

# **TOWN OF BOURNE**

## **BYLAWS**

**Approved through 2017 May ATM & STM Meetings**

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## **PREFACE**

The new Town Charter approved on April 4, 2001 has modified and amended the existing Town Bylaws in many respects, particularly by the establishment of a Town Administrator with the responsibility to carry out many of the duties formerly performed by the Board of Selectmen. See Section 4-6 Powers and Duties of the Town Administrator in the new Charter. It also should be noted, that if there is any conflict between a Town Bylaw and a provision of the Charter, the Charter shall supersede any bylaw to the contrary. See Section 10-1 of the Charter. Accordingly, one must consult both the Town Charter and the Town Bylaws in order to gain a full and complete understanding of the governing provisions of the law as they may apply to any particular matter. \*

NOTE: \* Various changes amended by Article 21-1, 2002 ATM

## CHAPTER 1

### **TOWN GOVERNMENT STRUCTURE**

#### Article 1.1 Town Meetings

##### **Section 1.1.1**

Annual Town Meeting and Elections. The annual town meeting shall be held on the first Monday in May of each year. A copy of the Warrant calling such meeting shall be posted in the Town Hall and in each Post Office in the Town. The annual town elections shall be held on the third Tuesday of May of each year. The Board of Selectmen are directed and authorized to petition the General Court for any legislation which may be necessary or useful in connection with the town meeting or its actions. The Voters handbook, as provided in Section 2-5 (c) of the Town Charter, shall be available to the public at Town Hall and the Public Library not less than fifteen (15) days prior to the Annual Town Meeting. \*

NOTE: \* Various changes amended by Article 21-2, 2002 ATM

NOTE: \* Various changes amended by Article 15, 2007 ATM

"The polls will be open at 7 A.M. for all Town Annual and Special Elections."

##### **Section 1.1.2**

Quorum. One-hundred twenty five (125) registered voters shall constitute a quorum to begin any session of any annual or special town meeting, provided however, that after said quorum has been established, a quorum to continue to maintain the meeting at any such session shall be one hundred (100) registered voters. Sessions devoted to the election of officers shall not be subject to this quorum provision. \*

NOTE: \*Various changes amended by Article 2, 2000 Nov STM

\*Various changes amended by Article 27, 2011 ATM

### **Section 1.1.3**

Seating. The certified voter registration list, identification tags, and designated seating areas, as directed by the Moderator, shall be used to ensure separation of the legal voters from all others during the town meeting.

### **Section 1.1.4**

Motions in Writing. All motions shall be submitted in writing when required by the Moderator.

### **Section 1.1.5**

Reconsideration. Reconsideration may only be moved or requested by a voter who voted on the prevailing side of the original vote on the main motion. No vote on a main motion, after being once passed at a meeting, shall be reconsidered at the meeting or at an adjournment thereof, except by a two-thirds vote. If the motion to reconsider is defeated, a motion to reconsider the vote on that article may not be made again.

NOTE: \* Various changes amended by Article 23, 2013 ATM

### **Section 1.1.6**

Rules of Order. All questions or order shall be decided by the Moderator in accordance with Robert's Rules of Order as interpreted by "Town Meeting Time, a handbook of Parliamentary Law", except as otherwise provided by statute, and these bylaws, and provided further, that the following rule(s), and procedure(s) shall supersede "Town Meeting Time" to the extent necessary and shall be applicable to all town meetings:

1. In the event the Moderator is absent or unable to preside over any article or articles for any reason, a Temporary Moderator shall be elected in accordance with Chapter 39 Section 14 Paragraph 5, of the Massachusetts General Laws, to conduct the meeting for the article or articles over which the Moderator is unable to so preside. \*

NOTE: \* Various changes amended by Article 15, 2001 ATM

### **Section 1.1.7**

Vote by Ballot. Upon request of 15 voters a vote shall be taken by ballot.

### **Section 1.1.8**

Time Limit. Each daily session of an annual or a special town meeting shall begin no earlier than 7:00 p.m. and shall conclude no later than 10:00 p.m. unless at such hour a vote is in progress in which event the vote shall be completed, or unless by 4/5ths vote of those in attendance it is voted to continue the session beyond 10:00 p.m. Under no circumstances shall the town meeting be allowed to continue after 11:00 p.m.

NOTE: \* Various changes amended by Article 7, 2008 STM

### **Section 1.1.9**

Articles by Lottery. Articles at any Annual and Special Town Meeting shall be considered in the order drawn at random by lottery conducted at the direction of the Town Clerk,

except that at any Annual or Special Town Meeting the Board of Selectmen and the Finance Committee may, by majority vote of each board, notify the Moderator at the commencement of the town meeting that certain articles are essential to the exercise of the Town's corporate functions in which event these designated articles shall be heard in order prior to those articles drawn by lottery. The criteria for this determination by the board of Selectmen and Finance Committee may include, but shall not be limited to, any one or more of the following articles or articles amending same: Annual Operating Expenses; Enterprise Accounts; stabilization Fund; reserve Fund; Chapter 90 Receipt of Highway Aid; Annual Authorizations; and, unpaid bills. In addition, the Selectmen shall notify the Moderator which articles in the warrant shall be contingent upon action upon another article or articles and these articles shall be taken in succession when either article comes to the town meeting floor for action. \*

NOTE: \* Various changes amended by Article 16, 2001 ATM

\* Various changes amended by Article 12, 2010 ATM

### **Section 1.1.10**

Sponsor of Articles. Each article submitted to the town meeting for vote shall at the conclusion thereof state the identity of its sponsor. In the case of a town board or committee: its name shall be so stated, in the case of a town official: his or her name and title or position shall be so stated, in the case of a private petition on behalf of a firm, organization or other entity: its name shall be stated: and in all other cases: the first signatory to the petition shall be considered the sponsor thereof. \*

NOTE: \* Various changes amended by Article 4, 2000 Nov STM

### **Section 1.1.11**

Two-thirds votes: If a two-thirds vote of the Town Meeting is required by statute a count shall not be taken unless it is deemed necessary in the discretion of the Moderator. Notwithstanding the foregoing, if a two-thirds vote so declared by the Moderator is immediately questioned by seven or more voters, the Moderator shall verify it by polling the voters or by dividing the meeting.

NOTE: \* Various changes amended by Article 22, 2013 ATM

## Article 1.2 Selectmen

### **Section 1.2.1**

Supervision. The Selectmen shall exercise a general supervision over all matters affecting the interests or welfare of the Town consistent with all relevant provisions of the Town Charter. \*

NOTE: \* Various changes amended by Article 21-3, 2002 ATM

### **Section 1.2.2**

Legal Proceedings. The Selectmen may institute, prosecute, defend, compromise and settle claims, actions, suits or other proceedings brought by, on behalf of, or against the Town, provided, however, that they shall act upon advice of counsel whenever they deem it necessary.

### **Section 1.2.3**

Appearances. The Selectmen may appear (either personally or by counsel) before any committee of the legislature, or board or commission, to protect the interest of the Town, but are not authorized by this bylaw to commit the Town to any course of action.

### **Section 1.2.4**

Statistics in Annual Town Report. The Selectmen shall include in their annual report such statistics as they shall deem in order, to give the Town full information upon the subject of the general welfare of the inhabitants of the Town.

### **Section 1.2.5**

Report Regarding Town and County Ways. The Selectmen shall in their annual report state in detail what action they have taken in the year preceding, in regard to Town ways and county ways, and they shall state what ways have been altered, what damages have been assessed and paid, what claims are outstanding, and what claims are in suit against the Town.

### **Section 1.2.6**

Time Limit for Annual Town Report. It shall be the duty of the Selectmen to have printed annual reports of the Town ready for distribution not later than fourteen days before the Annual Town meeting, if practicable.

### **Section 1.2.7**

Time Limit for Filing Annual Operating Budgets. Each head of a department, board or committee or other officer in charge of the expenditures of the money of the Town shall not later than December 8th of each year file with the Town Administrator an operating budget on forms approved by the Town Administrator indicating the appropriation requested for the regular annual expenses of such department, board, committee or office for the next fiscal year.

On or before January 15th of each year, the Town Administrator shall submit to the Board of Selectmen a proposed operating budget and a capital program and capital budget for all town departments, including the School Department. The proposed budget shall be accompanied by a budget message and supporting documents as required by the Bourne Town Charter Article 7 -1. The Board of Selectmen shall review the proposed budget and capital plan and make any changes deemed appropriate. They will then transmit the budget and capital plan to the Finance Committee on or before February 1st of each year. \*

NOTE: \* Various changes amended by Article 21-4, 2002 ATM

NOTE: \* Various changes amended by Article 20, 2007 ATM

### **Section 1.2.8**

Payment Authorizations. Every bill shall, before being presented to the Finance Director for payment, be signed by a person authorized by the head of the department, or by a majority of the board or committee. Bills shall be listed on a Schedule, in duplicate, which shall be signed by a person authorized by the head of the department or by a majority of the board or committee. Schedules shall be listed on the Treasury Warrant, prepared by

the Finance Director for approval by the Town Administrator in accordance with Section 7-5 of the Charter. \* *[Original 1.2.8 Budget deleted – Article 21-5, 2002 ATM]*

NOTE: \* Various changes amended by Article 21-6, 2002 ATM

NOTE: \*Various changes amended by Article 19-A, 2007 ATM

### **Section 1.2.9**

Auditing. The Selectmen may petition the Director of Accounts in the Massachusetts Department of Corporations and Taxation for an audit of the books and accounts of the Town, as provided in Chapter 44, Section 35 of the Massachusetts General Laws.

## Article 1.3 Finance Committee

### **Section 1.3.1**

There shall be a Finance Committee Consisting of 12 voters of the town appointed by the Moderator, none of whom shall hold any other town office. Town of Bourne employees, including school employees, shall not be eligible for appointment to, or service on, the Finance Committee as provided in Section 2-9 of the Town Charter.

The term of service for members of the Committee shall be three years. The term of service for four members shall expire each year and their successors shall be appointed by the Moderator. No person shall be eligible for re-appointment as a member of the Finance Committee unless he/she has attended at least 75% of all regular meetings duly called by the Chairman of the Committee during his/her tenure. The Committee shall annually submit an attendance report to the Moderator. \*

NOTE: \* Various changes amended by Article 21-9, 2002 ATM

NOTE: \* Various changes amended by Article 18, 2007 ATM

NOTE: \* Various changes amended by Article 26, 2016 ATM

### **Section 1.3.2**

Duties. It shall be the duty of the Finance Committee to consider all matters of business included within the articles of the warrant for every Town Meeting. The Committee, after due consideration, shall report such recommendations as it shall deem best, concerning all articles in such warrant relating to the appropriation of money or which would otherwise occasion an expense to the Town. Said report and recommendations thereon shall be in accordance with all applicable provisions of the Town Charter, including Section 7-4 thereof.

NOTE: \* Various changes amended by Article 21-10, 2002 ATM

### **Section 1.3.3**

Authorizations. The Finance Committee or any person authorized to act for the Committee shall have authority at any time to examine and investigate the books, accounts and the management of any department or officer of the Town; and the books and accounts of the Town and all the officers thereof shall be open to the inspection of the Committee.

#### **Section 1.3.4**

Report to Town Meeting. The Finance Committee before the Annual Town meeting shall report to the Town the estimates of the several departments, and the recommendations of the Selectmen thereon, together with its own comments, suggestions and recommendations thereon, and further the Finance Committee shall make a recommendation on all other articles in the Warrant. All recommendations made by the Finance Committee shall include the number of Ayes and Nays recorded for each recommendation. Said report and recommendations thereon shall be in accordance with all applicable provisions of the Town Charter, including Section 7-4 thereof.

NOTE: \* Various changes amended by Article 21-11, 2002 ATM

#### **Section 1.3.5**

Reimbursement. The members of the Finance Committee shall serve without pay for their services; but they may be reimbursed for actual expenses incurred in the discharge of their duties.

#### **Section 1.3.6**

Termination of Membership. Any member of the Finance Committee absent from four consecutive meetings of the Committee without rendering an excuse acceptable to the Committee, shall there by cease to be a member thereof. Vacancies occurring in this or any other manner shall be reported to the Moderator who shall appoint a member to fill the unexpired term within a period of thirty days from notification of the vacancy.

### Article 1.4 Planning Board

#### **Section 1.4.1**

Membership. There shall be a Planning Board consisting of nine voters of the Town elected as provided by Section 10-5 (i) of the Town Charter, beginning with the Town Election in 2002. Terms of Associate Members shall be appointed as provided in Section 1410, or any successor Section of the Bourne Zoning Bylaw. Terms of members elected hereunder shall expire on the last day of an Annual Town Election, and the terms of office for new members shall begin on the first day following the Annual Town Election.

NOTE: \* Various changes amended by Article 21-12, 2002 ATM

#### **Section 1.4.2**

Organization. The Planning Board shall annually organize by election from its own members a Chairman, Vice Chairman and a Clerk, and may fix their compensation, if any, and may employ and fix the compensation of such experts, clerical and other assistants, as may be approved in each case by the Board of Selectmen. \*

NOTE: \* Various changes amended by Article 26, 2000 ATM

#### **Section 1.4.3**

Powers and Duties. The Planning Board shall be invested with all powers and duties of Planning Boards under the General Laws of the Commonwealth as adopted and amended.

#### **Section 1.4.4**

Zoning Actions at Town Meeting. Planning Board shall make a report and recommendation on each article in a town meeting warrant relating to or amending the Zoning Bylaw of the Town of Bourne.

**Section 1.4.5**

Public Land. No public park, recreation area, or similar land or facility for public use shall be created without prior reference to the Planning Board for investigation and the Planning Board shall report and make recommendations to the Board of Selectmen thereon.

**Section 1.4.6**

Buildings and Roads. The location and placement of all proposed public buildings, and acceptance of roads or improvement thereof, shall be referred to the Planning Board for investigation and report to the Board of Selectmen thereon.

