rank, are hereby designated as authorized agents of the Licensing Authority.

### **1.10 Standards of Conduct on the Premises**

- a. It is forbidden to permit any employee or person in or on the licensed premises to promise, offer, suggest, or accept sexual acts or favors in exchange for money or for the purchase of any alcoholic beverages or other commodities.

- b. It is forbidden to encourage or permit any person in or on the licensed premises to touch, caress, or fondle the breasts, buttocks or genitals of any other person.
- c. No alcoholic beverages shall be sold to anyone under twenty-one (21) years of age. No service of alcoholic, wine/malt beverages shall be made to anyone under twenty-one (21) years of age.
- d. No manager or employee shall consume any alcoholic beverages while on the licensed premises while on duty or after the official closing hour.
- e. No alcoholic beverages shall be sold for a fee less than the actual cost of the beverage to the licensee. An admission charge shall not be credited towards the purchase price of any alcoholic beverages.

### **1.11 Illegal Activity on the Licensed Premises**

- a. Licensees shall make all reasonable and diligent efforts to ensure that illegal activities do not occur at the licensed premises. Such efforts shall include:
  - 1. Frequent monitoring of restrooms and other nonpublic areas of the premises for signs of drug activity or other illegalities;
  - 2. Paying attention to activities on the premises of known drug users, drug dealers, prostitutes or others who are known to have been convicted of crimes which may be conducted at a licensed premises;
  - 3. Monitoring of activities of person who talk about weapons or who appear to be hiding a weapon;
  - 4. Calling for police assistance as necessary to protect patrons against injury or to evict unruly patrons or to uncover unlawful conduct or to give medical assistance and providing police with requested information.
  - 5. Hiring security personnel to deal with chronic unlawful activity at the premises such as prostitution, gambling or larceny from patrons or assaults and batteries or other problems associated with the premises.
- b. There shall be no disorder or other illegal activity on the licensed premises or any premises connected therewith by an interior communication.
- c. No licensee shall allow any disturbance, disorder or illegality on the licensed premises. The license holder shall be responsible therefore, whether present or not.

### **1.12 Injuries to Persons at the Premises**

- a. Licensees shall instruct their employees and security personnel that they are not to make bodily contact with a patron unless to protect other patrons or themselves from being subjected to body blows from an unruly patron. In all other circumstances employees and security

personnel are to call the police to have patrons removed from the premises when such patrons are being disruptive and they are unable to convince the patron to leave the premises voluntarily.

- b. Licensees shall call the police and an ambulance and take all other reasonable steps to assist patrons or persons who are injured in or on the licensed premises or whose injuries have occurred outside the premises but have been brought to the attention of the licensee

### **1.13 Other causes for Revocation, Suspension and Modification**

- a. Any license issued pursuant to General Laws Chapter 138 may be modified, suspended or revoked for any of the following causes:
  - 1. Violation by the licensee of any provision of the relevant General Laws of the Commonwealth, of the regulations of the Alcoholic Beverages Control Commission or of the regulations of the Licensing Authority.
  - 2. Fraud, misrepresentation, false material statement, concealment or suppression of facts by the licensee in connection with an application for a license or permit or for renewal thereof or in connection with an application for the removal of the licensed premises or the alteration of the premises or in connection with any other petition affecting the rights of the licensee or in any interview or hearing held by the Authority in connection with such petition, request, or application affecting the rights of the licensee;
  - 3. Failure to operate the premises covered by the license without prior approval of the Licensing Authority;
  - 4. Failure or refusal of the licensee to furnish or disclose any information required by any provision of the General Laws or by any rule or regulation of the Alcoholic Beverages Control Commission or any rule or regulation of the Licensing Authority;
  - 5. Licensees shall not give or offer any money or any article of value or pay for or reimburse or forgive the debt for services provided to any employee or agent of the Authority either as a gratuity or for any service;
  - 6. Licensees may not fail to comply with any condition, stipulation or agreement upon which any license was issued or renewed by the Authority or upon which any application or petition relating to the premises was granted by the Authority. It shall be the duty of the licensee to ensure that all appropriate personnel at the licensed premises are familiar with the rules and regulations of the Authority and with any conditions on the license.
  - 7. A license may be suspended or modified or revoked for the refusal by any licensee and, if a corporation, by a manager, officer, or director thereof to appear at an inquiry or hearing held by the Authority with respect to any application or matter bearing upon the conduct of the licensed business or bearing upon the character and fitness of such person to continue to hold a license.

8. Licensees shall properly serve suspension and modification orders.

#### **1.14 Liquor License Sentencing Guidelines**

- a. Licensees in violation of the applicable laws of the Commonwealth, regulations of the Alcoholic Beverages Control Commission and/or these regulations may be subject to the following range of discipline:
  - i. First offense; warning to seven day suspension.
  - ii. Second offense; warning to twenty-one day suspension.
  - iii. Third offense: warning to revocation.
- b. Only offenses which have occurred within the two years preceding the date of violation shall be used in calculating the number of offenses for purposes of the sentencing guidelines.
- c. The sentencing guidelines are only a guide. The Licensing Authority may use its discretion in determining whether the facts surrounding a violation warrant a penalty which is more lenient or severe than that suggested by the guidelines.
- d. The sentencing guidelines shall not be construed so as to limit the Licensing Authority's authority to consider alternative dispositions, or further conditions on a license, or even alternate penalties (e.g. roll back of operating hours).

#### **1.15 Service of Liquor License Suspension Orders**

- a. When the Authority suspends the license or licenses of any licensee, it shall provide the licensee with an order of suspension for public display that must contain the words, "No alcohol served per order of the License Commission". Such order shall be publicly displayed by the licensee in the following manner. If there is a door opening from the street into the licensed premises and a window facing the street upon which such door opens, such order shall be displayed in such window so that it may readily be seen from the street. If the licensed premises are otherwise located, such order shall be affixed to the door of the entrance to the premises and displayed in such a way that it may be readily seen from the street.
- b. Suspension orders of the Authority, as above, shall remain affixed throughout the entire period of suspension. The removal, covering, defacement, or obliteration of the order of suspension or the failure to maintain the order of suspension in the manner and place required prior to the expiration of the suspension period shall be deemed the act of the licensee and shall be cause for further suspension, modification or revocation of the license.
- c. Suspension periods shall not be used as a time to do renovations at the licensed premises unless such renovations have previously been approved by the Authority.
- d. Upon receiving a notice of suspension or revocation, the licensee will hand deliver the license to the Lunenburg Select Board's Office, 17 Main Street, Town Hall, Lunenburg, MA 01462. The license will be given to the Executive Assistant no later than 9:00 a.m. on the day of the

suspension or revocation. The license may be picked up at 9:00 a.m. the day following the suspension or revocation. (example: XYZ license has been suspended 10/01/09 thru 10/05/09 for violation of XXXX. License will be dropped off by the licensee by 9:00 a.m. on October 1, 2009 and picked up on October 6, 2009 at 9:00 a.m.

#### **1.16 Permission to Close Premises Required**

- a. Any Licensee intending to close a place of business, whether on a temporary or permanent basis, must notify the Licensing Authority in writing before such closing stating the reason and length of such closing and obtain approval. Failure to provide such notice may result in the suspension or revocation of the license.
- b. The restriction in (a) shall not apply to a closing due to an act of God, natural disaster, illness or some other business problem for which request had been made to the Authority and approval granted.

#### **1.17 Bankruptcy and Court Proceedings**

- a. The licensee shall immediately notify, in writing, the Licensing Authority of any proceedings brought by or against the licensee under the bankruptcy laws or of any other court proceedings which may affect the status of the license.

#### **1.18 Management**

- a. Each corporate licensee must appoint a manager by a properly authorized and executed delegation.
- b. The responsibilities of every license holder and any manager shall be as follows:
  - 1. To obey all statutes of the Commonwealth, rules of the Alcoholic Beverages Control Commission, Rules and Regulations of the Licensing Authority;
  - 2. To promptly notify the police of any disturbance or illegal activity on the licensed premises of which he/she becomes aware;
  - 3. As to corporate licensees, to sign the annual application for renewal of license, unless unavailable;
  - 4. To cooperate with authorized agents of the Licensing Authority, including, but no limited to, any police officer, in their investigation or inspection of the licensed premises.
- c. Any such notice sent to the manager as named in the records of the Licensing Authority or the owner at the address of the licensed premises shall constitute valid legal notice to the licensee.
- d. The licensee shall not change managers, change corporate officers, sell or transfer corporate stock, pledge corporate stock or the liquor license as security, or accept a loan or credit from another licensee, without first obtaining the approval of the Authority and the Alcoholic Beverages Control Commission. No person may have a direct or indirect beneficial interest in a license without first obtaining the approval of the Authority.

- e. The Manager, or their designee, must be on the premises at least fifty (50) percent of the time the premises are open. The Manager shall have total responsibility for the proper operation of the licensed premises, whether present or not. No appointment of a Manager shall be effective unless and until approved by the License Commission. If a Manager leaves the employ of the license holder, the license holder shall notify the Commission immediately and shall promptly file a Change of Manager application. No change of manager will be effective until approved by the Commission and the Alcoholic Beverages Control Commission.