**Section 1.4.7**

Reporting on Referrals. In all cases referred to the Planning Board for investigation, report, or other action, a failure of the Planning Board to report in writing thereon to the Board of Selectmen within forty-five days from the date of its referral shall be construed as an approval of the action requested.

**Section 1.4.8**

Matter Not Requiring Planning Board Action. No matters involving ordinary maintenance and/or repairs shall require action by the Planning Board.

**Section 1.4.9**

Street Names. The Board of Selectmen may after public hearing change the name of streets, ways and alleys and shall approve the name of all streets. No street sign shall be erected without approval of the name by the Board of Selectmen.

Article 1.5 Capital Outlay Committee

**Section 1.5.1**

Membership. There shall be a Capital Outlay Committee, consisting of five (5) voters of the town appointed as follows: The Selectmen shall appoint three (3) members at large and two (2) members shall be appointed by the members of the Finance Committee from its membership.

**Section 1.5.2**

Finance Director Ex-Officio. The Finance Director shall be an ex-officio member and shall not be entitled to vote on making recommendations to be included in its reports. \*

**Section 1.5.3**

Terms of Appointment and Officers. Members shall be appointed for 3-year terms. The terms shall be so arranged that the terms of all members of the Committee do not expire in the same year. Members may be reappointed and they shall serve without compensation. The Committee shall elect a Chairman, Vice-Chairman and Clerk from among the members at its first meeting, on or after July 1st of each year.



#### **Section 1.5.4**

Duties. It shall be the duty of the Committee to recommend annually what capital outlay items as defined herein, will be required by the Town in the next five (5) years. In making this determination, the Committee will consult with the Selectmen, Town Administrator, and with Boards, Department Heads, and Committees of the Town. All Department Heads and members of Town Boards and Committees will cooperate with the Committee and respond to its requests for information. The Capital Outlay Committee as established herein shall be the Committee designated to work in conjunction with the Town Administrator in preparing a Capital Improvement Program and Capital Budget as set forth in Section 7-2 of the Charter.

NOTE: \* Various changes amended by Article 21-13, 2002 ATM

NOTE: \* Various changes amended by Article 19-B, 2007 ATM

#### **Section 1.5.5**

Annual Report. The Capital Outlay Committee shall prepare an annual report of its recommendations which shall be submitted to the Town Administrator, Board of Selectmen and the Finance Committee on or before March 15th of each year. Said report shall include its recommendations for the scheduling and financing of capital outlays. The Committee shall make such further reports during the year as the Town Administrator or Board of Selectmen may request.

NOTE: \* Various changes amended by Article 21-14, 2002 ATM

#### **Section 1.5.6**

Capital Outlay Items Defined. Any proposed article meeting the definition of a capital outlay item as herein defined shall be presented to the Capital Outlay Committee for review as a Capital Outlay item. A Capital Outlay item will refer to any activity that meets one or more of the following criteria:

- a. The acquisition of land or buildings.
- b. The new construction, reconstruction, repair, replacement, or improvement of buildings or other public facilities, drainage facilities, streets, sidewalks, parks or improvements of land with a cost in excess of \$20,000.00.
- c. The purchase of major equipment, including motor vehicles, with a cost in excess of \$10,000.00.
- d. The planning and design studies for any Capital Outlay item as defined.
- e. And those items referred to the Capital Outlay Committee by the Finance Committee.

NOTE: \* Various changes amended by Article 26, 2000 ATM

### Article 1.7 Recreation Committee

#### **Section 1.7.1**

Membership. There shall be a Recreation Committee consisting of nine voters of the Town appointed annually by the Board of Selectmen.

### **Section 1.7.2**

Organization. The Committee shall annually organize by election from its members a chairman, a vice-chairman, and a clerk.

### **Section 1.7.3**

Duties and Responsibilities. The Committee shall review all requests from private organization for town funding of athletic and recreation programs, and shall transmit its recommendations therefor to the Selectmen and finance committee in the form of its annual budget submission; the Committee may develop town-sponsored athletic and recreation programs; the Committee shall develop, and regularly update, a written master plan for development and coordination of recreation programs and utilization of recreation facilities for all age groups in the town; and, shall be responsible for such other matters as may from time to time be referred to it. The committee shall not have jurisdiction or supervision over recreation programs of the school department, lifeguard department, Bourne Council on Aging, or Bourne Veterans Memorial Community Center, unless so requested by such departments. \*

NOTE: \* Various changes amended by Article 19-C, 2007 ATM

NOTE: \* Various changes amended by Article 15, 2008 ATM

## Article 1.8 School Building Committee

### **Section 1.8.1**

Membership. There shall be a School Building Committee consisting of membership as set forth in Massachusetts Code of Regulations 963 CMR 2.00 as may be from time to time amended. The members as set forth in said Code of Massachusetts Regulations shall be appointed as needed by the Moderator. The provisions of Section 2.4.3 of the bylaws concerning the staggering of appointments shall not be applicable to the appointments to the School Building Committee. \*

### **Section 1.8.2**

Officers. The Committee shall elect from within its membership a Chairman, Vice-Chairman, and Secretary.

### **Section 1.8.3**

Duties: The Committee shall function on school building projects requiring new construction or an addition to an existing building. The Committee shall assume the responsibility of owner for the purpose of selecting and contracting with the architect and general contractor and shall authorize payments for services rendered. The committee shall be responsible for such other related matters as may, from time to time, be referred to it.

### **Section 1.8.4**

Reports: The Committee shall prepare a report of its activities which shall be submitted to the Board of Selectmen on, or before, the first of July in order that it be included with the town's Annual Report for that year. The Committee shall make such further reports as may be requested by the Selectmen or the School Committee.

### **Section 1.8.5**

Term of Service. The Committee Members shall serve until the School Committee votes that the projects and responsibilities for which the members were appointed have been completed. Upon such vote by the School Committee, the School Building Committee shall be disbanded until such time as the Moderator shall appoint a new Committee in accordance with Section 1.8.1 for a new or different project.

The Moderator shall appoint a successor member to the School Building Committee whenever there is a vacancy due to death, resignation or inability to continue to serve because of membership requirements as set forth in section 1.8.1. and/or Section 2.4.4, or act anything thereon. \*

NOTE: \* Various changes amended by Article 8, 2000 Nov STM

NOTE: \* Various changes amended by Article 12, 2014 Oct STM [re-numbered]

### Section 1.9 Bylaw Committee

#### **Section 1.9.1**

Membership: There shall be a Bylaw Committee consisting of seven (7) voters of the Town, one shall be from the Finance Committee, one shall be from the Planning Board, and five (5) members at large, all of whom shall be appointed by the Board of Selectmen. In addition the Police Chief or Chief's designee shall serve as an Ex-Officio member, for advice and counsel. The Police Chief or Chief's designee shall be a non-voting member. \*

NOTE: \* Various changes amended by Article 5, 2008 Nov STM

#### **Section 1.9.2**

Organization: Members shall be appointed for 3-year terms. The terms shall be so arranged that the terms of all members of the committee do not expire in the same year. Members may be reappointed and they shall serve without compensation. Members may be re-appointed and they shall serve without compensation. Any vacancies shall be filled in the same manner as the original appointment for the remainder of the vacant term. \*

#### **Section 1.9.3**

Officers: The Committee shall elect a Chairman, Vice-Chairman and Clerk from among the members at its first meeting on or after July 1st of each year. \*

#### **Section 1.9.4**

Duties: The Bylaw Committee shall review the Town Bylaws and present any revisions or amendments that they deem necessary and desirable to the Town Meeting for appropriate action. Said Committee shall also review all proposed Town Bylaws in advance of the presentation to the Town Meeting and shall make their recommendation to the Town Meeting prior to any vote being taken thereon, or to take any other action in relation thereto. \*

NOTE: \* Various changes amended by Article 10, 2000 Nov STM

NOTE: \* Various changes amended by Article 16, 2007 ATM

## Section 1.10 Shore and Harbor Committee

### **Section 1.10.1**

Membership: There shall be a Shore and Harbor Committee consisting of seven (7) registered voters appointed by the Board of Selectmen. Said Committee may include a member of the Conservation Commission and the Harbormaster, or his designee, as non-voting participants.

### **Section 1.10.2**

Organization: Present members shall continue their respective terms in office as they were originally appointed. As said terms expire, appointments shall be made for up to three (3) year terms in a manner so that the terms of all members do not expire in the same year as provided in Section 2.4.3 of these Bylaws. Members may be reappointed and they shall serve without compensation. Any vacancies shall be filled for the remainder of the vacant term.

### **Section 1.10.3**

Officers: The Shore and Harbor Committee shall have a Chairperson, Vice-Chairperson and a Clerk, and all of whom shall be elected from among the membership at its first meeting held on or after July 1 of each year.

### **Section 1.10.4**

Duties: The Shore and Harbor Committee shall initiate, encourage and carry out improvements on the land along the shores now or later owned by the Town, and all adjacent waters thereto, for the purpose of increasing the use and safety thereof, all in the public interest, for bathing, boating, recreational fishing, shellfishing and any other related water activities.

In addition, said Committee may plan and construct, consistent with the foregoing purposes, facilities for the development and convenient accommodation of bathing and boating on the shores and contiguous tidal waters. Subject to the approval of the Town Administrator, said Committee may enter into contracts in the name of the Town, subject to necessary appropriation, if applicable, and also subject to the approval of the Town Administrator, to engage secretarial assistance and do such other things as may be necessary for the accomplishment of its lawful purposes, as provided herein.

NOTE: \* Various changes amended by Article 25, 2002 ATM

## CHAPTER 2

### **TOWN GOVERNMENT OPERATION**

#### Article 2.1

#### **[The Salary Administration Plan - deleted]**

NOTE: \* Deleted by Article 14, 2010 ATM

#### Article 2.2 Protection of the Interest of the Town

##### **Section 2.2.1**

Annual Inventory. The head of every department of the Town shall annually, in January, take an inventory of all articles and property belonging to such department and shall file a list of these articles and property with the Town Administrator. The Town Administrator shall annually take an inventory of all articles and property in the Town offices, Town Hall and other buildings under his immediate jurisdiction and keep a copy thereof in his office.

NOTE: \* Various changes amended by Article 21-16, 2002 ATM

### **Section 2.2.2**

Storage. All material, equipment of paraphernalia belonging to the Town, when not in use for construction or in active service in some other place in Town, shall be kept in buildings or on property owned or leased by the Town; but exemption from the foregoing requirements may be secured by the head of a department, by filing a statement of facts with the Selectmen, setting forth reasons for making such exemption necessary for the welfare of the Town, which statement shall be entered upon the Selectmen's records.

### **Section 2.2.3**

Sale of Materials to Town. No Town officer or no salaried employee of the Town shall sell materials, or supplies to the Town without the permission of the Selectmen expressed in a vote which shall appear on their records with a statement of the reasons therefor.

### **Section 2.2.4**

Extra Compensation. No Town officer and no salaried employee of the Town shall receive any compensation or commission for work done by him for the Town, except his official salary, without the permission of the Selectmen, expressed in a vote which shall appear on their records with a statement of the reasons therefor.

### **Section 2.2.5**

Public Auction of Equipment. The Selectmen may sell at public auction or by solicitation of sealed bids after advertising any equipment belonging to any department in the Town providing that the department has no further use for the same, and turn the money over to the Treasurer. Items considered of no value by the Selectmen, may be otherwise disposed of.

### **Section 2.2.6**

Bids for Supplies, Equipment and Services. No contract for the purchase of supplies, equipment, and services, shall be awarded except in conformance with the provisions of Chapter 687 of the Acts of 1989, as from time to time amended and supplemented. Copies of all requests for proposals, specifications, advertisements, responses to requests for proposals, and awarded contracts will be filed with the office of the Finance Director who shall cause to be posted in the office of the Town Clerk the name and address of every person who is awarded a contract pursuant to this section. \*

NOTE: \* Various changes amended by Article 19-D, 2007 ATM

### **Section 2.2.7**

Public Auction of Land. Any land owned by the Town and offered for sale shall be put up for sale at public auction each year subject to the following conditions:

- a. Said land shall not be disposed of with out prior approval by majority vote of the Board of Selectmen, Conservation Commission and Planning Board in joint session.
- b. The sale shall be advertised by posting of notice thereof in each of the post offices of the Town and in the Town Hall at least thirty (30) days in advance of such sale, and by publication of such notice in advance thereof in a newspaper of local circulation for two successive weeks.
- c. All notices and advertisements of a sale under this bylaw shall contain an adequate description of each parcel of land to be sold. In addition to the reference to a recorded deed there shall be a brief description for each parcel together with its approximate area.
- d. For the purposes of this Bylaw, the term "land" shall include any interest in real estate owned by the Town, including but not limited to a condominium or similar unit of individual ownership in a multi-unit structure, including all rights appurtenant thereto.

NOTE: \* Various changes amended by Article 23, 2002 ATM

### **Section 2.2.8**

Inspection of Records. Each head of a department, board or standing committee and every person having custody of any public records of the Town of Bourne shall, at reasonable times, permit them to be inspected and examined by any person, under his supervision, and shall furnish copies thereof on payment of a reasonable fee, as provided by Massachusetts General Laws, Chapter 66, Section 10 (a), as amended and supplemented, or on payment of a fee as may otherwise be specifically provided bylaw.

### **Section 2.2.9**

Appointments. All appointments to be made by the Board of Selectmen, and all appointments to be made by the Moderator, shall be made within 45 days after the Annual Town Meeting.

### **[Deletion of 2.2.10 Power to Contract]\***

NOTE: \* Various changes amended by Article 21-17, 2002 ATM

## Article 2.3 Amendments to Bylaws

### **Section 2.3.1**

Repeal and Amendment. These bylaws may be repealed or amended at any Town meeting, as provided by the General Laws. Notice of any such proposed repeal or amendment shall be given in the warrant calling said meeting.

## Article 2.4 Committees

### **Section 2.4.1**

Term of Appointment. The term of appointment to any committee established or to be established by the Town shall not be for a longer period than 3 years, except as otherwise provided in these bylaws or in the General Laws.

### **Section 2.4.2**

Reappointment. Appointive members may be reappointed after the expiration of their terms. No person shall be eligible for reappointment as a member of a committee unless he/she has attended at least seventy-five (75%) of all meetings duly called by the Chairman of the Committee during his/her tenure, or has been excused from attending certain meetings by majority vote of the Committee. Committees shall annually submit an attendance report to the appointing authority.

NOTE: \* Various changes amended by Article 13, 2010 ATM

### **Section 2.4.3**

Staggering of Appointments. The term of appointment made to any committee after the adoption of this bylaw shall be so arranged that the terms of all members of a committee do not expire in the same year.

### **Section 2.4.4**

Termination of Committee Membership. Any member of any committee, board or commission absenting himself from four (4) consecutive meetings of the committee, board or commission without rendering any excuse acceptable to the committee, board or commission shall thereby cease to be a member thereof. Vacancies occurring in this or in any other manner shall be reported to the proper appointing authority, and said authority shall appoint a member to fill the unexpired term within a period of forty five (45) days from notification of the vacancy.

### **Section 2.4.5**

Executive Session Minutes. Minutes of Executive Sessions, upon approval of the committee having called the executive session, shall be sealed in an envelope labeled with the name of the committee, date of the Executive Session, and the general reason for calling the Executive Session. Such sealed envelopes shall be promptly filed with the Town Clerk, who shall keep the minutes sealed until such time as the committee provides written notice to the Town Clerk that the purpose of the Executive Session has been resolved. Upon receipt of such notice, the Town Clerk shall unseal the minutes and shall add them to the public minutes of the committee. \*

NOTE: \* Various changes amended by Article 36, 2007 ATM

### **Section 2.4.6**

Quorums: A quorum of any Town Committee or Board shall consist of a simple majority of the members on that body. \*

NOTE: \* Various changes amended by Article 30, 2013 ATM

## **Section 2.5**

### **Article 2.5 Council on Aging**

There shall be a Council on Aging in accordance with Chapter 40, Section 8B of the Massachusetts General Laws, as established by the town meeting vote of the town of Bourne, Massachusetts, on March 1969 (Article 2.5 of the Town General By-laws). The name of the organization shall be the Bourne Council on Aging, hereinafter referred to as

the Council.

### **Section 2.5.1**

Purpose and Goals. It shall be the purpose of the Council on Aging to carry out programs and services to promote the well-being of the elder population of this community. To accomplish this, the goals are:

- A. To identify the needs;
- B. To educate the community and enlist support and participation of all citizens about their needs;
- C. To design, advocate and/or implement services to fill these needs, or to coordinate existing services;
- D. To cooperate with the Massachusetts Executive Office of Elder Affairs and the programs regarding elders;
- E. To utilize the abilities of the seniors to serve the community and to strive for intergenerational goals;

### **Section 2.5.2**

Council on Aging Advisory Committee - Membership. A Council on Aging Advisory Committee, hereinafter referred to as the Advisory Committee, shall be established for the purposes of advising the Executive Director of the Council on how best to satisfy the purpose and goals listed under Section 2.5.1 of this bylaw.

This Advisory Committee shall consist of from seven to eleven members and two alternates, appointed by the Board of Selectmen for a term of three (3) years, unless the appointment is to fill the unexpired term of a retiring member. As the Board of Selectmen appoints this Advisory Committee, all members are responsible to the Board of Selectmen as stated in the Town of Bourne Charter, as amended. Said terms shall be staggered so that no more than three (3) appointments shall expire in any calendar year. Members may be reappointed. At least five members shall be over the age of sixty (60) at the time of their appointment and all members of the Advisory Committee shall be registered voters of the Town of Bourne.

The Executive Director and/or the Town Administrator may be ex-officio member(s) of the Advisory Committee, as determined by the Board of Selectmen.

### **Section 2.5.3**

Council on Aging Advisory Committee - Meeting Procedures.

- A. Roberts Rules of Order shall be the guide to conducting meetings.
- B. Meetings shall be held on a regular monthly schedule and/or as needed basis.
- C. Special meetings may be called by the chair or at the request of three (3) members.  
A written notice shall be given to each member in accordance with the Open Meeting Law.
- D. The annual meeting of the Advisory Committee shall be held at the June meeting at which time officers shall be elected.



- E. A quorum is a majority of the total members (appointed to and sworn in by the Town Clerk) of the Advisory Committee as and is necessary for the transaction of business.

#### **Section 2.5.4**

##### Council on Aging Advisory Committee - Officers and Duties.

- A. The Advisory Committee shall annually elect a chairperson, vice chairperson and a secretary from its membership and shall report the election results to the Town Clerk. Officers are elected at the Annual Meeting.
- B. Upon vacancy of any office, a successor shall be elected by the Advisory Committee at the next regularly scheduled meeting. Any successor shall be made from the current members of the Advisory Committee.
- C. The duties of the officers shall be as follows:
  - 1. Chairperson: Presides at meetings and is the chief executive officer (of this appointed advisory committee) subject to the direction of the members of the Advisory Committee, acts as a spokesman for the Advisory Committee and shall appoint all necessary sub-committees as brought forward, recommended, and deemed necessary by the Advisory Committee.
  - 2. Vice-Chairperson: Presides in absence of Chairperson and performs the Chairperson's functions.
  - 3. Secretary: Is responsible for the minutes of the meetings, recording, and submitting to the office of the Town Clerk, within 7 days after notice of the minutes have been approved.

#### **Section 2.5.5**

Executive Director. The Executive Director of the Council on Aging is appointed pursuant to the Town of Bourne Charter as amended. The Executive Director is primarily responsible for the direction and administration of the day-to-day operations of the office of the Bourne Council of Aging. The Executive Director receives advice from the Council of Aging Advisory Committee on programs; but is not responsible to, nor takes mandatory direction from the appointed members of the Council on Aging Advisory Committee. The Executive Director reports to the Town Administrator.\*

NOTE: \* Various changes amended by Article 16, 2015 ATM

#### Article 2.6 Burial Lots

##### **Section 2.6.1**

Care of Lots. The treasurer may receive deposits in sums of not less than two hundred fifty dollars for the perpetual care and preservation of such burial lots in cemeteries within the limits of the Town as the depositor may specify.

##### **Section 2.6.2**

Board of Investment. The Treasurer and the Selectmen shall constitute a board for the investment of moneys deposited for the care of burial lots in cemeteries in the Town.

### **Section 2.6.3**

Income from Deposits. The income from such deposits of such part as maybe necessary shall be applied under the direction of the Treasurer with the approval of the Selectmen to the preservation and care of such burial lots as may be designated by the depositor.

### **Section 2.6.4**

Statements of Deposit. The Treasurer shall include in his report a statement showing the names of the depositors, the amounts received for the care of burial lots, the income therefrom, the amount expended for said purpose and the balance on hand, and such statement shall be printed in the annual report.

## Article 2.7 Annual Report

### **Section 2.7.1**

Treasurer's Annual Report. In his annual report, the Treasurer shall state the amount of the Town debt at the end of the preceding fiscal year and the objects for which the debt of the Town was increased during such year, and shall recite the vote under which the money was borrowed.

### **Section 2.7.2**

Assessors' Annual Report. The Assessors shall append to their annual report a table of the valuation including real and personal properties; the rate of taxation; and the amount of money raised.

### **Section 2.7.3**

Town Clerk's Annual Report. The report of the Town Clerk shall include a statement of the births, deaths and marriages in the Town during the year.

## Article 2.8 Ambulance Vehicles

### **Section 2.8.1**

Emergency Ambulance Vehicles. The emergency ambulance vehicles shall be under the supervision of the Fire Chief who shall be responsible for their care and maintenance. In case of an emergency requiring immediate medical or surgical care, the Fire Chief, or his designee, shall direct, control, and make such vehicle available for the transportation of ill, injured or disabled persons to the nearest hospital, if deemed advisable. Charges and fees incurred by persons through the use of the ambulance and ancillary emergency services, shall be established and approved by the Board of Selectmen in accordance with the applicable Medicare reimbursement fee schedule for the Greater Boston Area, as same may be periodically adjusted and recommended by the Fire Chief. \*

NOTE: \* Various changes by Article 20, 2004 May ATM.

## Article 2.9 Due Date and Interest on Unpaid Bills and Charges.

### **Section 2.9.1**

Due Date. Municipal Bills and charges, other than tax bills, shall be due and payable within thirty (30) days of mailing.

### **Section 2.9.2**

Rate of Interest. Unpaid bills and charges accrue interest at the rate of twelve (12%) per

annum on the unpaid balance until paid in full.

## CHAPTER 3

### **GENERAL REGULATIONS**

#### Article 3.1 Public Safety and Good Order

##### **Section 3.1.1**

Rubbish Permit. No person shall, without written permit from the Selectmen, place or cause to be placed in any public way or square, any dirt, rubbish, wood, timber or other material of any kind tending to obstruct such way or square.

##### **Section 3.1.2**

Digging on Public Land. No person shall break or dig up the ground in any public way, square, or other public place in the town, or set up any fence, post, tree, edgestone, pavement in any street, square, or public place in the Town, except as provided in Chapter 85, Section 4 of the Massachusetts General Laws, without a permit from the Selectmen. Violation of this Bylaw shall be subject to a fine of \$150.00 per day.\*

NOTE: \* Various changes amended by Article 22, 2012 ATM

##### **Section 3.1.3**

Littering of Streets and Ways. No person shall throw or sweep into, or place, or drop, or suffer to remain in or on any street or way, any hoops, boards, or other wood with nails projecting therefrom, or nails of any kind, shavings, ashes, glass, hair, manure, rubbish, offal or filth of any kind, or any noxious or refuse liquid or solid substance. Violation of this Bylaw shall be subject to a fine of \$300.00 per day.\*

NOTE: \* Various changes amended by Article 22, 2012 ATM

##### **Section 3.1.4**

Railroad and Auto Overpasses. It shall be unlawful for any person to leap from or swim under railroad trestles or automobile overpasses, except in an emergency or for the making of repairs to the said structures, boats, or other equipment. Any Person violating this bylaw shall be subject to a fine of fifty dollars.

##### **Section 3.1.5**

Advertising on Public Ways. No person shall attach any advertisement, placard, or board to any guide post, railings, telephone pole, tree, electric light pole or stones within any public way. Violation of this Bylaw shall be subject to a fine of \$50.00 per day.\*

NOTE: \* Various changes amended by Article 22, 2012 ATM

##### **Section 3.1.6**

Signs. No person shall without authority from the proper officers of the state or of the Town, place, maintain, or display upon or in view of any public way any sign, signal or device in imitation of or resembling an official traffic sign or signal, or which attempts to direct the movement of vehicles, or which hides from view or otherwise interferes with the

effectiveness of any lawfully erected traffic sign or signal. The Chief of Police is directed to remove any sign, signal or device erected or maintained in any public way in violation of this section of the bylaw. Violation of this Bylaw shall be subject to a fine of \$50.00 per day.\*

NOTE: \* Various changes amended by Article 22, 2012 ATM

### **Section 3.1.7**

Nudity. No person while in a state of nudity shall bathe in any of the waters of the Town in a place exposed to public view or in sight of the occupants of any dwelling or other buildings. Any person violating this bylaw shall be subject to a fine of fifty dollars.

### **Section 3.1.8**

Disorderly Conduct. No person shall behave in a disorderly manner, or use any indecent or insulting language in any public place or near any dwelling or other building, or be or remain upon remain upon any sidewalk to the annoyance or disturbance of any other person. Any person violating this bylaw shall be subject to a fine of fifty dollars.

### **Section 3.1.9**

Fires. In case of fire, no person shall interfere with the members of the Fire Department or remove, injure or in any manner disturb the machines, hoses, or equipment of the Fire Department, except as directed by the officer of the Fire Department in command. The Chief of Police, or in his absence some other police officer, shall be present at all fires, for the purpose of enforcing this section of the bylaw. Violation of this Bylaw shall be subject to a fine of \$300.00 per day.\*

NOTE: \* Various changes amended by Article 22, 2012 ATM

### **Section 3.1.10**

Emergency Vehicle Right-of-Way. Upon the approach of any fire apparatus, police vehicle or ambulance which has its siren or flashing light in operation, each person driving a vehicle on the way shall immediately drive the vehicle to the right side of the way and shall come to a complete stop until the emergency vehicle passes. Violation of this Bylaw shall be subject to a fine of \$300.00 per day.\*

NOTE: \* Various changes amended by Article 22, 2012 ATM

### **Section 3.1.11**

Operation of Animals on Public Ways. Every person driving or riding an animal on a public way shall conform to, and shall require such animal to conform to the Rules and Orders of the Selectmen with respect to the operation of vehicles upon public ways.

### **Section 3.1.12**

Hitchhiking. No person shall stand in a public way for the purpose of soliciting a ride from the operator of any vehicle not engaged in carrying passengers for hire. Any person violating this bylaw shall be subject to a fine of fifty dollars.

### **Section 3.1.13**

Junk Collection. No person shall go from place to place within the Town, collecting by purchase or otherwise, junk, old metals and second-hand articles, or deal in or keep a shop for the purpose, sale or barter of such articles without a license from the Selectmen.