### **1.19 Service Training**

- a. An employee training program on the proper procedures for verifying that patrons are at least 21 years of age and not intoxicated shall be provided by the licensee. A written description of such program, along with a written policy outlining the employees' responsibilities and the disciplinary measures which will be taken against any employee for violating said policy, shall be provided to the Authority as part of the original or renewal application materials and maintained on the premises at all times.
- b. A signed certificate of each employee who handles alcohol, indicating that the employee has received the described training and has reviewed and understands the written policy describing his or her responsibilities and the disciplinary action which will be taken for violations, shall be maintained on the premises at all times. Copies of all such documents and certifications shall be available to the licensing authority, or any authorized agent thereof, upon demand.
- c. All employees, including bouncers and doormen, shall obtain server training within thirty (30) days of commencing employment. The server training certificate shall be sent to the License Commission within seven (7) days of issuance.
- d. Upon a finding by the Authority of a violation of the laws or regulations concerning service of alcohol to a minor or intoxicated person, the employees involved in the violation who continue to be employed by the licensee shall be retrained forthwith and receive a new server training certification.
- e. The training and certification referenced in Section 1.19 shall be pursuant to a training program approved by the Authority (e.g. TIPS or equivalent).

### **1.20 ABCC Compliance**

- a. Compliance check guidelines are applicable to retail licenses for the sale of alcoholic beverages to be drunk on the premises, called "pouring licenses", fall into five types: hotel, restaurant, tavern, club, and general on premise. These are further divided into four categories based on the category of alcoholic permitted to be served; all alcoholic, wine only, malt only, or wine and malt and in accordance with the ABCC rules and regulations.

### **1.21 Applications and Fees**

- a. Whenever an alcoholic beverage license becomes available in a category for which all the licenses allotted the Town had previously been properly assigned, the Licensing Authority

shall publish, on one occasion, in a local newspaper, on its public bulletin board and on its website a notice that such license has become available. The Licensing Authority will not accept any new applications for this license until 30 days after such a notification has been made, published and posted.

- b. All license applications must be “COMPLETE” in order to be processed by the Office of the License Commission for submission to the License Commissioners for action. While the Office of the Commission will assist any individual with the filing of an application, it is not the responsibility of the office staff to fill out and complete an application and forms required.
- c. Filing fees must be paid at such time as an application is filed at the Office of the License Commission. Fees are to be made payable to the Town of Lunenburg. Filing fees are not returnable once an application has been accepted by the Office of the License Commission.
- d. Annual license fees must be paid prior to the issuance of any license. License fees may not be prorated and are not refundable.
- e. Should a fee payment be non-negotiable (i.e. “bounce”), such event shall be deemed to be a violation of these regulations.

At no time will the Authority accept an application for an alcohol beverage license under any circumstances except as prescribed in this section.

## **Section 4.02 Bring Your Own Bottle**

### **Definitions**

For purposes of this Policy, the following terms shall have the following meanings:

“Board” shall mean the Select Board acting as the Town’s local licensing authority for common victuallers under MGL Chapter 140.

“Policy” shall mean this Policy applicable to Carry-In Permit for intoxicating beverages to restaurants operated by common victuallers.

“Carry-In Permit” shall mean permission granted by the Board to a common victualler under this Policy to allow intoxicating beverages to be brought by patrons and customers into and consumed in a restaurant which is owned, operated, leased, maintained or otherwise controlled by the common victualler.

“Common Victualler” shall mean a person duly licensed under the provisions of M.G.L. Chapter 140 to conduct a restaurant.

“Intoxicating Beverages” shall mean intoxicating beverages as defined in M.G.L. Chapter 138, §1.

“Restaurant” shall mean a restaurant as defined in M.G.L. Chapter 138, §1.

“TIPS” shall mean Training for Intervention Procedures.

## **2. General Rules**

No common victualler shall permit intoxicating beverages to be consumed in a restaurant which is owned, operated, leased, maintained or otherwise controlled by the common victualler except pursuant to a valid license issued under the provisions of M.G.L. Chapter 138, or pursuant to and in strict conformity with this Policy and regulations adopted by the Board pursuant to this Policy.

## **3. Carry-In Permit for Intoxicating Beverages**

The Board may grant Carry-In Permit to a common victualler to allow intoxicating beverages to be brought by patrons and customers into and consumed in a restaurant which is owned, operated, leased, maintained or otherwise controlled by the common victualler provided that:

- a. The applicant for such Carry-In Permit shall not be less than twenty-one years of age and must be a person of good character in the Town.
- b. No Carry-In Permit shall be issued to any applicant who has been convicted of a violation of a federal or state narcotic drugs law.
- c. No Carry-In Permit shall be issued to any fast food restaurant, which is part of a restaurant chain or franchise.
- d. No Carry-In Permit shall be issued to any applicant who has a license for the restaurant issued under the provisions of M.G.L. Chapter 138.
- e. No Carry-In Permit shall be issued to any applicant whose license for the restaurant issued under the provisions of M.G.L. Chapter 138 has been suspended or revoked, or to any person, firm, corporation, association or other combination of persons affiliated, directly or indirectly, with such licensee through any agent, employee, stockholder, officer or other person, or any subsidiary whatsoever.
- f. Before approving or renewing Carry-In Permit, the Board may cause an examination or examinations to be made of the premises of the applicant or may otherwise review such evidence as the Board deems credible to determine whether such premises comply in all respects with the appropriate definitions of section one and whether activities conducted on the premises comply in all respects with the provisions of this Policy. The Board may deny Carry-In Permit or renewal of Carry-In Permit to any applicant where the premises and/or the activities conducted on the premises do not in the Board's judgment so comply.
- g. The Board may refuse to grant Carry-In Permit in certain geographical areas of the Town, where the character of the neighborhood may warrant such refusal or when not allowed as a permitted use under a Special Permit or Zoning Bylaw.
- h. The common victualler shall comply with any and all conditions imposed by the Board with respect to such Carry-In Permit, including without limitation conditions with respect to hours and



days during which such intoxicating beverages may be consumed in the restaurant and the insurance which shall be carried with respect to operation of the restaurant having Carry-In Permit.

i. Carry-In Permit under this policy shall be not be transferable between persons or locations except with the advance permission of the Board and then only if consistent with the public interest. Carry-In Permit shall be revocable as provided herein.

j. Approval of Carry-In Permit under this policy shall not create any property rights; rather such permission is authorized solely to serve the public need and in such a manner as to protect the common good.

k. Every approval of Carry-In Permit under the provisions of this policy shall expire on December thirty-first of the year of issue, subject, however, to earlier revocation or cancellation within its term.

#### **4. Obligations of A Common Victualler Granted Carry-In Permit for Intoxicating Beverages.**

Any common victualler approved for Carry-In Permit shall at all times comply with the following requirements: (it is recommended that the Common Victualler attends a Training for Intervention Procedures (TIPS)) Program and acknowledge that obtaining TIPS certification is their responsibility.

a. The common victualler shall not permit any person under the age of twenty-one to consume intoxicating beverages in the restaurant. Any person bringing or accompanying any person bringing intoxicating beverages into a restaurant having Carry-In Permit shall, upon request of the common victualler, a Lunenburg police officer, or an agent of the Board, state his name, age, and address, and produce a valid identification document. The common victualler shall verify by appropriate picture identification that any patrons and customers consuming such intoxicating beverages in the restaurant are twenty-one years of age or older. Any common victualler, or agent or employee thereof, under this policy who reasonably relies on a valid operator's license issued by the Registry of Motor Vehicles pursuant to M.G.L. Chapter 90, § 8, a valid liquor purchase identification card issued pursuant to M.G.L. Chapter 138, § 34B, a valid passport issued by the United States government or by the government of a foreign country recognized by the United States government, or a valid United States issued military identification card, for proof of a person's identity and age shall not suffer any modification, suspension, revocation or cancellation of its Carry-In Permit or common victualler license by virtue of that individual's under-age drinking in the restaurant.

b. The common victualler shall only allow intoxicating beverages to be consumed in the dining room or dining rooms of the restaurant, and is responsible for sealing and wrapping the open container before the patron exits the establishment.

c. The common victualler shall ensure that intoxicating beverages are not consumed in the restaurant by customers or patrons so as to cause or contribute to their becoming unruly and/or a danger to themselves or others either in the restaurant or on the public ways upon leaving the restaurant. The common victualler is hereby authorized to confiscate all remaining intoxicating

beverages from any patrons or customers who appear to present a danger of becoming unruly and/or becoming a danger to themselves or others either in the restaurant or on the public ways by virtue of the consumption of intoxicating beverages. Any customers or patrons of a restaurant with Carry-In Permit shall be deemed at all times to consent to such confiscation if deemed necessary by the common victualler.

d. The common victualler shall immediately report to the Lunenburg Police Department any situation in which customers or patrons consuming alcohol in the restaurant appear to present a danger to themselves or others either in the restaurant or on the public ways by virtue of the consumption of intoxicating beverages.