### **Section 3.1.14**

#### Junk Sales. Second Hand Dealers, Shops and Pawn Brokers

- a. Permits may be issued by the selectmen to second hand dealers, keepers of shops, pawn brokers, purchasers of junk, old metal, or second hand articles. The second hand dealers include any business that purchases or holds for a loan any second hand item. Items include any precious metals, jewelry, coins, stamps, sports memorabilia, clothing, flatware, household items, electronics, furniture, artwork, tools, construction items, metals, piping, wire or any other item taken in trade, bought or sold with a value of over one cent. The number of permits issued will be determined by the Board of Selectmen. The fee for such licenses will also be determined by the Board of Selectmen.
- b. The maximum allowed monthly rate of interest for loans is set at 3% monthly. The maximum annual rate of interest is set at 36%. The rate of interest cannot vary no matter what the loan amount.
- c. Every person licensed under the preceding section, their employees and agents, shall record every purchase, barter or receipt of any article in a ledger book. Such record shall include the identity of the employee making the transaction. The licensee, its employees or agents will also obtain positive identification of the person from whom the transaction is conducted. Positive identification will include that person's name, date of birth, social security number, copy of a photo I.D. and address. Said transaction will be recorded immediately in the ledger containing the date, detailed item description and the amount paid for or loaned on the item. Each shop will make a copy of their weekly transactions and deliver those copies to the Bourne Police Station. All such shops may be examined at reasonable hours by Constables, or Police Officers from the Town of Bourne. Additionally every shop will make their records available to Law Enforcement personnel from other cities and towns. No licensee shall directly or indirectly purchase or receive by way of barter or exchange, or loan any article to a minor being under eighteen years of age, unless said minor is accompanied by their legal guardian or parent who shall provide positive identification and whose information shall also be recorded in the ledger book.
- d. Every establishment issued such license shall display their license in a public area of the business for immediate examination by a police officer or agent of the licensing authority. Licenses will display a suitable sign identifying the name and nature of the business which must be clearly visible to all persons passing the establishment during the normal course of business. No article taken as collateral, purchased, or received shall be sold, altered, or offered for sale for a period of thirty days from when it was obtained. No licensee shall permit the purchase sale or receipt of any articles between the hours of 10:00 PM and 7:00 AM.
- e. Any licensee found in violation of the above sections will be fined \$100.00 for the

first offense, \$200.00 for a second offense and \$300.00 for a third offense. At any time The Board of Selectmen may review the license status of the licensee for violations of this Section of the Bylaws. If violation(s) are found the Board of Selectmen may suspend or revoke said license.\*

NOTE: \* Various changes amended by Article 4, October 25, 2010 STM

### **Section 3.1.15**

Trespassing. No person except an officer of the Law in performance of his duties, shall enter upon or remain upon the premises of or looking into the window, door or other aperture of a house or structure, in any manner or upon any person or persons therein. Any person found violating this bylaw shall be subject to arrest without a warrant in accordance with Chapter 276, Section 28 of the Massachusetts General Laws. Any person violating this bylaw shall be subject to a fine of three hundred dollars.

### **Section 3.1.16**

Wells. Every owner of land on which is located any abandoned or active well, cesspool or filter bed shall either provide a cover for such well, cesspool or filter bed, capable of sustaining 300 pounds and well secured, or fill such well, cesspool or filter bed to the level of the ground. Any person violating any provision of this bylaw shall be punished by a fine of not less than \$100.00 nor more than \$500.00.

### **Section 3.1.17**

Hawkers and Peddlers. No person, organization, hawker or peddler, other than the one offering for sale newspapers, religious publications, ice, flowering plants, and such flowers, fruit, nuts, and berries as are wild and uncultivated, shall be permitted to solicit contributions or offer for sale magazine subscriptions or any goods or services within the Town of Bourne without first obtaining a license issued by the Board of Selectmen. The fee for such license shall be \$50.00. No person, organization, or hawker or peddler offering for sale newspapers, religious publications, ice, flowering plants, and such flowers, fruit, nuts and berries as are wild and uncultivated, shall be permitted to offer same for sale within the Town of Bourne without first making known his identity by registering with the Board of Selectmen. No person, organization, hawker or peddler shall solicit contributions or offer for sale magazine subscriptions or goods or services of any kind within the Town of Bourne while standing in a public way or while going from house to house unless granted permission to do so by the Board of Selectmen having fully complied with the aforementioned licensing or registration requirements. The Board of Selectmen may adopt, and from time to time amend and modify, rules and regulations governing the aforementioned activities which are not inconsistent with the bylaw, federal law, or the laws of the Commonwealth of Massachusetts. Any person violating this bylaw shall be subject to a fine of three hundred dollars.

### **Section 3.1.18**

Interference with Police. Whoever willfully obstructs, interferes with or hinders a police officer in the lawful performance of his duty shall be punished by a fine as provided in Chapter 6 of these bylaws. Violation of this Bylaw shall be subject to a fine of \$300.00 per day.\*

NOTE: \* Various changes amended by Article 22, 2012 ATM

### **Section 3.1.19**

Possession of Alcohol. It shall be unlawful for any person who is not at least twenty-one years old to consume or have in his or her possession alcoholic beverages on public highways or in vehicles thereon or in public places. Any person violating this bylaw shall be subject to a fine of three hundred dollars.

### **Section 3.1.20**

Consumption of Alcohol. It shall be unlawful for any person to consume alcoholic beverages on public highways in vehicles thereon or in public places which are not licensed for such purposes or for any person other than a duly licensed distributor, wholesaler, or other duly licensed person to carry alcoholic beverages into an establishment duly licensed under Massachusetts General Laws Chapter 138. Any person violating this bylaw shall be subject to a fine of three hundred dollars.

### **Section 3.1.21**

Camping. No person shall set up on property, public or private, without permission of the owner thereof, or without the permission of the officer, officers or board in control of such property, a camp, tent, trailer, mobile home or so-called "camper", or sleep in the open on any property, public or private, without such permission, within the limits of the Town of Bourne. Any person found violating this bylaw and who refuses to vacate the premises upon the lawful request of a police officer, owner or other person in control of such property shall be subject to arrest in accordance with Chapter 272, Section 59 of the Massachusetts General Laws as amended. Any person violating this bylaw shall be subject to a fine of fifty dollars.

### **Section 3.1.22**

Loitering. No person shall saunter or loiter on a street or sidewalk in such a manner as to obstruct others. However, this section shall not be construed to curtail, abridge, or limit the right of any person to exercise the right of peaceful persuasion guaranteed by Chapter 149, Section 24 of the Massachusetts General Laws, or to curtail, abridge, or limit the intent of any statute of the Commonwealth of Massachusetts. Violation of this Bylaw shall be subject to a fine of \$50.00 per day.\*

NOTE: \* Various changes amended by Article 22, 2012 ATM

### **Section 3.1.23**

#### Disturbances.

- a. It shall be unlawful for any person or persons occupying or having charge of any building or premises or any part thereof, or any vehicle in the Town, other than that section of any establishment licensed under Chapter 138 of Massachusetts General Laws, to cause or suffer or allow any unnecessary, loud, excessive or unusual noises in operation of any radio, phonograph or other mechanical sound-making device or instrument, or reproducing device, or in the playing of any band, orchestra, musician, or group of musicians, or in the use of any device to amplify the aforesaid, or the making of loud outcries, exclamations or other loud or boisterous

noises, or loud and boisterous singing by any person or groups of persons, or in the use of any device to amplify the aforesaid noises where the noise is plainly audible at a distance of one hundred and fifty feet from the building, structure, vehicle or premises in which or from which it is produced. The fact that the noise is plainly audible at a distance of one hundred and fifty feet from which the vehicle or premises from which it originates shall constitute prima facie evidence of a violation of this bylaw. Any person violating this bylaw shall be punished by a fine of not more than fifty dollars for each offense.

- b. It shall be unlawful for any person or persons being present in or about any building, dwelling, premises, shelter, boat or conveyance or any part thereof, other than that section of any establishment licensed under Chapter 138 of the General Laws, who shall cause or suffer or countenance any loud, unnecessary, excessive, or unusual noises, including any loud, unnecessary, excessive or unusual noises in the operation of any radio, phonograph or other mechanical sound-making device, or instrument or reproducing device or instrument or in the playing of any band, orchestra, musician, or group of musicians, or the making of loud outcries, exclamations or other loud or boisterous noises, or loud and boisterous singing by any person or group of persons, or in the use of any device to amplify the aforesaid noise where the aforesaid noise is plainly audible at a distance of one hundred and fifty feet from the building, dwelling, premises, shelter, boat or conveyance in which or from which it is produced. The fact that the noise is plainly audible at a distance of one hundred fifty feet from the premises from which it originates shall constitute prime facie evidence of a violation of this bylaw. Any person shall be deemed in violation of this bylaw who shall make or aid, or cause, or suffer, or countenance, or assist in the making of the aforesaid and described improper noises, disturbance, breach of the peace or a diversion tending to a breach of the peace, and the presence of any person or persons in or about the building, dwelling, premises, shelter, boat or conveyance or any part thereof during a violation of this bylaw shall constitute prima facie evidence that he is a countenancer to such violation. Any person violating this bylaw shall be subject to a fine of fifty dollars.

### **Section 3.1.24**

#### Mechanical Protection Devices.

- a. It shall be unlawful to install a mechanical protection device that is automatically keyed to and/or activates the telephone (numbers) lines controlled by and/or listed to the Bourne Police Department; all such devices installed before the effective date of this section shall be defined as: An electrically operated instrument composed of sensory apparatus and related hardware which automatically sends over regular telephone lines, by direct connection or otherwise, a pre-recorded voice alarm upon receipt of a stimulus from the sensory apparatus that has detected a physical force or condition inherently characteristic of a fire or unauthorized intrusion.
- b. No person or business shall have an alarm system that notifies the Bourne Police Department by means of a dedicated or a non-dedicated telephone line, recorded device, or other means (hereinafter referred to as a "monitored system"), without



first completing an alarm application form prescribed by the Chief of Police or his designee.

- c. An alarm system for either a residential or a commercial building that utilizes and audible device that is detectable outside of the building, shall be equipped with an automatic shut-off that will silence the audible device after no more than thirty (30) minutes of the activation of the alarm system.
- d. The activation of a monitored system through mechanical failure, malfunction, improper installation, or negligence of the user of an alarm system or his employees or agents or the activation of a monitored system requiring or resulting in a response on the part of the Police Department when, in fact, there has been no unauthorized intrusion, robbery, burglary or attempt as same shall be deemed a false alarm. A fine for violations of this bylaw may be assessed against the owner or tenant of the residence or place of business. A user of an alarm system who has recorded more than three (3) false alarm within a calendar year shall be subject to a fine of fifty (\$50.00) dollars for each false alarm commencing with the fourth such occurrence. Upon a seventh false alarm the fine will increase to one hundred (\$100.00) for it and each subsequent occurrence, or take any action in relation thereto.

NOTE: \* Various changes by Article 13, 2011 May ATM.

### **Section 3.1.25**

Beach Rules and Regulations. The use of Town operated bathing beaches and facilities shall be subject to the following rules and regulations:

- a. Lifeguards and police officers of the Town shall enforce the rules and regulations pertaining to the beaches of the Town of Bourne.
- b. No person shall interfere with or resist a lifeguard in the discharge of his duties.
- c. No child under nine years of age, unless accompanied by a person over fourteen years of age, shall be permitted in the water at the beach.
- d. Animals of any kind shall not be brought upon a beach nor be permitted thereon except as provided in 3.1.29 Licensing and Control of Dogs.
- e. Fishing, boating or water skiing within one hundred and fifty feet of a bathing facility is prohibited.
- f. Swimming beneath town rafts or piers and their extensions is prohibited.
- g. Fires or charcoal grills are prohibited.

The Board of Selectmen may adopt further rules and regulations in accordance with the Massachusetts General Laws, particularly Chapter 40, Section 12. Any person violating this bylaw shall be subject to a fine of fifty dollars.

NOTE: \* Various changes by Article 28, 2011 May ATM.

### **Section 3.1.26**

#### Yard, Garage and/or Barn Sales.

- a. Such sales are defined as the sale, or offering for sale, ten (10) or more items of personal property at any one residential premise at any time; excluding such sales as may be conducted by a bona fide charitable organization, religious or fraternal society or other tax exempt organization.
- b. Unless specific written authorization is given by the Board of Selectmen, not more than two (2) such sales shall be held on anyone residential premises in each calendar year nor more than one (1) such sale in any period of three (3) consecutive months, and any such sale shall not continue for more than two (2) consecutive days.
- c. As a condition precedent to any such sale, written permission for the holding of said sale must be secured from the Board of Selectmen at least three (3) days prior thereto.
- d. Violation of this Bylaw shall be subject to a fine of \$50.00 per day.\*

NOTE: \* Various changes amended by Article 22, 2012 ATM

### **Section 3.1.27**

Use of Vehicles on Public Land. No person, without permission or lawful authority, shall enter upon public land of the Town of Bourne other than the public ways and established ways, whether or not such land be posted against trespass, if in so entering such public land such person makes use of or has in his immediate possession or control any vehicle, machines, or device which includes an internal combustion engine or other source of mechanical power. This Section may be enforced by Police or Natural Resource Officers in accordance with the non-criminal violation procedures as outlined in Section 6.1.2 of the Town Bylaw and any person found to be violating the provisions of this bylaw shall be subject to a fine of \$300.00.

### **Section 3.1.28**

Temporary Repairs of Private Ways. The Town may make temporary repairs on private ways which have been open to public use. Such repairs shall include the filling of holes in the subsurface of such ways and repairs to the surface materials thereof and installation and construction of drainage, if deemed necessary by the Highway Surveyor. Materials for such repairs shall, where practical, be the same, or similar to, those used for the existing surfaces of such ways, and may include construction, surfacing or resurfacing of such ways with bituminous materials. Said repairs shall be undertaken only if petitioned for by the abutters who own at least 50% of the lineal footage of such way and only if the Board of Selectmen shall declare that said repairs are required by the public necessity and convenience. The cost of such repairs shall be paid by the abutters by a cash deposit or by betterment assessment as hereinafter provided, and no work shall commence unless and until such cash deposit in the amount of the estimated cost of such repairs as determined by the Highway Surveyor to do the work is paid over to the Town or the Board of

Selectmen have made a determination that betterments will be assessed. If the Selectmen determine that betterments will be assessed, the Selectmen shall assess betterments upon the owners of estates which derive particular benefit or advantage from the making of such repairs on any such private way. Such assessment shall be a sum equal, in the aggregate, to the total cost of such repairs and, in the case of each such estate, in proportion to that frontage thereof of such way. Except as otherwise provided, the provisions of Chapter 80 of the General Laws relating to public improvements and assessments therefor shall apply to repairs to private ways ordered to be made under this section; provided, that no assessment amounting to less than twenty-five dollars shall be apportioned and no assessment may be apportioned into more than five portions. Before any work commences, the Town shall be held harmless on account of any damages whatever caused by such repairs by agreements executed by the abutters who petitioned therefor.

### **Section 3.1.29**

#### Licensing and Control of Dogs.

- a. Licensing Provisions. Except as may otherwise be provided bylaw, all owners or keepers of dogs over six (6) months of age within the Town of Bourne must obtain from the Town Clerk between January 1<sup>st</sup> and June 30<sup>th</sup> for each year, an annual dog license and pay an annual license fee to the Town as required bylaw. \* The owners or keeper of a dog licensed pursuant to this section shall cause the dog to wear around its neck a collar to which shall be securely attached a tag issued by the Town Clerk, and if any such tag shall be lost, the owner/keeper of such dog shall forthwith secure a substitute tag from the Town Clerk. Any person found violating the licensing provision of this section shall be subject to a fine of \$50.00. \*

NOTE: \* Various changes amended by Article 13, 2005 October 17, 2005 STM

NOTE: \* Various changes amended by Article 18, 2006 ATM

- b. Control Provisions. (Leash Law) It shall be unlawful for any owner or keeper of a dog or dogs to allow such dog(s) to be outside the property of the owner or keeper unless such dog(s) is securely restrained with a collar and leash and under the direct control and supervision of the owner/keeper or his or her duly authorized agent with the following exceptions:
  1. Unleashed dogs may be on the premise of another person with the knowledge and permission of such other person.
  2. The leash law requirement shall not apply to those persons that are training or using hunting dogs provided that said dog(s) are under voice control and under the direct supervision of the owner/keeper or duly authorized agent while being used for this purpose.

Any person found to be in violation of the provisions stated herein shall be subject to a fine of fifty dollars (\$50.00).

- c. Removal of Excrement. It shall be unlawful for any person to appear with a dog upon the public ways, within public places or upon the property of another, absent that

person's consent, without some means of removal of excrement; nor, shall any person fail to remove any excrement deposited by such dog. This section shall not apply to a blind person while walking his or her guide dog. Any person found to be in violation of this provision shall be subject to a fine of twenty-five dollars (\$25.00).

- d. Dogs on Bathing Beaches. It shall be unlawful for any person to allow their dog(s) on any public beach. A public bathing beach is defined as a Town owned beach. This section shall not apply to a service dog. The definition of a service dog is a dog individually trained to assist the handler to perform tasks for the benefit of an individual with a disability, including but not limited to guiding individuals with impaired vision, alerting hearing impaired, or other assistance. This section will be enforced from May 1 until October 15. Any person found to be in violation of this provision shall be subject to a fine of \$25.00.
- e. Non-Criminal Violation Procedure. The non-criminal violation procedures of Section 6.1.2 of the Town of Bourne Bylaws maybe used for the enforcement of the provisions of this Bylaw.
- f. Dog Licensing Fees. Fees for licensing of dogs shall be as follows:

Spayed Female/Neutered Male	\$7.00
Male Dog	\$10.00
Female Dog	\$10.00
Duplicate License	\$1.00
Certified Guide Dogs	No Fee

On or before June 15 of each year, the Town Clerk shall notify the owner or keeper of record of any unlicensed dog of the requirement to license the dog. Any owner or keeper who fails to obtain a license by June 30 of each year shall be subject to an additional charge of \$5.00 for any dog licensed after June 30. This subsection shall be enforced by any Dog Officer or any Police Officer of the Town.

NOTE: \* Various changes amended by Article 1, 2005 October 17, 2005 STM

- g. Kennel License.
  - 1. The owner or keeper of a dog kennel within the Town of Bourne must be renewed annually by January 1st of each year.
  - 2. Annual Fee  
Each license for a kennel shall be \$50.00 if four (4) dogs or less are kept in said kennel; \$75.00 if more than four (4) but not more than nine (9) dogs are kept in said kennel; \$150.00 if ten (10) or more are kept in said kennel.
  - 3. Substitute Kennel License Tag  
The fee for a substitute kennel license tag shall be \$1.00.
  - 4. Charitable Kennels  
The Town Clerk shall, upon application, issue without charge a kennel license to

any domestic charitable corporation incorporated exclusively for the purpose of protecting animals from cruelty, neglect, abuse and/or for the relief of suffering among animals.

5. Requirements

Any owner or keeper of four (4) or more dogs three (3) months of age or older shall be required to obtain a kennel license. Said license shall be issued upon approval of written application for a Special Permit submitted to the Zoning Board of Appeals.

6. Inspection

The applicant must allow the Animal Control Officer or his designee to inspect the kennel being licensed upon initial application and renewal. The kennel must pass inspection by the Animal Control Officer prior to the issuance or reissuance of the license.

7. Violations

Any owner or keeper of four (4) or more dogs three (3) months of age or older who fails to obtain the above described kennel license shall be considered in violation of the provisions of this section and shall be subject to a fine of fifty dollars (\$50.00) for the first offense and seventy-five (\$75.00) for each subsequent offense, with each day of violation constituting a separate offense.

This section shall be enforced by the Animal Control Officer or his designee. Or take any other action in relation thereto. \*

NOTE: \* Various changes amended by Article 21, 2017 May 1, 2017 ATM

h. Vaccination against Rabies. Whoever is the owner or keeper of a dog in the Town of Bourne, six (6) months of age or older, shall cause such dog to be vaccinated against rabies by a licensed Veterinarian. Such rabies tag, issued by the Veterinarian shall be affixed to the collar of said dog. The owner/keeper of the dog shall present certification of rabies vaccination upon demand of a Dog Officer, Natural Resources Officer, Police Officer, or any other authorized Officials of the Town. Any violation of the provisions of this section shall be subject to a fine of fifty dollars (\$50.00) for each offense. \*

i. Barking/Howling Nuisance. No person owning, keeping, or otherwise responsible for a dog, shall allow or permit said dog to annoy another persons reasonable right to peace or privacy by making a loud noise, where such noise is plainly audible at a distance of one hundred fifty (150) feet from the building, premises, vehicle or conveyance housing said dog, and such noise is in excess of ten (10) minutes. The fact that such noise is plainly audible at said distance in excess of ten (10) minutes shall be prima facie evidence of a violation. Any violation of the provisions of this section shall be subject to a fine of fifty dollars (\$50.00) for each offense. \*

j. Banned or Removed Dogs. Dogs "banned" or "removed" from another Town or Municipality may not be relocated to or permitted to be kept within the Town of Bourne. \*

k. Cruelty and Negligence. It shall be unlawful to abuse any animal; deprive it of food, drink,

shelter, a sanitary environment, or protection from the weather or otherwise inflict cruelty as set forth in Chapter 272, Section 77 of Massachusetts General Laws. Any violation of the provisions of this section shall be subject to a fine of fifty dollars (\$50.00) for each offense. \*

NOTE: \* Various changes amended by Article 2, 2005 October 17, 2005 STM

NOTE: \* Various changes amended by Article 18, 2006 May 8, 2006 ATM

NOTE: \* Various changes amended by Article 21, 2014 May 5, 2014 ATM

### **Section 3.1.30**

Fees for Certain Licenses Regulated. The following license fees are hereby established under authority of Chapter 351 of the Acts of 1981.

Club Food and Beverage (non-alcoholic)	\$10.00
Lunch Carts	\$100.00
Shooting Galleries	\$20.00
Pawnbrokers	\$100.00
Automatic Amusement Device	\$75.00
Fortune Telling	\$50.00
Storage of Explosives, Etc.	\$500.00
Gasoline Storage Removal or Relocation	\$100.00
Fireworks Display	\$25.00

### **Section 3.1.31**

Blocking Fire Hydrants and Fire Department Connections. It shall be unlawful to obscure from view, damage, deface, obstruct or restrict the access to any fire hydrant or any fire department connection for the pressurization of fire suppression systems, including fire hydrants and fire department connections that are located on public or private streets and access lanes, or on private property. If upon the expiration of the time mentioned in a notice of violation, obstructions or encroachments are not removed, the fire official shall proceed to remove the same. Cost incurred in the performance of necessary work shall be paid from the municipal treasury on certificate of the fire official and with the approval of the chief administrative official and the legal authority of the municipality shall institute appropriate action for the recovery of such costs. Anyone who refuses to remedy the situation after notification by the Police shall be subject to a fine of \$300. \*

NOTE: \* Various changes amended by Article 19, 2012 ATM.

### **[Eliminated former 3.1.31 Residency Bylaw requiring all Public Safety Personnel to live within the Town of Bourne]\***

NOTE: \* Various changes amended by Article 27, 2001 Nov STM.

### **Section 3.1.32**

Fees for False Alarms. A fee of \$100.00 per false alarm or fire alarm system malfunction after the first two false fire alarms or system malfunctions in any fiscal year shall be payable to the Town by the users tied directly into the Town fire alarm system or through a central station connection.

### Section 3.1.33

#### Handicapped Parking Regulations.

- a. Requirements for Handicapped Parking Spaces. Any person or body that has lawful control of a public or private way or of improved or enclosed property used as off-street parking areas for business, shopping malls, theaters, auditoriums, sporting or recreational facilities, cultural centers, residential dwellings, or for any place where the public has a right of access as invitees or licensees, shall reserve parking spaces in said off-street parking areas for any vehicle owned and operated by a disabled veteran or handicapped person whose vehicle bears the distinguishing special parking identification plate authorized by Section 2 of Chapter 90, or for any vehicle bearing the official identification of a handicapped person issued by any other state, according to the following formula:

<u>Total Spaces</u>	<u>Required HP Spaces</u>
1-25	1 Space
26-40	5% but not less than 2 spaces
41-100	4% but not less than 3 spaces
101-200	3% but not less than 4 spaces
201-500	2% but not less than 6 spaces
501-1000	1.5% but not less than 10 spaces
1001-2000	1% but not less than 15 spaces
2001-5000	.75% but not less than 20 spaces
5001-	.50% but not less than 30 spaces

- b. Sign Requirements for and Location of Handicapped Parking. Each parking space designated as reserved under the provisions of Section 1 of this Article shall be identified by a permanently installed above-grade sign located at height of not less than five feet and not more than eight feet to the top of the sign, with white lettering against a blue background and shall bear the words "Handicapped Parking, Special Plate Requirement, Unauthorized Parking Subject To Fine & Towing at Owner's Expense", and must also contain the international symbol of accessibility which is a person in a wheelchair. Such parking spaces shall be as near as possible to an accessible building entrance or walkway, shall be adjacent to curb ramps or other unobstructed methods permitting sidewalk access to a handicapped person, shall be twelve feet wide and/or have two eight-foot-wide areas with four feet of cross-hatch between them and shall contain the International Symbol of Accessibility on their surface. However, on unpaved lots, parking spaces shall be designated only by the sign as defined in this section. Where the designated parking space cannot be located within two hundred (100) feet of an entrance accessible to the physically handicapped, a drop off area accessible to the physically handicapped shall be provided within one hundred (100) feet of such entrance.
- c. Regulation of Unauthorized Vehicle in Handicapped Space. The leaving of unauthorized vehicles within parking spaces designated for use by disabled veterans or handicapped persons or in such a manner as to obstruct a curb ramp shall be prohibited and subject to a fine of \$300.00 and removal of unauthorized vehicle according to the provision of Section 22D of Chapter 40. This provision shall be

enforced by the Police Department.

- d. Implementation Date. The provisions of this Bylaw shall take effect on November 1, 1988.

### **Section 3.1.34**

#### Sidewalk Sales

- a. No person or business shall conduct a sidewalk sale or offer goods or items of personal property for sale on any public sidewalk, or street, without first obtaining a permit granted by the Board of Selectmen.
- b. The Board of Selectmen may deny any such request for a permit, or they may grant same with any appropriate conditions that they may establish, including but not limited to the date, time, hours of operation and location of any such sidewalk sale.
- c. Violation of this Bylaw shall be subject to a fine of \$100 for the first offense and \$300 for each subsequent offense.\*

NOTE: \* Various changes amended by Article 24, 2002 ATM

NOTE: \* Various changes amended by Article 26, 2012 ATM

### **Section 3.1.35**

#### Motor Vehicle Junkyard

- a. This bylaw is adopted pursuant to the authority granted to the Town in accordance with M.G.L. Chapter 140, Section 59.
- b. The Board of Selectmen shall be the licensing authority for the granting of a motor vehicle junkyard license. They shall establish such application forms and procedures as necessary for this purpose.
- c. A motor vehicle junkyard is any establishment or business which is maintained, operated, or used for the storing, buying or selling of scrapped or junked used motor vehicles, including the selling to the public of any parts taken therefrom. Included in this definition is any person or business holding or required to hold a motor vehicle junk license know as Class III license under the terms of M.G.L. Chapter 140, Sections 58 and 59.
- d. The Board of Selectmen, prior to the original issuance or renewal of any license as provided herein, shall determine that the premises proposed to be used for this purpose are suitable, and said use will be in compliance with all applicable laws and regulations of the Commonwealth and the Town, including but not limited to, laws and regulations concerning zoning, protection of Water Resource Districts, and protection against the generation of hazardous waste and materials. However, no consideration of zoning regulations shall be used to deny a license to an applicant whose junkyard business was validly in existence as of May 13, 2002 and which is otherwise found suitable.
- e. The Board of Selectmen, or their duly designated representatives, shall have the



right to enter and inspect the premises of any applicant or holder of a license for a motor vehicle junkyard, at any time, for the purpose of carrying out their duties and responsibilities as set forth herein, all as provided by M.G.L. Chapter 140, Section 66.