## **5. Regulations**

The Board may promulgate rules and regulations consistent with the provisions of this policy for clarifying, carrying out, enforcing, implementing and preventing violations of, all and any of its provisions. Without limitation, the Board may make regulations (a) limiting the number of approvals for Carry-In Permit to be issued under this Policy, (b) determining the fee to be charged for Carry-In Permit under this policy, which fee shall not be more than double the license fee for a common victualler license, (c) determining the method and frequency of inspection of the premises and method of carrying on the business of any common victualler having Carry-In Permit hereunder, and (d) for the proper and orderly conduct of any business having Carry-In Permit hereunder.

## **6. Penalties for Violation**

Violation by a common victualler of this policy or any regulation promulgated by the Board pursuant to this policy shall be punishable by a fine of one hundred dollars for the first offense; any further violations will result in a fine of three hundred dollars (\$300) per offense. Each day a violation continues shall be considered a separate offense.

Any person bringing intoxicating beverages into or consuming intoxicating beverages in a restaurant having Carry-In Permit shall be punished by a fine of three hundred dollars per offense for any of the following violations of this policy: (a) refusing, upon request of the common victualler, a Lunenburg police officer, or an agent of the Board, to state his name, age, and address, and produce a valid identification document, (b) stating in response to such request a false name, age, or address, including a name or address which is not his name or address in ordinary use, (c) producing or displaying in response to such request a false or fraudulent identification document, (d) refusing to allow the common victualler to confiscate remaining intoxicating beverages under Section 4(c), or (e) acting in a manner dangerous to himself or others in the restaurant. Any sums of money collected as fines shall be paid forthwith into the general revenues of the Town.

## **7. Suspension, etc., of Carry-In Permit**

The Board may suspend, modify, cancel, deny, refuse to renew, or revoke Carry-In Permit for any violation of this policy or any regulation promulgated by the Board pursuant to this policy. The Board may suspend, modify, cancel, deny, refuse to renew, or revoke a common victualler license in the event a common victualler has committed multiple, willful, or repeated violations of this policy or any regulation promulgated by the Board pursuant to this policy. In case of suspension,

modification, cancellation, denial, refusal to renew, or revocation of any Carry-In Permit or any license as aforesaid, no abatement or refund of any part of the fee paid therefor shall be made.

### **8. Severability**

In case any section, paragraph or part of this chapter be for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect.

**9. Effective Date**      This policy shall take effect March 10, 2009.

## **Section 4.03 One Day Liquor License (“Special License” G.L. 138 § 14)**

The following types of organizations and individuals are eligible for one-day alcoholic beverage licenses under this policy. Other organizations or individuals may submit applications for consideration.

- Civic or municipal organizations
- Commercial establishments
- Fraternal organizations
- Non-profit organizations
- Non-profit unincorporated associations
- Individuals holding social events not held at a private residence
- Unincorporated groups or organizations not engaged in the sale for profit of alcoholic beverages.
- Service clubs
- Veteran’s organizations

In accordance with MGL Chapter 138, Section 14 and 14A, a one day all alcoholic license may only be issued to a non-profit organization.

### **A. Criteria for Approval**

The following matters will be taken into account in approving one-day licenses:

1. Admission Age: The Board will not deny a one-day license solely because individuals under the legal drinking age shall be present at a function, but will require that sufficient trained servers are present to assure compliance with the laws governing the sale or furnishing of alcoholic beverages to such persons.
2. Frequency: The Board considers that one-day licenses are to be issued primarily to applicants sponsoring functions that are not held more than once annually. Except for applicants that are in the business of catering or accommodating individual functions, one-day licenses are not intended as an alternative to an annual license.

3. Acceptance of Conditions: Acceptance of a one-day license under this policy will be deemed to be an acceptance of the conditions of the license and an agreement with the Town of Lunenburg to be bound thereby.

B. Conditions to be Contained in One-Day Licenses

1. Certification of Service Providers: All persons engaged in furnishing alcoholic beverages at a licensed function, whether by sale or without charge, including servers, must be certified as having completed an approved alcoholic beverage training program and have evidence of such certification in their possession.
2. Number of Persons on Premises: The number of persons may not exceed the occupancy limits allowed by law for the premises on which the license will be exercised.
3. Police Details: The number of officers, if any, and the hours during which a police detail will be required within the licensed premises and, if required, for orderly parking and traffic control will be recommended by the Police Department. Generally those hours will include the entire duration of the function, including after service hours. The factors to be considered include the location of the premises, availability of on-site parking, the number of persons estimated to be in attendance and the time and duration of the function.
4. No license shall be issued until the applicant or licensee provides proof of coverage under a liquor legal liability insurance policy for bodily injury or death for a minimum amount of \$250,000 on account of injury to or death of one person, and \$500,000 on account of any one accident resulting in injury to or death of more than 1 person. Proof of the insurance coverage required by this section shall be made by filing a certificate of insurance in a form acceptable to the local licensing authority. The Town of Lunenburg shall be listed as an additional insured on the certificate of liability.

C. Additional Provisions

1. Departmental Approvals: The Board of Health, Fire Department, Police Department and the Building Inspection Department must approve the licensed premises, including, where applicable, food service equipment.
2. Neighborhood Impact: The applicant or such other person designated by name, address and local telephone number in the application will be responsible for the orderly conduct of the function for which the license is issued. Consumption of alcoholic beverage outside of the structure within which the licensed function is to be held will not be permitted. Music, noise, or other function related activities must not create an undue imposition upon any adjacent residences. Police detail officers will be instructed to respond appropriately to complaints. Such response may include an order to terminate the event or otherwise limit the offending activity.

License fee shall be based upon current fee schedule.

A copy of the approval shall be forwarded to the ABCC within 10 days of the hearing.

#### **Section 4.04 Earth Removal Permits**

Earth Removal permits shall be issued in accordance with the Earth Removal Ordinance, Article IX, section 9 of the Town Bylaws.

#### **Section 4.05 Circus Permit**

Circus permits shall be issued in accordance with all applicable State Law and Regulations. The Select Board reserves the right to deny a circus permit for cause, including but not limited to:

- Location
- Parking
- Safety
- Noise

#### **Section 4.06 Peddler License**

Peddler licenses shall be reviewed and issued in accordance with Article V, Section 6 of the Town By-laws. Fee shall be in accordance with current fee schedule.

Applicant must first file for Commonwealth of Massachusetts, Division of Standards, Application for License to Peddle.

#### **Section 4.07 Public Entertainment License (Monday-Saturday)**

A Public Entertainment License shall be required for any theatrical exhibition, public shows, public amusements, and exhibitions of every description HELD ON WEEKDAYS ONLY (a separate license is required for Sundays). The license may be an annual or daily license.

Upon receipt of a completed application, the Licensing Authority shall have 30 days to act upon same. The fee shall be set in accordance with the current fee schedule.

#### **Section 4.08 Public Entertainment on a Sunday**

A Public Entertainment on a Sunday shall be required for any theatrical exhibition, public shows, public amusements, and exhibitions of every description held on a Sunday. The license may be an annual or daily license.

Upon receipt of a completed application, the Licensing Authority shall have 30 days to act upon same. The fee shall be set in accordance with M.G.L.

## Section 4.09 Auctioneer License

In order for a person to apply for an Auctioneer License in a city or town, they must be licensed by the State and must show proof of such license and must indicate State License number on application.

**ANNUAL** The only annual license the Town can issue is a license to a person who maintains a regular place of business for the conduct of auctions within the Town.

**SPECIAL** No person may conduct an auction in Town without obtaining a special permit from the Town.

### APPLICATION

Application for an annual permit or special permit shall be filed with the Licensing Authority and shall contain:

Name, address and State license number of applicant  
Photocopy of State License  
Location and Hours of Auction  
General description of goods to be auctioned  
On special permit only, the estimated value of the goods and the date or  
dates  
Signed tax certification form  
CORI form

Within thirty (30) days after application is filed for a special permit, the Licensing Authority or auction permit agent shall either approve or deny the permit. Failure to act within thirty (30) days, shall constitute approval.

Within fourteen days after application is filed for annual permit, the Licensing Authority or auction permit agent shall either approve or deny the permit. Failure to act within the fourteen days shall constitute approval. Permit is good for one year from date of issuance.

When approved, applicant must pay required fee in accordance with current fee schedule.

## Section 4.10 Automatic Amusement Device License

All automatic amusement licenses shall expire annually. License fees shall be in accordance with approved fee schedule.

No more than 3 automatic amusement machines shall be allowed in a commercial establishment. Upon receipt of a completed application the licensing authority shall place the item on the agenda for action.

An application for a commercial amusement center shall be submitted along with the following:

- a. Tax form indicating number & types of machines, etc.
- b. Floor plan showing location of machine, entrance, exits and all other) pertinent information.
- c. Plot plan of property showing parking spaces, proposed sign, and all other pertinent information.
- d. Tax Certification Form.

Application shall be forwarded to the Building Official.

After submission of completed application, an informal public hearing shall be scheduled.

#### **Section 4.10(A) Jukebox License (Adopted October 6, 2015)**

Jukebox licenses are designated a separate license from automatic amusement licenses. The fee for a jukebox license shall be in accordance with automatic amusement device fees.

#### **Section 4.11 Base License**

For general operation of establishments such as Bowling Alley, Golf Driving Range, Drive-in Theater, Amusement Center. These establishments also require licenses for daily and Sunday operation.