- f. The Board of Selectmen may enforce this Bylaw by all appropriate means, including the right to revoke any license issued under M.G.L. Chapter 140, Section 59 in accordance with the procedures set forth therein, as well as seeking such other legal and equitable relief as may be necessary under the circumstances.
- g. This Bylaw shall become effective on the 61<sup>st</sup> day after it has been approved by the Attorney General. The Board of Selectmen shall forthwith send written notice of the approval and effective dates, with a copy of this Bylaw, to all present holders of a Class III motor vehicle Junk License.
- h. Violation of this Bylaw shall be subject to a fine of \$300.00 per day.\*

NOTE: \* Various changes amended by Article 21, 2012 ATM

### **Section 3.1.36**

#### Licensing Authority

In any provision of Chapter 3.1 of these bylaws, entitled Public Safety and Good Order, wherein it is provided that the licensing authority is the Board of Selectmen, said authority may be delegated by the Board of Selectmen to the Town Administrator by a vote of the Board of Selectmen in accordance with Section 5-2 of the Town Charter. Said delegation shall be for an indefinite period of time, however, said delegation may be revoked at any time thereafter, by a subsequent vote of the Board of Selectmen, as they shall so determine. \*

NOTE: \* Various changes amended by Article 24, 2002 ATM

NOTE: \* Various changes amended by Article 18, 2003 ATM

### **Section 3.1.37**

#### Layout and Acceptance of Private Ways

- a. The layout and acceptance of any private way shall be in accordance with all applicable provisions of the Massachusetts General Laws, including Chapter 80 and 82 thereof.
- b. The Board of Selectmen shall not recommend to Town Meeting acceptance of any layout of a private way unless seventy five percent (75%) of the owners of the abutting property have agreed in writing to accept and pay the cost estimated to be apportioned to each abutter, or unless the Selectmen shall determine by a four-fifths vote of their Board that a compelling public necessity exists for the acceptance of a particular private way.
- c. No betterments shall be assessed to said abutters until after the acceptance of a road layout has been approved by the Town Meeting, nor for any private way that

already has been accepted by the Town, prior to the approval of this Bylaw.

- d. The Town Meeting may levy betterments or costs in whole or in part, to meet and pay the expenses incurred to layout, accept, and to construct or reconstruct any private way as a public way in accordance with standards as established by the Town. The owners of land which abuts on said private way shall pay a proportional part of the whole of the cost based upon said lands primary frontage. The primary frontage of a corner lot shall be the frontage having the greater length. The length of the frontage of corner lots having a rounded street line shall be measured along the street line from the property line to the point of curvature, plus the curve radius or tangent distance, whichever is less.
- e. The payment, collection, and assessment of all betterments due pursuant to this Bylaw shall be under the general jurisdiction of the Board of Selectmen and the appropriate Town Officials so designated and as set forth in the applicable provisions of the Massachusetts General Laws.

NOTE: \* Various changes by Article 21, 2004 May ATM.

### **Section 3.1.38**

#### Video Poker Machines/Slot Machines.

- a. This Bylaw is adopted pursuant to the authority granted to the Town in accordance with Massachusetts General Laws, Chapter 140, Section 177A, as amended from time to time.
- b. The Licensing Authority of the Town of Bourne shall not grant or issue a license for any automatic amusement device, or game of chance which presents a risk for misuse as a gaming device to those establishments which are licensed under Chapter 138. For the purpose of this Bylaw, automatic amusement devices and games of chance are those devices, which simulate actual gaming devices, and/or games which involve matching of random, number combinations, including those known as video poker or slot machines.
- c. The Board of Selectmen, as the licensing authority, may enforce this Bylaw by all appropriate means, including the right to revoke or suspend any and all licenses granted by the Town of Bourne, including but not limited to, those licenses granted through Massachusetts General Laws Chapter 138.
- d. All licenses for automatic amusement devices granted by the Town of Bourne, shall be subject to inspection by the Bourne Police Department to insure conformance with submitted application information and other local rules, regulations and or Bylaws. Any unlicensed automatic amusement devices shall be subject to immediate seizure by the Bourne Police Department.

NOTE: \* Various changes by Article 23, 2004 May ATM.

### **Section 3.1.39**

#### Personal Motorized Vehicle Regulations.

- a. As used in this section, a "Personal Motorized Vehicle"(PMV) shall mean any wheeled device that is used primarily for human transportation, and shall include any device that has handlebars, is designed to be stood or sat upon by the operator and is powered by an electric, gasoline (or other petroleum based products), or alcohol fueled motor that is capable of propelling the device with or without human propulsion. Exempt from the provisions of this Bylaw are:
  - i. Devices used by handicapped individuals.
  - ii. Devices used by landscapers and farmers, as used in their profession
  - iii. Devices regulated by the Commonwealth of Massachusetts Department of Motor Vehicles, i.e.; Moped's
  - iv. Devices used bylaw Enforcement personal
  - v. Devices used by any State or Federal agencies
- b. PMV's shall not be operated upon any way, or in any place which the public has right of access as invitees or licensees within the Town of Bourne, except as expressly provide bylaw.
- c. No Person shall operate, or permit to be operate, a PMV upon any sidewalk, public property, off street public recreational area, school property, playgrounds, parks and beaches.
- d. Whenever a police officer observes any person in violation of any section of this regulation, he or she may detain such person, for the purposes of the enforcement of these regulations, and may remove such PMV to a secure area pending disposition of such property by court order, or otherwise bylaw.
- e. Any person who violates any section of this regulation shall be subject to a fine of \$100 dollars for the first offense and \$200 dollars for the second and subsequent offenses.

NOTE: \* Various changes amended by Article 14, 2004 Nov STM

### **Section 3.1.40**

#### Public Consumption or Use of Marijuana

- a. No person, whether in or upon a vehicle, motor vehicle, conveyance, or on foot, shall burn, smoke or otherwise use or consume marijuana or tetrahydrocannabinol (as defined in MGL. Chapter 94C; Section 1, as amended) while in or upon any area owned by or under the control of the Town, including but not limited to, any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, school, school grounds, cemetery, or parking lot; or in or upon any place to which the public has a right of access as invitees or licensees.

- b. Any marijuana or tetrahydrocannabinol burned, smoked, ingested, or otherwise used or consumed in violation of this by-law shall be seized, held and disposed of in accordance with MGL Chapter 94C; Section 47A.
- c. Whoever is found in violation of this by-law shall, when requested by an official authorized to enforce this by-law, state his true name and address to said official.
- d. This by-law may be enforced through any lawful means in law or in equity including, but not limited to, enforcement by criminal indictment or complaint pursuant to MGL Chapter 40; Section 21, or by non-criminal disposition pursuant to MGL Chapter 40; Section 21D by the Board of Selectmen, the Town Administrator, or their duly authorized agents, or any police officer.
- e. The fine for a violation of this by-law shall three hundred dollars (\$300.00) for each offense. A penalty imposed under this by-law shall in addition to any civil penalty imposed under MGL Chapter 94C: Section 32L.

NOTE: \* Added by Article 9, 2009 STM

### **Section 3.1.41**

#### Police Details

##### a. Police Traffic Details

- 1. The Chief of Police or his or her designee shall have the authority to require police traffic details where the passage or flow of pedestrian or vehicle traffic will be impeded, delayed, disturbed, backed-up or rerouted on any public way, alley, highway, lane, court, public square, public place, or sidewalk in the Town of Bourne, and/or where the safety, health and welfare of the general public is concerned.
- 2. Any establishment, entity or individual operating under a license, and any individual or private entity which produces and operates an event, within the Town of Bourne whose event or operation affects traffic flow in a manner as described in paragraph 1. Above, shall procure at his or her own expenses police details furnished by the Bourne Police Department as the Chief of Police or his or her designee may require in his or her reasonable discretion and shall pay such officers at the prevailing rate.
- 3. The Chief of Police shall adopt a written criteria consistent with law and these Bylaws for the government, disposition and applicability of this bylaw, including, without limitation, for determining when the safety, health and welfare of the general public is affected by pedestrian and/or traffic flow, and the process to be implemented for procurement of such details.

##### b. Police Protection Required at Certain Gatherings

The owner, lessee, occupant or person in charge of a public hall, which for the purposes of this Section shall include, but not be limited to, any restaurant, night club, function hall,

entertainment or sporting venue or arcade who leases, rents , causes or permits use of such public hall for compensation or otherwise for the purposes of public or private entertainment, at which alcoholic beverages are served or consumed, whether or not such alcoholic beverages are sold, whether or not an admission fee is charged; or public gatherings of any description whether or not an admission fee is charged, and where the safety and general welfare of the public, fans or participants is concerned, for any group of two hundred persons or cumulative group of three hundred and twenty-five persons or more shall file an application for Police Detail and cause to be I attendance a number of Bourne Police Officers as determined by the Bourne Police Chief to be necessary.

Application for a police detail shall be made to the Bourne Police Department not less than seventy-two hours before the holding of an event requiring such application. Applications shall be in a form approved by the Police Chief, and payment for the Police detail shall be made at a rate of pay established by the Chief or by collective bargaining agreement.

Group definition – individual party of 200 people.

Cumulative group - This is applicable to businesses holding multiple separate functions. When individual parties of 5 people or more in the same business constitute a group gathering of 325 persons or greater the detail requirement goes into effect.\*

NOTE: \* Various changes amended by Article 23, 2012 ATM

### **Section 3.1.42**

#### Unregistered Vehicles

- a. No person shall permit more than one unregistered motor vehicle or trailer or major part thereof, except for farm vehicles, to remain ungaraged on any lot owner, occupied or controlled by him/her at any time, unless under a Class 1 or Class 2, or Class 3 license for sale of Motor Vehicles authorized by the Board of Selectmen, or a Department of Public Utility Towing permit. In no event shall an unregistered motor vehicle or trailer or parts thereof, be stored in a front yard, or in the case of a corner lot, in any visible side or rear yard.
- b. This Bylaw shall be administered by the Chief of Police. Any person violating any of the provisions of this bylaw shall be fined one hundred dollars (\$100.00) for each offense, and each day of violation shall be considered a separate offense.\*

NOTE: \* Various changes amended by Article 32, 2012 ATM

### **Section 3.1.43**

#### Downtown Blight and Vacant Building

- a. Purpose and Intent: The purpose of this bylaw is to help to protect the health and welfare of the residents of the Town of Bourne and to help promote Bourne's Downtown by preventing and eliminating blight. The existence of blighted or abandoned properties impacts property values and affects the reputation and neighborhood integrity.

- b. Applicability:** This bylaw applies to all blighted buildings, structures or parcels of land occupied, vacant or abandoned in the Downtown Zoning District as defined in the Town of Bourne Zoning Bylaw Section 2812, excluding the Downtown Neighborhood district (DTN).
- c. Definitions:** For the purpose of this section the following words, terms and phrases shall have the following meanings:
1. **Blighted:**  
Shall mean any building, structure or parcel of land that contributes to unsanitary or unsafe conditions and is detrimental to the public health, safety, or welfare, prevents economic growth, or causes devaluation by reason of abandonment, dilapidation, deterioration, age or obsolescence, including properties with illegally dumped trash, graffiti, deterioration of site or other improvements, or the existence of conditions that endanger life or property by fire or other causes, or any combination of such factors.
  2. **Building:**  
A combination of any materials fixed to the ground and having a roof, enclosed within exterior walls, built to form a structure for the shelter of persons, animals or property.
  3. **Structure:**  
Shall mean anything erected at a fixed location on the ground, including but not limited to fences, signs, light poles, and towers.
  4. **Inspector of Buildings:**  
Inspector of Buildings of the Town of Bourne or his designee.
  5. **Owner:**  
A person or entity who, alone or severally with others who has legal or equitable title to any building or has care, charge or control of any building in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title; or
    - i. is a tenant a legal right to possess an entire building; or
    - ii. is a mortgagee in possession of any building; or
    - iii. is an agent, trustee, receiver or other person appointed by the courts and vested with possession or control of a building; or
    - iv. is an officer or trustee of an association of unit owners of a condominium or cooperative which contains a vacant building.
  6. **Abandoned or Vacant Building:**  
Any building which is not legally occupied, vacant, abandoned or not used for a period of at least forty-five (45) consecutive days.
  7. **Legally Occupied:**  
Occupied in accordance with the provisions of the Massachusetts State Building Code.
- d. Registration:**  
Prior to or not more than seven (7) days after the building becomes vacant, the owners must register the building with the Inspector of Buildings on forms provided

by the Inspection Department. All registrations must state the individual's name, phone number and mailing address as well as an emergency contact, if not the same. This registration must state if the property is vacant at the time of filing, and if so for how long. Once the building is no longer vacant or is sold, the owner must provide proof of sale or written notice and proof of lawful occupancy to the Inspector of buildings.

e. Maintenance requirements:

1. Properties subject to this bylaw shall be maintained in accordance with all applicable local and state Sanitary Codes, Building Codes and Fire Codes, in addition the exterior shall be maintained as not to appear; decayed, deteriorated, neglected or dilapidated.
2. The owner of a vacant building must promptly repair all broken windows, doors, other openings and any unsafe conditions at the vacant building. Boarding up of open or broken windows and doors is prohibited except as a temporary measure for no longer than thirty (30) consecutive days, unless the Inspector of Buildings determines that, due to vandalism or security reasons and due to circumstances out of the owner's control, the proper boarding of windows and doors is necessary for a period of time longer than thirty (30) consecutive days. Boards or coverings must be fitted to the opening size and colored to blend with the existing building color scheme.
3. The owner must maintain the building and property for the duration of the vacancy or abandonment. The owner is responsible to maintain the condition of the building and property to appear not to be vacant. Upon notice by the Inspector of Buildings, any accumulated trash and/or graffiti shall be taken off or removed from the property within (7) days. The Inspector of Buildings is responsible for documenting all violations. The owner of any building vacant for a period exceeding six (6) months whose utilities have been shut off shall have those utilities removed or cut and capped to prevent accidents if deemed necessary by the Inspector of Buildings.
4. Compliance with this bylaw shall not relieve the owner of any applicable obligations set forth in any other bylaw, regulation, code, covenant conditions or restrictions and/or association rules and regulations. In case of a conflict with these rules and regulations, the stricter of the rules and regulations shall apply.

f. Maintenance Standards:

Buildings

1. All exterior components of every building and structure including but not limited to walls, roofs, chimneys, cornices, gutters, downspouts, drains, porches, canopies, awnings, steps, landings, fire escapes, exterior stairs, windows, shutters, and doors, shall be kept in sound condition and good repair, substantially free of deterioration, including but not limited to loose or missing shingles or siding, crumbling brick, stone and mortar, and peeling, scaling or deteriorated paint.
2. Vacant or abandoned buildings and structures shall be maintained in

compliance with this bylaw and be kept secure from use or occupation by unauthorized persons.

3. Overhanging structures, including canopies, awnings, exterior stairways, fire escapes, and other overhanging extensions shall be maintained in sound condition, good repair and be securely anchored.
4. All buildings and structures damaged by fire, explosion, weather or other cause shall be repaired and returned to their former condition or in compliance with this bylaw, or be razed within six (6) months unless granted an extension by the Inspector of Buildings.

#### Land, premises and landscape elements

5. Each owner or occupant shall keep premises and land, including but not limited to steps, walks, driveways, fences, retaining walls and vegetation, in good condition.
  6. All steps, fences, retaining walls and landscape features shall be firmly anchored and maintained in good structural repair.
  7. All premises shall be maintained substantially free from overgrowth of vegetation which constitutes a suitable habitat for vermin, otherwise poses a hazard to the health and safety of any person in the vicinity of the premises, or is so overgrown as to have a clear adverse affect on the value of surrounding properties.
  8. Water shall not be permitted to continuously stagnate outside of any building or structure for more than ten (10) days except under natural conditions. Nothing in this subsection shall operate as a waiver or exception to any other law, rule or regulation for the storage or handling of water.
- g. Investigation: The Inspector of Buildings shall undertake an investigation of any alleged violation of this bylaw upon his own initiative or upon receipt of a complaint from any individual, civic organization or other governmental agency.
- h. Penalties and Enforcement: The Inspector of Buildings or his designated agents shall be responsible for the enforcement of all the provisions of this bylaw and shall institute all necessary administrative or legal action to assure compliance. Any owner found to be in violation of this bylaw shall first receive: a written warning and a minimum seven (7) days to remedy all violations, prior to the institution of any enforcement action.

The Inspector of Buildings, acting on behalf of the Town of Bourne, may also bring a civil action in a court of competent jurisdiction seeking equitable relief to enforce this bylaw.

- i. Violations. Any person who fails to adhere to this bylaw after the seven (7) day



warning shall be punished by a fine of \$50.00 dollars per day for (30) days thereafter \$100.00 per day for an additional (30) days, and thereafter \$200 per day until the violation is remedied.

- j. Severability: If any provision of this bylaw is held to be invalid by a court of competent jurisdiction, such provision shall be considered separate and apart from the remaining provisions, which shall remain in full force and effect.

NOTE: \* Various changes amended by Article 25, 2013 ATM

### **Section 3.1.44**

#### Use of Barlows Landing Road and Boat Launch

##### **Purpose and Intent**

This bylaw seeks to regulate the use of a section of Barlows Landing Road between Shore Road, up to and including, the Barlows Landing Beach boat launch. The Town recognizes that we are a boating community, but at times, the overuse of this specific area has caused a level of disruption to the neighborhood and has limited reasonable access to this area by our citizens. This bylaw seeks to coordinate certain boat launch activities in an effort to increase the availability of parking and decrease the level of disruption and access in this area. This bylaw does not restrict anyone from using standard boat trailers that do not meet the definition of commercial boat launching equipment.

##### **Definitions**

Commercial Boat Launching Equipment-includes any vehicle or trailer used for transporting; launching or recovering; vessels from the water consisting of vehicle/trailer combinations that use hydraulic or electric stabilizers to support vessels on the trailers; and/or may be detachable by winch type equipment. This definition also includes separate vehicles with cranes or hoists attached that are deployed and used for the purpose of assembling or disassembling vessels including their masts. A vehicle and trailer combination as defined above is considered one piece of commercial boat launching equipment.

Person-includes any and all individuals, business owners, corporations, societies, associations, partnerships, agencies, and trusts.

Rig-includes the assembling or disassembling of watercraft parts, including but not limited to, the stepping and un-stepping of a mast.

Stage-includes the parking, or slow rolling, of commercial boat launching equipment, whether the vehicle is running or not, while waiting for access to another area, such as the town property known as Barlows Landing Beach.

Vessel-includes every description of water craft, including personal watercraft, when navigating or moored on the water, used or capable of being used as a means of transportation on the water, whether propelled by power, sail, or manually.

##### **Regulations**

Between June 1<sup>st</sup> and June 30<sup>th</sup> of any year, no person shall use more than two (2) pieces of commercial boat launching equipment to launch, recover, or rig a vessel, on the town owned property known as Barlows Landing Beach.

Between July 1<sup>st</sup> through the Labor Day holiday in September of any year, no person shall

launch, recover, or rig a vessel by the use of commercial boat launching equipment, on the town owned property known as Barlows Landing Beach, without a permit issued by the Director of the Bourne Natural Resources, or his/her designee. During this specific time period, no permit shall be issued by the Bourne Department of Natural Resources that allows for the above described operations inside the time limits of 10 am and 5 pm of any day. In the case of an emergency, as determined by the Director of the Bourne Natural Resources or his/her designee, exemptions to this section of the bylaw may be allowed. Extreme weather events, vessels that are identified as a source of pollution or have circumstances affecting the vessels ability to stay afloat or get under way, could all be considered emergencies by the Bourne Director of the Natural Resources, or his/her designee. Emergency response by first responders is always an exception to this bylaw.

No person shall leave any waste, including but not limited to, shrink wrap and strapping, on the town owned property known as Barlows Landing Beach.

No person operating commercial boat launching equipment shall park or stage, on that section of Barlows Landing Road between Shore road and the Barlows Landing Beach area.

Persons operating commercial boat launching equipment shall not block the launch ramp during any operation, except for the specific launching and recovery of a vessel. No rig of vessels shall occur on the launch ramp itself.

This bylaw only applies to the above described section of Barlows Landing Road, and the Barlows Landing Beach parking area and boat ramp.

### **Permit Restrictions**

Permits shall be restricted to single pieces of commercial boat launching equipment unless a crane or hoist as described in the definition of commercial boat launching equipment is approved by the Director of the Bourne Natural Resources, or his/her designee, to assist with the operation. No permit shall be issued for the use of more than two pieces of commercial boat launching equipment.

Operational time limits will be set and noted on any permit issued by the Bourne Director of the Natural Resources or his/her designee.

Should a permit fee be established, it shall only be established after a recommendation by the Bourne's Director of Natural Resources to the Board of Selectmen. The Board of Selectmen have the sole authority of approving a permit fee, should one be recommended.

### **Penalty**

The penalty for violating the regulations of this bylaw is a fine of \$100 per person, per first violation.

Second offenses that occur within a calendar year will be fined \$200 per person.

Third and subsequent offenses within a calendar year will be fined \$300 per person, followed by a permit review by the Director of the Natural Resources to determine whether future permits will be denied, and the time period of such a permit suspension.

### **Enforcement**

This bylaw may be enforced by any Town Police Officer or officer of the Town's

Department of Natural Resources.\*

NOTE: \* Various changes by Article 22, 2017 ATM

### Article 3.2 Street Intersections

#### **Section 3.2.1**

Hazards to Traffic. Wherever the Board of Selectmen and the Chief of Police shall jointly determine that a hedge or similar growth or a fence, sign or other similar structure shall constitute a hazard to vehicular or pedestrian traffic, they may require that such growth or structure be trimmed, altered, moved or removed within ten days of written notice to the owner thereof. \*

### Article 3.3 Taxi-Cabs

#### **Section 3.3.1**

Definitions. Each motor vehicle used for carrying passengers for hire and not operating on any fixed route shall be deemed a taxi-cab for the purpose of these bylaws.

#### **Section 3.3.2**

License to Operate Taxi-cabs. A license from the Board of Selectmen must be obtained to operate each such taxi-cab, but these bylaws shall not apply to a taxi-cab from another city or town traveling into or through the Town of Bourne provided that no passenger is transported by such taxi-cab between two points, both within the Town. The Selectmen may from time to time grant licenses to operate taxi-cabs in the Town of Bourne to such persons and upon such terms as they may deem expedient and they may also revoke such

licenses for cause. All such licenses granted as aforesaid shall expire on the last day of December next after the date thereon, and no such license shall be sold, assigned, or transferred without the consent of the Selectmen endorsed thereon.

#### **Section 3.3.3**

Fees. Each person licensed to operate a taxi-cab shall pay to the Town of Bourne the sum of fifty dollars for each taxi-cab used, driven, or operated by him; this charge is to cover the cost of the license and to include the issuance of a single license marker which must be attached securely to the vehicle for which it is issued, on the right hand side of the cowl.

### Article 3.4 Public Health

#### **Section 3.4.1**

Littering. No person shall throw or leave any swill, garbage, rubbish, house offal, dead animals, or offensive refuse of any kind upon any public or private way, yard, vacant lot, public place, or body of water.

#### **Section 3.4.2**

The creation and/or maintenance of any nuisance, source of filth, or cause of sickness is prohibited. For that purpose due regard shall be paid to the proper maintenance of all septic systems (Title 5 or cesspools), swimming pools, garbage collection areas, and storage units. Any violation of this section will result in a fine of \$300.00 and each day of offense shall be considered a separate violation.\*

NOTE: \* Various changes amended by Article 28, 2012 ATM

### **Section 3.4.3**

Prohibiting Feeding of Waterfowl. No person, except the Director of the Division of Fisheries and Wildlife or his agents as authorized pursuant to Chapter One Hundred and Thirty-one of the General Laws, shall feed or bait, any waterfowl of the family Anatidae (including, but not restricted to, ducks, geese, and swans), at any place within the Town of Bourne. As used in this paragraph, "feeding" and "baiting", in all their moods and tenses, shall mean the placing, exposing, depositing, distributing, or scattering, directly or indirectly, of shelled, shucked, or unshucked corn, wheat, or other grain, bread, salt, or any other feed or nutritive substances, in any manner or form, so as to constitute for such birds a lure, attracting, or enticement to, on, or over any such areas where such feed items have been placed, exposed, deposited, distributed or scattered.

Nothing in this bylaw shall be construed to limit the feeding of domesticated waterfowl, as defined by the Division of Fisheries and Wildlife, by a farmer as defined in Section One A of Chapter One Hundred and Twenty-eight on property owned or leased by him, or the feeding of any waterfowl or other birds by propagators licensed under Section Twenty-three of Chapter One Hundred and Thirty-one of the General Laws when such waterfowl or other birds are confined in such a manner as may be required pursuant to said Section Twenty-three and any rules and regulations issued under authority thereof.

This Section may be enforced by Police or Natural Resource Officers in accordance with the non-criminal violation procedures as outlined in Section 6.1.2 of the Town Bylaw and any person found to be violating the provisions of this bylaw shall be subject to a fine of \$100.00.\*

NOTE: \* Various changes amended by Article 24, 2012 ATM

### **Section 3.4.4**

- a. In order to protect and enhance public health by reducing the risk of health hazards, the provisions of the Code of Massachusetts Regulations 105 CMR 410:00, 310 CMR 11:00, 310 CMR 15:00, local Board of Health Regulations and any other applicable laws, rules and regulations that the Board of Health is empowered to enforce, as from time to time amended and supplemented, are hereby incorporated in and made a part of this Bylaw and any violation of any provision thereof shall constitute violation of this section.
- b. Except as may otherwise be provided by law, whoever violated any provision of Section 3.4.4, shall be punished by a fine of \$50.00 for the first offense, \$100.00 for a second offense, \$200.00 for a third offense and \$300.00 for subsequent offenses within any 12 month period of time. In case of any continuing violation, each day said violation continues shall constitute a separate offense. Said section shall be enforced by the Board of Health, its agent, or its duly authorized designee as well as by Town Officers having police powers.
- c. In addition to procedures otherwise provided by law for enforcement of this Section,

the provisions of Section 3.4.4 may be enforced pursuant to Massachusetts General Laws, Chapter 40, Section 21D.

NOTE: \* Various changes amended by Article 20, 2012 ATM.

## Article 3.5 Food Vendor's License

### **Section 3.5.1**

Sales Prohibited Without a License. No person shall offer food for sale to the public in a food service establishment, as hereinafter defined, unless licensed as a Common Victualer or an Innholder under the provisions of Chapter 140 of the General Laws, without first obtaining a Food Vendor's License under the provisions of this bylaw. Any person who violates this section shall be liable to fine of \$50.00 per violation. Each day of operation without a Food Vendor's License shall constitute a separate violation.

### **Section 3.5.2**

Where License is Required. Food service establishment shall include any fixed or mobile place, structure or vehicle, whether permanent, transient, or temporary, private, public or non-profit, routinely serving the public; or any other eating or drinking establishment or place where food or drink is prepared for sale or for service to the public on the premises or elsewhere.