Base licenses shall expire annually and fee shall be in accordance with current fee schedule.

All applicants must submit a CORI form with application.

Application shall be forwarded to the Building Official and Board of Health for recommendation.

#### **Section 4.12 Bazaars & Raffles**

Licenses for Bazaars and Raffles are issued in accordance with the standards set forth under Mass. General Laws – Chapter 271 §7A.

#### **Section 4.13 Billiards License**

A billiards license shall be required for a business in which a person rents a billiard table for one hour.

Prior to submission of an application to the Licensing Authority, approval by the Zoning Board of Appeals is required.

Upon receipt of a completed application a formal hearing shall be scheduled in accordance with Chapter 140 of the General Laws. All fees for abutter notification shall be the responsibility of the applicant. The license fee shall be in accordance with the current fee schedule.

## **Section 4.14 Class 1 and 2 Licenses**

Prior to submission of an application to the Licensing Authority, approval by the Zoning Board of Appeals is required.

A \$25,000 bond shall be required in accordance with MGL Chapter 140, § 58.

The application must be accompanied by the following:

- A certified abutters list.
- A detailed sketch plan of property showing all buildings, (proposed and existing) plus interior layout of building, septic system, water supply source, location and maximum number of vehicles to be parked thereon.
- Tax Attestation Form
- Workers Compensation Form
- CORI Form

Applicant must also file for a “Use & Sign Permit” with the Building Official.

Upon favorable decision by the Licensing Authority, the fee for the license shall be in accordance with current fee schedule.

## **Section 4.15 Class 3 License**

Prior to submission of an application to the Licensing Authority, approval by the Zoning Board of Appeals is required (Section IV-C-2-a and c of the Protective By-law).

The application must be accompanied by the following:

- an engineered plan showing boundaries, location of buildings (proposed & existing), fences, water lines, wells, septic system, drainage, wetlands, number and location of vehicles, all utilities, etc.
- a certified abutters list
- Tax Attestation Form
- Recommendation of Fire Chief on gasoline storage and/or oil storage and disposal.
- Workers Compensation Form
- CORI Form

Applicant must also file for a “Use & Sign Permit” with the Building Official.

Upon favorable decision by the Licensing Authority, the fee for the license shall be in accordance with current fee schedule.



## **Section 4.16 Common Victualler License**

All common victualler licenses shall expire on December 31<sup>st</sup>. All applications for a common victualler license shall be accompanied by the following (to be provided and paid for by the applicant):

1. Food Service Permit
2. Use and Sign Permit application, if applicable.
3. CORI Form
4. Workers Compensation Form
5. Certificate of Good Standing from Massachusetts Department of Revenue

Upon favorable decision by the Licensing Authority, the fee for the license shall be in accordance with current fee schedule.

## **Section 4.17 Taxicab License**

**Taxicab license fee and operator's fee shall be in accordance with current approved fee schedule.**

### **General Rules of Operation**

- 1) No taxi cab shall operate from a location in the Town of Lunenburg without a license granted hereunder.
- 2) When so licensed, such cab shall operate from a stand or stands assigned to it by the Licensing Authority, which stands may be changed from time to time only with the prior approval of the Licensing Authority. The assignment of stands shall be contingent upon complete adherence to the Protective Bylaw and all other applicable bylaws of the Town and State statutes.
- 3) All taxicab licenses issued by the Licensing Authority shall be distributed by and paid for at the office of the Licensing Authority unless otherwise ordered.
- 4) All applications for renewal of taxicab licenses shall be in the hands of the Licensing Authority no later than December 1<sup>st</sup> of each year.
- 5) No driver of a taxicab shall be required or permitted to drive or remain on duty for more than twelve (12) hours in any twenty-four (24) consecutive hours, and any such driver shall be relieved from duty for at least one period of not less than eight (8) consecutive hours during said twenty-four (24) hours.
- 6) No driver shall, while on duty, occupy any seat other than the driver's seat and at no time shall he permit anyone else to sit therein, or to operate said taxicab.
- 7) All taxicabs must be kept clean inside as well as outside at all times. All taxicabs are subject to inspection by the Licensing Authority or the duly appointed inspector. All taxicabs shall be made available for such inspections on such dates, places and times designated by the Licensing Authority.
- 8) Whenever requested by a passenger, or whenever there is a dispute over a fare, the driver shall give a receipt to said passenger which shall contain the company name, driver's name, badge number, cab number, date and time, origin and destination of the trip and the amount charged.

Each licensee is hereby obligated to provide such receipt blanks which shall be carried in every taxicab at all times.

- 9) A taxicab shall not carry more persons than the maximum rating for the vehicle as established by the manufacturer of said vehicle.
- 10) Taxicabs shall establish rates for hire which are reasonable and in conformance with rates charged in the geographic area.
- 11) Each taxicab operator or driver shall use the most direct route possible from point of origin to point of destination for each trip unless otherwise directed by the passenger, or in cases of unusual circumstances in which an alternate route is in the best interest of the passenger.
- 12) Each taxicab driver shall maintain a driver trip sheet in the vehicle at all times while the taxicab is in operation. The taxicab licensee (company name), driver, date and the vehicle number shall appear on this sheet. In addition, the origin, destination and time of origin shall be entered immediately upon occurrence.
- 13) The operation of each taxicab, records keeping, adherence to proper rates of hire and compliance with all rules and orders of the Lunenburg Licensing Authority shall be the sole responsibility of the licensee of said taxicab.
- 14) Failure to comply with the rules and regulations of this regulation shall be grounds for the suspension or revocation of any license issued pursuant to these rules and regulations.
- 15) The annual fee for any and all licenses issued pursuant to these rules and regulations shall be established by the Licensing Authority and may be altered from time to time as the Licensing Authority determines necessary.

### **Taxicab Stands**

- 1) Patrolling or cruising for the sole purpose of soliciting patronage is prohibited.
- 2) Taxicab stands shall be established by the Lunenburg Licensing Authority, for the sole use of the licensee assigned said taxi stand.
- 3) No owner or operator shall enter any stand assigned to another company, and at no time shall solicit or accept passengers from said stand except by request of the dispatcher for the company assigned said stand.
- 4) During times of operation all taxicabs must be clearly identified as taxicabs.

### **Licensing of Taxi Drivers**

- 1) Each cab driver must obtain a license from the Licensing Authority authorizing him or her to operate a taxicab licensed under this regulation.
- 2) Each cab driver must possess a valid license issued by the Massachusetts Department of Motor Vehicles. Each applicant shall be required to submit evidence of his or her driving record including, but not limited to, the number and type of motor vehicle citations issued to the applicant, any motor vehicle accidents in which the applicant was involved while an operator of a motor vehicle and claims by the applicant to any individual or insurance company for reimbursement for property damage or personal injury as a result of a motor vehicle accident.
- 3) Each applicant shall upon approval of his or her application, submit an identification card to the Licensing Authority for their approval. Said card must be posted in any taxicab operated by the applicant in the Town of Lunenburg. Said card must be posted in such a way so as to be plainly visible by any and all passengers of the taxicab.

- 4) The determination of the sufficiency of the material and information required under the provision of this and all regulations shall be in the sole discretion of the Licensing Authority.
- 5) Applicant shall furnish a copy of Certificate of Liability Insurance for each vehicle authorized in the amount of \$250,000 (Two hundred Fifty Thousand Dollars) for bodily injury to any one person; in the amount of \$500,000 (Five Hundred Thousand Dollars) for injuries to more than one person in the same accident; and \$100,000 (One Hundred Thousand Dollars) for property damage resulting from any one accident. Said Certificate shall be filed with the Office of the Town Clerk. The Certificate shall include Workers Compensation coverage.
- 6) CORI Form

## **EXCERPT FROM GENERAL BYLAWS: ARTICLE II - TOWN ADMINISTRATION.**

**SECTION 14.** The Licensing Authority shall adopt rules and regulations for licensing of taxicabs, limousines and other related transportation services having their principal place of business within the Town of Lunenburg, including the establishment of fees and penalties.

### **Section 4.18 Limousine License**

A person wishing to operate a limousine service strictly on a door to door basis (no scheduled line run), must apply for a municipal license. The license fee shall be in accordance with the current fee schedule. Applicant must conform to applicable regulations in each city\town they wish to operate.

A person wishing to operate any type of charter limousine service (scheduled runs to airport, hotels, etc.) in addition to the door to door service, must have a DPU permit before they can apply for municipal permit for the door to door operation. They must also apply for permit in each city\town they wish to operate.

It should be noted that any trips to Logan Airport (whether charter or not) requires the person to obtain a Massport license.

Person applying in Lunenburg must first obtain a Use and Sign Permit from the Building Inspector for permission to operate business from home or whatever location is used.

When Licensing Authority acts upon the municipal license, they may restrict such matters as number of vehicles, route to be taken, and any other matters in the best interests of the Town.

### **General Rules of Operation**

- I. No limousine shall operate from a location in the Town of Lunenburg without a license granted hereunder.
- II. All limousine licenses issued by the Licensing Authority shall be distributed by and paid for at the office of the Licensing Authority unless otherwise ordered by the Licensing Authority.
- III. All applications for renewal of limousine licenses shall be in the hands of the Licensing Authority no later than December 1<sup>st</sup> of each year.

- IV. No driver of a limousine shall be required or permitted to drive or remain on duty for more than twelve (12) hours in any twenty four (24) consecutive hours, and any such driver shall be relieved from duty for at least one period of not less than eight (8) consecutive hours during said twenty-four (24) hours.
- V. All limousines must be kept clean inside as well as outside at all times. All limousines are subject to inspection by the Licensing Authority or the duly appointed inspector. All limousines shall be made available for such inspections on such dates, places and times designated by the Board.
- VI. Whenever requested by a passenger, or whenever there is a dispute over a fare, the drive shall give a receipt to said passenger which shall contain the company name, driver's name, date and time, origin and destination of the trip and the amount charged.
- VII. Limousines shall establish rates for hire which are reasonable and in conformance with rates charged in the geographic area.
- VIII. The operation of each limousine, records keeping, adherence to proper rates of hire and compliance with all rules and orders of the Lunenburg Licensing Authority shall be the sole responsibility of the licensee of said limousines.
- IX. Failure to comply with the rules and regulations of this regulation shall be grounds for the suspension or revocation of any license issues pursuant to these rules and regulations.
- X. The annual fee for any and all licenses issued pursuant to these rules and regulations shall be established by the Licensing Authority and may be altered from time to time as the Licensing Authority determines necessary.
- XI. Applicant shall furnish a copy of Certificate of Liability Insurance for each vehicle authorized in the amount of \$250,000 (Two hundred Fifty Thousand Dollars) for bodily injury to any one person; in the amount of \$500,000 (Five Hundred Thousand Dollars) for injuries to more than one person in the same accident; and \$100,000 (One Hundred Thousand Dollars) for property damage resulting from any one accident. Said Certificate shall be file with the Office of the Town Clerk. The certificate shall include Workers Compensation Insurance coverage.
- XII. CORI Form

#### **Section 4.19 License for Use of Land for Inflammables**

Applications for Use of Land to keep, store, manufacture, or sell gunpowder, dynamite, crude petroleum or any of its products, or explosive or inflammable fluids or compounds, tablets, torpedoes or any explosives of a like nature, or any other explosives, fireworks, firecrackers, or any substance having such properties that it may spontaneously, or acting under the influence of any contiguous substance, or of any chemical or physical agency, ignite, or inflame or generate inflammable or explosive vapors or gases to a dangerous extent as defined under MGL Chapter 148 Section 9 must be made to and approved by the Select Board according to MGL Chapter 148 Section 13.

An application for the Use of Land for Inflammables shall be accompanied by the following:

- Tax Certification Form
- Plot plan showing location of storage tank for crude petroleum or any of its products, location of any building or structure for any other inflammables, location of septic system, location of well etc.

Completed application shall be forwarded to the Fire Chief for his recommendation prior to the scheduling of a hearing.

Once a hearing date has been set, the date and time of the hearing shall be advertised at least seven (7) days prior to said date. Applicant is required to notify abutters on said land or directly opposite said land on any public or private street as they appear on the most recent local tax list at the time the application by certified mail at least seven (7) days before the hearing. A copy of the certified abutters list and return receipts must be presented to the Licensing Authority at the hearing. All costs associated with the advertising of the hearing shall be the responsibility of the applicant.

The Board shall conduct the hearing, collect information, impose any conditions before issuing the license. Renewal of the license is required by April 30<sup>th</sup> annually. In accordance with the general laws of the Commonwealth, the Town Clerk's office is responsible for renewal of these licenses.

#### **Section 4.20 Special Event Policy (Adopted 8/6/2019)**

A **Special Event** is an event/activity hosted by a private party held on public property or an event open to the general public held on private property. A license for a Special Event is required when any item in Category A is answered Yes or when any combination of 7 items in Category B is answered Yes.

##### **Category A:**

1. Is the Event scheduled to be a multi-day event?
2. Are camping or overnight activities part of the event? <i>(There shall not be any camping or lodging permitted on property owned by the Town of Lunenburg)</i>
3. Is the Event requesting the use of Town property? <i>(If the event does not trigger any items in Category B please see the Town Manager for permission to use property owned by the Town of Lunenburg)</i>
4. Will the event require that a street be closed?
5. Is the event For Profit or is there a mandatory fee for entry/participation?

##### **Category B:**

1. Will the event have amplified music or entertainment?
2. Does the event require the use of a generator or a Town power source?
3. Are you proposing to erect any tents or temporary structures?

4. Will a stage be erected for the event?
5. Are there any mechanical rides or inflatables proposed?
6. Does the event require the use of a public water supply or the organizer to bring in potable water?
7. Will the event provide sanitary facilities?
8. Will food be served at the event?
9. Will there be animal rides or a petting area?
10. Will there be a swimming area at the event?
11. Will alcohol be available at the event?
12. Will vendors be present at the event?
13. Is Event attendance expected to exceed 100 people?
14. Will the event be requesting Traffic Control or Security coverage from the Police Dept. ?
15. Are you requesting the use of any Town Building?

Special events may include, but are not necessarily limited to, athletic tournaments, concerts, fairs, festivals, holiday celebrations, parades, road or bicycle races, trainings and workshops. Properties may hold multiple Special Events, with a maximum of 5 day or 2 multi-day/overnight events per private property, in a calendar year given that the appropriate licenses, permits, approvals and inspections are in place. No 2 multi-day events may be conducted at the same property with less than ninety (90) days separating the events and no 3 single day events may be held within a ninety (90) day period.

Uses and activities permitted through the Chapter 250 of the Code of Lunenburg and associated with the existing primary use of the site where they take place shall not be considered to be Special Events.

Individuals or organizations wishing to hold Special Events on public or private property must obtain a Special Event License from the Town of Lunenburg. Special Event License Applications must be filed a minimum of ninety (90) days prior to the event, failure to do so may result in the denial of application.

During the review and license issuance process the Select Board reserves the right to impose additional reasonable conditions to any Special Event License.

**Exemptions:** The following events **are** exempt from Special Event Licensing:

- Town Events held on Town Property, including school and Town league sporting events permitted by the Lunenburg Public Schools and/or the Lunenburg Parks Department
- Events held by Homeowners Associations located on common property held by said Association and for its membership.
- Training Activities conducted by local, state, and/or federal public safety entities.

**Public Hearing:** Once a complete license application is filed with the Select Board, a date for a public hearing shall be set and the applicant shall be notified. Notice of the hearing shall be published by the Select Board, at the applicant's expense, in a newspaper of general circulation in not less than 7 days before the day of said hearing. Notice of the hearing shall be given to all owners of real estate abutting upon the land specified in the license application or lying within 200 feet of the subject parcel, all as appearing on the most recent tax list. The Select Board will arrange for the publication and transmission of the notice of the hearing to the abutters, and the costs will be billed to the applicant. Final approval for the license shall not be made until all hearing fees have been paid in full.

A. The Licensing Authority's final action, rendered in writing, shall consist of either:

- (1) Approval of the Special Event License based upon determination that the proposed event is suitable and in compliance with the standards set forth in this Policy; or
- (2) Disapproval of the Special Event License based upon a determination that the proposed event does not meet the standards set forth in this Policy; or
- (3) Approval of the Special Event License subject to any condition, modification or restriction required by the Select Board which will ensure that the project meets the standards set forth in this Bylaw.

**License Posting:** Special Event Licenses should be posted at greeting areas or main entrances at events. Event organizers and managers are reminded that they may be asked, by Town staff, to show proof of the license during the event.

**Timing:** Events are prohibited from conducting activities, including set up and/or take down, after 10:00 PM and before 7:00 AM. Loudspeakers, amplified music, bullhorn or public address systems during events are strictly regulated and must be part of the license.

Special Events may span multiple days and include on-site camping (as permitted by the Board of Health) but shall not exceed 3 days and/or 2 overnights.

**Alcohol/Drug Use:** Alcohol is prohibited on all Town of Lunenburg public property, including buildings, parks, playgrounds, fields, etc. Any event on private property may provide alcohol for a fee, provided that there is strict compliance with the Town of Lunenburg policy regarding such

(Town of Lunenburg Select Board Policies and Procedures, as amended). Bring Your Own Bottle (BYOB) Licenses shall not be issued for Special Events. Private events that serve alcohol for free or allow participants to provide their own alcohol shall not be subject to this provision.

Recreational use of drugs shall be prohibited at any licensed Special Event that takes place on property owned by the Town of Lunenburg. This shall be deemed to include marijuana.

**Restrooms/Trash/Cleanup:** The Town of Lunenburg may require event organizers to provide temporary toilet facilities. Temporary toilet facilities must be cleaned daily or as required by the Lunenburg Board of Health. Trash must be disposed of in approved containers. Trash pickup and disposal is to be performed by a hauler approved by the Lunenburg Board of Health. The applicant must clean the right-of-way or public property of all rubbish and debris, returning it to its pre-event condition at the conclusion of the event. If the applicant fails to clean up debris and trash within forty eight (48) hours of the close of the event, cleanup will be arranged by the Town and charged to the applicant.

**Traffic & Parking:** Parking is permitted in designated areas only. The event organizer will be responsible for providing a parking plan to the Lunenburg Police Department for their approval. Parking may not interfere with event entrances or emergency access.

Traffic and Parking Plans shall not violate Chapter 332 of the Code of Lunenburg.

**Signs:** Signs are permitted with the approval of the Building Inspector. No signs may be affixed to trees, buildings or street furniture.

Approved signs may also be required by the Town of Lunenburg to assist in traffic control and to communicate temporary restrictions during the event.

**Smoking:** Smoking is prohibited in or on all Town of Lunenburg properties including, on school grounds, and all parks, fields, and/or playgrounds.

**Fireworks:** Fireworks are not permitted within the Town of Lunenburg without proper licensing.

**Tents/Sleeping Trailers:** Tents, over 400 square feet and trailers require an inspection and any necessary permits from the Town of Lunenburg Building and Fire Departments. Such structures require a flame resistant certificate issued by an acceptable testing laboratory, and site plan indicating a fire lane accessing the tent(s) or trailer(s), a fire extinguisher on-site and acknowledgement that no smoking, fireworks, or open flames will be permitted in the tent(s) or trailer(s).

Small personal tents and personal camping trailers (pop-ups and similar) are exempt from this provision.

**Security/Traffic Control:** Events may require the hiring of police officers to provide for security and/or traffic control.



**Buffer Zone:** All Special Events shall take place no less than one hundred feet (100') from an abutting residential property. Upon submission of a written request supported by documentation the Select Board may reduce this distance based on the size and scope of the event.

**First Aid/Medical:** Events may require provisions for first aid and medical personnel. Per Chapter 26 of the Code of Lunenburg, the Lunenburg Fire Department must be contacted to determine if EMT services are required and if the Lunenburg Fire Department is capable of providing personnel for the detail. Should the Lunenburg Fire Department be unable to provide, personnel arrangements should be with a private service for the event. The Fire Department can provide a list of contacts.

**Accessibility:** Any Special Event licensed through the Town of Lunenburg shall be accessible to all persons who may attend. This includes the provision of accessible parking spaces, paths, restroom facilities and any other reasonable accommodations that may be required.

**Event Layout:** All Special Event Applications shall include an Event Layout Plan that includes:

- Site Access
- Parking Areas
- Restroom Facilities
- Required Buffer Zone
- Location of any abutting houses
- Food Service Area (if applicable)
- Sleeping Accommodations (if available)
- Wetlands on the property (if applicable)
- First Aid Station (if applicable)
- Alcohol Serving Areas (if applicable)
- Location of Stage or Entertainment (if applicable)
- Route of Race (if applicable)
- Any Additional Event Features not listed.

**Enforcement:** Town of Lunenburg Police, Fire or other staff so designated by the Town Manager, may inspect, the premises prior to and during, Special Events for compliance with the license and any conditions issued by the Select Board. Violations of the approved license will require corrective action and depending on the severity of the violation may result in the revocation of the Special Event License. Failure to obtain a License, multiple and/or repeated violations may result in a prohibition from applying for future licenses for the event organizer.

Town of Lunenburg Police Fire or other staff so designated by the Town Manager, may request that a resident, event employee, or participant leave any park or public facility for violation of the rules and regulations.

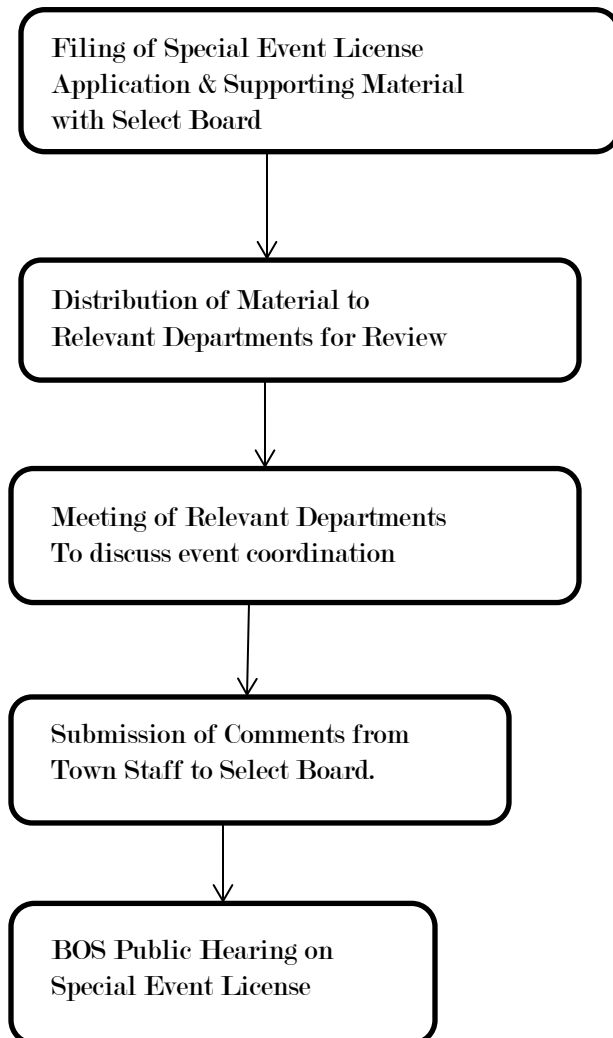
**Insurance:** All applicants must provide a certificate of insurance in the minimum amount of \$1,000,000 for commercial general liability as a precondition for obtaining licenses. The Certificate of Insurance must include all coverage deemed necessary for the event, as specified by the Town of Lunenburg and Town Counsel, including indemnification and hold harmless clause.

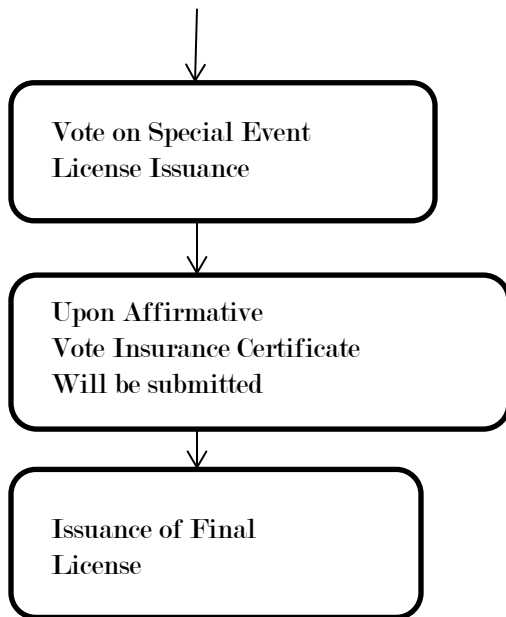
The Certificate of Insurance must name the Town of Lunenburg as an additional insured on applicable policies. This Certificate and verification of Workers Compensation Coverage must be submitted to the Town Manager's Office no later than ten (10) business days prior to the date of the event. Final Special Event Licenses will not be issued without submission of a Certificate of Insurance reflecting the necessary Workers Compensation Coverage to comply with State Law.

**Additional Permitting and Cost Requirements:** Depending upon the Special Event, additional permits may be required by the Town of Lunenburg Departments. These may include, but are not limited to, permits for temporary food, food preparation, campground, athletic field use, merchandise sales, etc. The organizers of the event are responsible for obtaining any additional permits or licenses and are responsible for any additional costs incurred by the Town of Lunenburg as determined by representatives of each Town Department before the issuance of the Special Event Permit.

**Appeals:** Any person or persons aggrieved by the decision of the Select Board in the issuance or denial of a Special Event License retains the right to appeal through the process and procedure outlined in Chapter 249 Section 4 of the General Laws.

**Special Event License Process:**





## **Article V. Use of Public Buildings/Public Property**

### **Section 5.01 Pole Location Requests**

If a hearing is required for a pole location, a certified abutters list shall be obtained from the Assessors office and all abutters shall be notified of the date and time of the hearing. Application shall be sent to the Director of Public Works for recommendation.

All applications shall contain a clear plot plan showing the exact location of the proposed pole location.

### **Section 5.02 Road Acceptance or Road Discontinuance**

Upon receipt of a completed application for the Town to accept a road as a public, a.k.a. town way, the Selectmen shall conduct a layout hearing.

Application for road acceptance shall contain the following:

1. Formal request to Select Board to lay out the road as a public way.
2. Legal description of road including the boundaries and measurements of the way.
3. Certification of title to the road, unless determined otherwise by the Select Board.
4. Engineered plan of the road with specific details as may be required by Board, i.e. any drainage easements, location of utilities, etc. Plan eventually must be filed with Registry of Deeds.
5. A list of names and address of all owners of and abutters to the road as certified by the Board of Assessor's.
6. Application Fee in accordance with the current fee schedule.

A copy of the complete application shall be sent to the Planning Board and Department of Public Works for their recommendation. All roadways must conform to specifications of the Lunenburg Planning Board's Rules and Regulations.

The Select Board reserves the right to not act or to postpone action on any application for road acceptance that is not submitted sufficiently far in advance of an annual or special Town Meeting to provide adequate time to satisfy the statutory deadlines applicable thereto or to await the recommendations of the Planning Board and Department of Public Works.

Notification of the Select Board's layout hearing shall be posted in the newspaper at least 7 days before the hearing. A copy of the notice shall be posted in Town Hall and sent to all owners and abutters by certified mail at least 7 days before the hearing. The cost and expense of notice shall be borne by the applicant.

At the hearing, the Select Board may vote to lay out the road.

An Order & Report of Layout with the boundaries and measurements of the way shall thereafter be filed with Town Clerk at least 7 days before the Annual or Special Town Meeting at which the Town is to act upon acceptance of the road.

If the road is accepted at Town Meeting, a copy of the deed shall be submitted by the applicant to the Select Board in form and substance acceptable to Town Counsel. Upon approval the original deed and original Mylar plan must be recorded at the Registry of Deeds by the applicant and proof of said recording provided to the Select Board promptly thereafter.

### **Section 5.03 Use of Public Ways**

No person shall place any table, tent, booth, stall or other thing in a street, highway, sidewalk, or on any of the public grounds in the town without a license from the Select Board.

License is required for vehicular and/or mobile type units to sell goods on public ways. All vendors selling food must obtain all necessary licenses from the Board of Health.

This license entitles person to operate upon any public ways throughout the town, If a potential traffic hazard comes about, this will be a separate and distinct matter for the Police Department. In order to operate upon Town property (park, school, etc.) the applicant must get the approval from each department head involved.

### **Section 5.04 Toll Booth/Boot Drive Policy (Amended 9/15/20)**

Any group or organization who wishes to obstruct a public way for any amount of time for the purposes of fundraising in any manner must obtain permission from the Select Board. The request must be made in writing on the approved form not less than 30 days prior to the event to allow the Board a satisfactory amount of time to take action on the request.

The organization shall be a charitable or non-profit group and the proceeds of the boot drive must be used exclusively for charitable purposes.

Organizations conducting such activity must adhere to the following requirements:

1. No inappropriate coercion during the collection of donations;
2. Persons in the road must be at least 18 years of age and all persons under 18 are to remain on the sidewalk;
3. Activities shall be conducted no earlier than ½ hour after sunrise and end no later than ½ hour before sunset;
4. All persons in the road must wear DOT (ANSI 107 compliant Class II vest, Class III Highway Safety garment, or ANSI 207 Public Safety vest) approved reflective clothing to minimize danger while they are in the roadway;
5. Appropriate signage, providing notice of the upcoming boot drive and identifying the name of the charitable organization, must be employed at least 100 yards in advance of the collection location;
6. Orange highway cones must be co-located with the signage and at the collection location;
7. If public safety vehicles are to approach, the collectors are to expeditiously but safely move out of the way;
8. Submit a completed permit application for the event to the Select Board's Office at least 30 days prior to the event;
9. Submit a completed hold harmless/waiver of liability form for each participant to the Town Manager no later than the Thursday prior to the event.
10. No charitable organization or non-profit group may conduct more than two tollbooths annually.

Reasons for Denial:

1. Applicant failed to follow safety guidelines in the last 12 months.
2. Applicant has reached the maximum allowed tollbooths for the year.

The Chief of Police and all other police officers of Lunenburg Police Department are authorized by law, and hereby appointed as agents of the Board for purposes of enforcing this policy.

## **Section 5.05 Disturbances of Newly Paved Roads (Adopted 9/5/17)**

**Policy Statement:** Trench cuts and other disturbances to pavement significantly compromise adjacent pavement quality, ride-ability and appearance, as well as accelerate deterioration by allowing water/ice to enter cracks. The purpose of these regulations is to preserve the integrity of newly paved roads, thereby promoting public safety, health and welfare for Lunenburg residents, as well to protect the Town's financial investments, including State Aid Chapter 90 Funding, Operational DPW Budget, Debt Exclusion voted upon by Town Residents, and Federal and State Funded Projects.

## **DEFINITIONS:**

- a. Lateral Cuts: Used to cut into a pre-existing utility to allow for a single connection, may include full width (curb to curb) crossings.
- b. Longitudinal Cuts: These cuts run lengthwise in the roadway.

## **PROHIBITED CONDUCT**

For a period of five (5) years from the date of completion of paving of a road in the Town of Lunenburg, no disturbances to such pavement shall be allowed.

## **EXEMPTIONS**

Notwithstanding the provisions of this policy, it is acknowledged that certain hardships may result from the total prohibition set forth in section III herein, which hardships may warrant an exemption. In such circumstances, a party may request an exemption from this policy as outlined herein.

It shall be unlawful for any person, firm or corporation to disturb road pavement in violation of this policy without a permit granting an exemption.

## **V. EXEMPTION PROCEDURE**

A. Applicant shall complete a Street Improvement Permit Application, providing the following information:

- 1. Name, address, telephone number and name of contact person or persons of the organization applying for the permit.
- 2. Name, address, telephone number, and license # of contractor who will be performing the work.
- 3. Location of work site.
- 4. Expected duration.
- 5. Written statement documenting the need for an exemption, including but not limited to: (1) necessary repair to existing utilities; (2) new installation of necessary utilities; (3) facilitation of development of adjacent properties.
- 6. Construction Plan in compliance with Section VII.
- 7. Notice to all utility companies to encourage coordination of projects.

B. Completed applications, together with an application fee may be returned to the DPW Director's Office for submission to the DPW Director.

C. Review of such application may include but not be limited to: a plan review, construction inspection, and material testing.

D. Within thirty (30) days of the submission of the application and fee, the DPW Director shall issue a written decision.

E. The DPW Director may deny a permit if, in his/her opinion, the pavement disruption is unnecessary to rectify an unsafe condition, to develop property, or to rectify a demonstrated hardship. Said denial shall be in writing and set forth the reasons for said denial.

F. A denial by the DPW Director may be appealed to Town Manager or his/her designee by filing a written statement within 21 days of the DPW Director's denial. Town Manager or his/her designee will issue a decision within 14 days.

G. A denial by the Town Manager or his/her designee may be appealed to the Select Board by filing a written statement within 21 days of the Town Manager's denial. The Select Board will issue a decision within 14 days.

H. A permit issued under this policy shall be valid for two (2) months from the date of issuance, unless otherwise approved in writing by the DPW Director.

#### **VI. EMERGENCY REPAIRS:**

A. **DEFINTION:** An immediate cut into the newly paved roadway that is required to address a public safety issue. Examples of this may include, but are not limited to, a ruptured water main or water service, a faulty gas pipe, or sewer break.

B. Immediate excavation of the area is allowed in cases of emergency repairs outside of the permitting process in this policy.

C. The utility or subcontractor that performs the temporary emergency repair will be required to notify the DPW Director by the next business day. The temporary emergency repair will include backfilling the hole with material to the same level as the existing pavement and compacting it. The utility that made the emergency repair will contact the DPW Director about the final method of repair that will maintain the integrity of the roadway.

#### **VII. FEES**

A. Application Fee. The application fee for a Street Improvement Permit shall be in accordance with a fee schedule adopted by the Select Board.

B. Road Opening Permit. Applicant must also file for and obtain a Road Opening Permit.

C. Review Fees. The Applicant shall also be responsible for all fees associated with the review of the Application, including but not be limited to: plan review, construction inspection, and material testing.

D. Town Expenses. The Applicant shall be responsible for all Town expenses related to the work as deemed necessary.

## **VIII. CONSTRUCTION REQUIREMENTS**

Approval of an exemption granted hereunder shall be further conditioned upon the following construction requirements:

### Lateral Cuts shall require:

1. Pavement / Sub-surface rehabilitation: Replace a minimum of 5' from each side of the trench, or as determined by the Director.
2. Joints may be infra-red, shelved, or require liquid asphalt.
3. A maximum of 12" of processed gravel to be installed and compacted beneath the asphalt within the entire limit of the cut if sub-base is deemed unsuitable by the Director.
4. Repair to include a minimum of 4" of asphalt installed in 2" lifts and compacted (at each lift).

### Longitudinal Cuts shall require:

A maximum of 12" of processed gravel to be installed and compacted beneath the asphalt within the entire limit of the cut if sub-base is deemed unsuitable by the Director.

Repair to include a minimum of 4" of asphalt installed in 2" lifts and compacted (at each lift).

i. The limits of pavement restoration will depend on the location of the trench line in relationship to travel lanes and/or parking as follows:

1. A single lane that is impacted shall have full pavement restoration for the entire width of the lane.
2. If multiple lanes are impacted, curb to curb shall be restored.
3. Impacted bike lanes or sidewalks shall be restored in their entirety, as approved by the DPW Director.

### B. Methods of Repair:

The Director may impose conditions determined to ensure the rapid and complete restoration of the street and the surface paving. Repaving may include surface grinding, base and/or sub-base repairs. Restoration may extend beyond the limits of the trench. The permittee shall be required to replace the asphalt to the dimensions and method as outlined or as directed.



C. Construction Methods:

There are two basic methods of applying asphalt: application by machine and application by hand raking. Machine paving for large areas provides the best consistency and a more uniform thickness and, therefore, shall be required, provided however, the final determination of application method allowed shall be at the discretion of the Director.

**IX. OTHER REQUIREMENTS**

- A. Contractor's certificate of Insurance, naming the Town as an additional insured.
- B. Construction guarantee for the project, and the entire scope of work, for a period of one (1) year following completion, which shall be extended for a period of one (1) year from the date of any necessary repairs.

**X. SEVERABILITY**

If any provision, clause, sentence, paragraph or word of this policy or the application thereof to any person, entity or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this article which can be given effect without the invalid provisions or application and to this end the provisions of this Policy are declared severable.

**Section 5.06 Signage on Town Property Policy (Adopted 10/20/20/Amended 5/3/22)**

The purpose of this policy is to designate the authorized location, size, and organizations that can request temporary placement of signs on town property.

- 1. Only non-profit and civic organizations can advertise their events on town property. Municipal and School events are exempt from this policy but must adhere to the town's sign bylaw.
- 2. There are certain town owned designated sites that temporary signs can be placed according to the town's sign bylaw (§250-6.5 (B)). These locations include the Upper Common, the Lower Common, Town Hall, Teen Center, Senior Center, Public Safety building, Ritter Building, the DPW building and park properties. An organization can request up to three of those locations at the same time to allow other organizations the opportunity to advertise their events. Organizations can only advertise one event at a time. Requests will be made on a first come, first serve basis and if all designated sites are being used, the request will not be granted until there is available space.
- 3. Signs may be placed up to two weeks prior to an event and must be removed 24 hours after the event.
- 4. Requests for placement of a temporary sign advertising an event must be for events that are located in the Town of Lunenburg or for a Lunenburg non-profit or civic organization holding an event outside of Lunenburg
- 5. Signage must meet all the requirements under the town's sign bylaw.
- 6. Any display of signage not following this policy or not approved by the Town Manager or

his/her designee, the violator will be immediately be notified that the town will remove the sign.

7. Requests to place a temporary sign on the designated sites on town property may be denied if the applicant/organization has previously violated this policy.
8. Sign requests will be approved by the Town Manager or his/her designee according to the guidelines of this policy.

### **Election Day Exception**

On any day that the Town conducts an election, administered by the Town Clerk, the following policy shall apply:

- 1) Campaign signs and/or ballot question signs may be placed on Town property along Massachusetts Avenue and Oak Avenue, as follows:
  - i. On Massachusetts Avenue, signage must be located between the driveway to the Lunenburg Public Library and the eastern entrance to the middle/high school parking lot
  - ii. On Oak Avenue, signage must be located within 50 feet of the entrance to the middle/high school parking lot
- 2) All signs and rockers must be less than 24 inches tall and 24 inches wide. Metal brackets shall be used to stake signs into the ground, and when staked, the top of the sign shall be less than 40 inches above the ground.
- 3) Signs may be placed on a first-come, first serve basis, within 10 hours of polls opening, and must be removed within 2 hours of polls closing.
- 4) Signs shall be placed within 10 feet of the public right of way and cannot obscure the point of view of vehicles exiting each parking lot
- 5) Each campaign or ballot question is limited to a maximum of 50 signs on Town property.
- 6) Candidates and their supporters may personally hold an unlimited amount of signs, provided that they remain at least 150 feet from the polling place.
- 7) Prior approval from any Town agent is not required.
- 8) Any sign in violation of this policy, will be removed by the Town Clerk or his/her designee.

## **Section 5.07 Commemorative Policy**

### **I. General:**

The Commemorative Policy provides a set of procedures to guide the location of commemorative items and to assist with their management.

Commemorative items include requested signage within the town right of way by private parties, plantings, plaques, benches or other types of donations to commemorate individuals, groups, or special events.

This policy applies to any property under the care, custody, and control of the Select Board.

### **II. Objectives:**

The reasons for having a formalized procedure are to:

1. Provide a clear and consistent method for reviewing requests to place signs, plantings, plaques, benches or other commemorative items on Town property;
2. Ensure that decisions involving such requests are well-considered and address the concerns and needs of the Town relative to maintenance costs, durability of materials, aesthetics, appropriateness of bench or tree location and type, and merit of the request; and

3. Allow for the placement of high-quality benches and plantings at an economical cost to the donor and in the most efficient and cost-effective manner for the Town.

### **III. Standards:**

When considering a request for the placement of a commemorative item on Town-owned land, the Select Board shall apply the following standards:

1. Acceptance and placement of a memorial bench, plaque, or planting on Town-owned property shall be done sparingly, for good cause shown. At minimum, persons being memorialized shall have, at some point in their lives, held residency or participated in the community for over ten years.
2. Except as otherwise allowed by the Town Manager, all memorial benches shall be deemed of acceptable material that fits the character of the landscape that it will be placed.
3. All proposed memorial trees shall require review by the Tree Warden to ensure the appropriateness of the species and its proposed location, as well as the sufficiency of the selected tree's size and condition. The tree shall be planted by an experienced landscaper under the supervision of the Tree Warden. The final location of the tree requires approval of the Select Board.
4. Donors will be required to pay for all costs associated with the donated item, including materials and labor costs if installation requires hiring a contractor for installation.

### **IV. Installation:**

Donated commemorative items will become the property of the Town once the item is accepted and installed. The Town will install the donation with town staff unless it requires an outside contractor or equipment to perform the work.

### **V. Expected Life Cycle of Commemorative Item:**

Donated commemorative items will be accepted by the Town with an expected life cycle.

- Benches and plaques will be considered at the end of their life cycle when the item needs to be replaced. The donor on file will be contacted to notify them the item will be removed due to the condition.
- Trees or other plantings that were commemorative in nature will be considered at the end of their life cycle if the tree or planting has outgrown the original location due to size and interfering with public safety or 25 years, whichever occurs first. The donor on file will be contacted to notify them the tree/planting will be removed.
- Signage within the Right of Way will be assessed annually and the Select Board may vote to remove commemorative signs upon recommendation by the DPW Director. The donor on file will be contacted to notify them the signage will be removed.
- Other criteria for removal include if the item is vandalized in a manner that makes it visually unacceptable, if the donated item needs to be removed to accommodate changing landscapes, or infrastructure. The Town does not guarantee against the effects of weather, vandalism, or theft.

### **VI. Notification:**

It shall be the responsibility of the donor to provide the Select Board's Office with a current address, phone number, and email address for purposes of notification regarding installation or removal of their donation.

## **VII. Procedures:**

The procedure for requesting the placement of a memorial bench or tree on public property shall be as follows:

1. Requests for permission to install new or replacement memorial benches or plant memorial trees (or to place a memorial plaque on an existing bench) on Town-owned real property shall be directed to the Select Board's Office.
2. Requestors shall be provided with a copy of this policy.
3. Before submitting a formal request for commemorative item such as a bench, plaque, or planting, the requestor is encouraged to discuss the matter with the Director of the Department of Public Works.
4. All requests shall be made by completing a Commemorative Request Form and submitting it the Select Board's Office.
5. Submitted request forms shall be forwarded by the Select Board's Office to the Director of Public Works that is responsible for maintaining the Town-owned land in question.
6. All comments and/or recommendations from the Department of Public Works should be returned to the Select Board's Office within 21 days of receipt.
7. The Select Board will then place on the next available meeting agenda to take action on the request, including acceptance of the gift per MGL c. 44 § 53A ½ and subject to its recommended conditions, if any.
8. Once the request has been approved by the Select Board, it shall be effectuated as follows:
  - Donor shall submit payment to the Select Board's Office.
  - The Town will coordinate with the donor on installation of commemorative item, when conditions and circumstances permit.

## **VIII. Adoption by the Select Board:**

This policy was adopted by a vote of the Select Board on April 26, 2022.

## **Article VI. Public Relations**

### **Section 6.01 Boston Post Cane (Adopted on 5/26/98; Amended 8/21/18)**

#### **Purpose:**

In 1909 the now defunct Boston Post newspaper distributed walking canes to 700 New England towns. The canes, made of ebony, which were imported from Africa and crowned with 14-karat gold, were then presented to the oldest living male of those municipalities. Women were added to the list of cane recipients starting in 1930. Since then, the canes have been handed down to the oldest survivor in those towns.

#### **Criteria for Selection:**

1. Oldest registered voter, according to Town Records
2. Resident of Lunenburg at least 25 years during their lifetime, as verified by Town Records
3. An active member of the community in the past.

#### **Procedure for Selection:**

1. A questionnaire will be sent to the five oldest people in town, as listed in the Town's Annual Census
2. Respondents will be screened by a sub-committee of the Council on Aging
3. If two or more residents meet the criteria, the person living the longest period of time in the town will be given the advantage
4. The sub-committee will report their findings to the Council on Aging
5. Following approval of the selection by the Council on Aging, a recommendation will be made, in writing to the Select Board for acceptance

#### **Presentation:**

1. A symbolic presentation of the Boston Post Cane by the Chairman of the Select Board or a designee will take place at a public ceremony
2. If the recipient is not physically able to attend the ceremony, the presentation will take place in his/her home
3. A replica lapel pin of the Boston Post Cane and a framed certificate will be presented to the recipient
4. At that time, a photograph will be taken of the recipient with the Boston Post Cane and certificate.
5. This photograph will be mounted below the case where the cane is on display in the Eagle House Senior Center
6. The recipient's name will be added to the list of past recipients, also mounted below the display case. The honoree will hold the designation as holder of the Lunenburg Boston Post Cane as long as they continue to meet the criteria.