### **Section 3.5.3**

Information Required Upon Filing Application of License. Each applicant for such license shall submit on forms to be provided by the Selectmen, the following information: name and address of place of business evidence, in form satisfactory to the Selectmen, that the applicant has upon the premises the necessary implements and facilities for cooking, preparing and furnishing food to the public, and such other information as the Selectmen shall require. The Selectmen may require applicants to submit detailed plans and specifications showing, if any, the location of the fixtures and other facilities and the general arrangement of the premises including, in the case of applications for premises not completed, estimates of the cost of the proposed arrangement and of the facilities indicated on the plan. The Selectmen may require detailed plans for the ongoing upkeep and maintenance consistent with standards necessary for sanitation and safety. Such plans shall include a listing of facilities for cleaning of all utensils, refrigerator and food storage areas. In the event of a proposed sale of a business requiring a Food Vendor's License or a Common Victualer's License, an application for a transfer of either of said licenses will be deemed to be an application for a new license, subject to the rules and regulations herein contained, and the owner of such business shall be required to file with the Selectmen a thirty day notice of his intention to sell same before such application will be acted upon by the Selectmen.

### **Section 3.5.4**

License Issued for Public Good Only. Such license shall not be issued or be valid until it has been signed by the majority of the Selectmen. The Selectmen may refuse to grant such a license if, in their opinion, the public good does not require it. The Board of Selectmen may delegate their authority to issue licenses under this Section to the Town Administrator in accordance with Section 5-2 of the Town Charter. Said delegation shall be for an indefinite period of time, however, said delegation may be revoked at any time thereafter, by a subsequent vote of the Board of Selectmen, as they shall so determine. \*

NOTE: \* Various changes amended by Article 5, October 20, 2003 STM

### **Section 3.5.5**

Term of License. Food Vendor's License shall be valid for a term of one year from the first day of January until the 31st day of December. A non-refundable fee of \$25.00 shall be submitted with the application for such license. Any license issued during the year shall expire on the 31st day of December and the fees shall not be prorated. The Selectmen may, in their discretion, suspend the requirement of the fee for schools, hospitals, church, municipal, civic or fraternal organizations.

### **Section 3.5.6**

Suspension or Revocation of License. If, in the opinion of the Selectmen, a licensee ceases to be engaged in the activity licensed hereunder, or fails to maintain upon the premises on which such activity is licensed the implements and facilities required by the bylaw, the Selectmen shall immediately revoke the license. If the licensee at any time conducts the licensed business in an improper manner, the Selectmen, after notice to the licensee and public hearing may, upon satisfactory proof thereof, suspend or revoke the license.

## Article 3.7 Wetland and Natural Resources Protection.

### **Section 3.7.1**

Intent, Purpose and Jurisdiction. The intent and purpose of this bylaw is to protect inland and coastal wetland areas, water, and adjoining land areas in Bourne (hereinafter "wetland resource areas"), by regulating those activities specified herein which are likely to have an adverse effect or a cumulative adverse effect upon wetland resource values. \*

The term "wetland resource values" as used herein shall include public and private water supplies, groundwater supplies, flood control, storm damage prevention, pollution prevention, fisheries and shellfisheries, wildlife habitat, erosion and sedimentation control, and recreational and/or commercial uses.

This bylaw shall be administered by the Conservation Commission (hereinafter the "Commission"). No person shall remove, fill, dredge, alter or cause adverse effect to any Wetland Resource Areas or Adjoining Land Areas except as permitted by this bylaw. This bylaw regulates activity within the A flood zone (as shown on FIRM Maps) only if the activity is within 100 feet of another wetland resource area. \*

All emergencies permitted under the State Wetlands Protection Act, G.L. c. 131, s. 40, as from time to time amended (hereinafter the "Act"), shall be permitted under this bylaw.

### **Section 3.7.2**

Permit Applications; Determination; Conditions. The Commission shall accept as application and plans under this bylaw those applications and plans required to be submitted under the Act and the rules and regulations promulgated thereunder, as from time to time amended. The Commission may require such other information as it may reasonably deem necessary to make an informed decision.

The person filing a Notice of Intent with the Bourne Conservation Commission must submit with said document a Notice of Intention Authorization Form which clearly identifies the

locus of the intended project, certifies to the Commission that the applicant is the owner of the locus where work is to occur and that the owner approves of the proposed work. The owner of locus must also certify to the Commission that he/she is in compliance with the Town of Bourne Bylaw section 3.11.2 regarding payment of any local taxes, fees, assessments, betterments or any other municipal charges, including amounts assessed under the provisions of section twenty-one D.

If after a public hearing, the Commission determines that the proposed activity or activities will have an adverse effect upon any one or more of the wetland resource values protected by this bylaw, it shall either issue, issue with conditions, or deny a permit for the activity or activities requested in the application.

### **Section 3.7.3**

Notice of Hearings. Any person filing a Notice of Intent with the Conservation Commission shall give notice thereof in the same manner required by Mass. Gen. Laws, Chapter 131, Section 40, as from time to time amended and supplemented, and the Rules and Regulations, if any, promulgated thereunder, as from time to time amended and supplemented.

Any person filing a Request for Determination of applicability with the Conservation Commission shall give written notice thereof, no less than five (5) business days prior to the scheduled Commission meeting, by certified mail-return receipt requested postage prepaid or by delivery in hand, to all abutters to the proposed project and to the property owner if other than the applicant, according to the most recent records of the Bourne Board of Assessors. The notice shall specify the date, time and location of the Commission meeting, and shall also specify where a copy of the Request for Determination, accompanying plans and documents may be examined and obtained.

### **Section 3.7.4**

Definitions; Regulations. The definitions contained within the Act (Chapter 131, section 40 MGL) and the Regulations at 310 CMR 10.00 et. seq., are incorporated herein by reference and made a part of this bylaw, except where the language in this bylaw is more definitive, in which event the language in this bylaw shall prevail. State definitions must not conflict with the intent and purpose of this bylaw. The Act and the Rules and Regulations promulgated thereunder, and from time to time amended, by the Legislature (Massachusetts General Court) and the Massachusetts Department of Environmental Protection (DEP) are incorporated herein by reference and made a part of this bylaw, except where the language in this bylaw is more protective, in which event the language in this bylaw shall prevail. Where the act and 310 CMR 10.00 et. seq. conflict with the intent and purpose of this bylaw, the bylaw shall prevail.

The following definitions are issued pursuant to this bylaw;

'Definitions' shall mean those contained within the Act, the Regulations at 310 CMR 10.00 et. seq., the DEP Policy Guidelines and the more definitive and restrictive definitions within this Bylaw and the Rules, Regulations and/or Policy Guidelines issued pursuant to it. The commission shall interpret each definition in a manner that best serves the intent and purpose of this bylaw and in a manner that protects the interest of the citizens of Bourne.

'The Rules and Regulations promulgated' shall mean those contained within the Act and 310 CMR 10.00 et. seq., and from time to time amended, the DEP Policy Guidelines as well as the more protective and restrictive language within this bylaw, its Rules, Regulations and Policy Guidelines issued pursuant to it.

'Wetland Resource Areas' shall mean all wetland resource areas mentioned in Chapter 131, section 40 MGL and its Regulations at 310 CMR 10.00 et. seq., as from time to time amended, and any other area that due to its vegetation, soils, and/or hydrology supports a wetland plant community or holds enough water to provide a breeding habitat for certain water dependent faunal species. Areas in which 50% or more of the vegetational community is composed of wetland plant species shall be classified as a wetland resource area.

'Water' shall mean all surface and groundwater associated with the Wetland Resource Areas and/or the land 100' from such areas.

'Adjoining Land Areas' shall mean the land 100' back as measured horizontally from the boundary of any Wetland Resource Area. This area is hereafter referred to as the Buffer Zone. No habitable dwelling or accessories thereto or roadway/driveway shall be allowed any closer than 50' from the boundary of a Wetland Resource Area unless permitted under this bylaw.

'Adverse Effect' shall mean any change in the quality of a Wetland Resource Area that causes a diminishment in its ability to provide the Wetland Resource Values protected by this Bylaw.

'Impair' shall mean to make or cause to become worse; weaken or damage. Projects must be designed so as to not significantly impair the wetland resource areas, buffer zones and/or the wetland resource values protected under this bylaw.

'Significant Shellfish Habitat' shall mean those areas containing shellfish in densities (numbers) and/or habitat considered significant by the state Division of Marine Fisheries (DMF) and/or the Bourne Department of Natural Resources (DNR). The Commission shall also evaluate information provided by local recreational and commercial shellfishers and by the applicant. No project shall be permitted if it will cause any adverse effect on shellfish habitat and/or shellfish densities and/or impair the ability to harvest shellfish and/or cause adverse effect to eelgrass beds.

'Eelgrass Beds' shall mean those areas where the marine substrate is populated by eelgrass (Zostera marina) in quantities considered significant to shellfish habitat as determined by DMF and/or Bourne DNR. Destruction of such beds is prohibited.

'Wetland Resource Values' shall mean but not be limited to the following;

- a. Public and Private Water Supplies means any surface water or groundwater supply that has, is, or could be used for consumption by humans or livestock.
- b. Groundwater Supplies means any water below the earth's surface in the zone of saturation below the Wetland Resource Area or below the Buffer Zone.
- c. Flood Control means the ability of the Wetland Resource Area to prevent and/or reduce flooding and flood damage.



- d. Storm Damage Prevention means the project must be designed in a manner that ensures the prevention of damage to the Wetland Resource Area and abutting properties caused by, but not limited to, erosion and sedimentation, damage to vegetation, damage to property or buildings, or damage caused by the displacement of water, water-borne debris or water-borne ice. With the exception of "Dinghy Docks", as defined at Section 15.0 of the Town of Bourne Waterways Rules and Regulations, the Commission shall approve projects in velocity flood zones only after the project engineer certifies in writing that the design of said project complies fully with the first sentence of (d). Projects that fail to gain certification shall be deemed a threat to the health and safety of Bourne's residents and the proposed project shall be denied by the Commission. \*
- e. Pollution Prevention means a project must be designed in a manner as to not cause pollution to the ground or surface waters and that will not in any way result in the degradation to the Wetland Resource Area.
- f. Fisheries and Shellfisheries means all fish and shellfish found in fresh, salt or brackish waters and any organisms (including plants) that make up part of the food chain/web of such animals regardless of their commercial value. This bylaw requires that a project be designed so as not to contaminate, damage or impair the fish/shellfish, its food supply, habitat, or water supply. All projects proposed in public wetland resource areas must meet the performance standard of no adverse effect.
- g. Wildlife Habitat means the place within each Wetland Resource Area or Buffer Zone thereto, where animal life (vertebrates/invertebrates) live. This habitat shall consist of the plants, soil and physical features and/or water which provides for the animal specie. Proposed projects must be designed to maximize protection of wildlife habitat. All state rare species (plant and/or animal) officially listed as endangered, threatened, or of special concern by the Massachusetts Division of Fisheries and Wildlife under 321 CMR 8.00 et. seq., and from time to time amended, and those species of local significance which live within the wildlife habitat shall be fully protected by this bylaw and their habitat must not be impaired in any way by a proposed project.
- h. Erosion and Sedimentation Control means both the ability of the Wetland Resource Area to perform these functions and the responsibility of the project applicant to propose a design that incorporates these controls into the plan to prevent damage to the wetland resource area, buffer zone or abutting properties from erosion/sedimentation and water displacement caused by the project. Furthermore, each proposed project must be designed to prevent damage to the wetland resource area due to scouring, propeller wash/shear, re-suspension of sediments and from increased wave energy. Projects shall be designed to cause no adverse effect on significant shellfish habitat and/or eelgrass beds.
- i. Recreational and/or Commercial Use means, but is not limited to, the purposes for which the Wetland Resource Area are used by the public such as navigation, fishing,

hunting, shellfishing, swimming, water skiing, diving, walking, etc. A project must be designed so as to not impair the ability of the Wetland Resource Area to provide for these public recreational and/or commercial uses.

NOTE: \* Various changes amended by Article 8, 2009 October STM

### **Section 3.7.5**

#### **Activities in Water Resource District and Other Special Considerations.**

- a. No wetland, regardless of size, within a Water Resource District designated on the Bourne Zoning Map, as from time to time amended, shall be filled, dredged, excavated or altered unless a permit has first been obtained pursuant to this bylaw, and written approvals have been obtained from the Planning Board, the Board of Health, and the Commissioners of the Water District in which the activity is proposed.
- b. No person shall alter, fill, dredge or excavate any wetland classified as a White Cedar Swamp (Chamaecyparis thyoides).
- c. The Commission may prohibit the location of any building or structure within an area designated by the Commonwealth of Massachusetts as an Area of Critical Environmental Concern (ACEC). Projects approved in an ACEC must show no adverse effect upon the wetland resource areas and/or their buffer zones.
- d. No new dwelling or accessory thereto shall be approved on a slope= $>25\%$  if this slope is located within 100 feet of a wetland resource area.
- e. No project shall be approved if it will cause an adverse effect to significant shellfish habitat and/or shellfish and/or shellfishing or eelgrass beds.

### **Section 3.7.6**

**Enforcement; Violations; Penalty.** The Commission employees, duly authorized agents, natural resource officers, and local and state law enforcement agencies are hereby authorized to enforce the provisions of this bylaw. Any person violating this bylaw shall be punished by a fine of \$300.00 for each offense. Each day or portion thereof during which a violation continues shall constitute a separate offense. Notices of violation shall be in the form of a violation letter, enforcement order and/or a cease and desist request. Any person who files "after-the-fact" for a project may be required by the Commission to pay double the filing fee. \*

NOTE: \* Various changes amended by Article 9, 2012 November STM

### **Section 3.7.7**

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

### **Section 3.7.8**

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

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

### **Section 3.7.9**

Consultant Fees. The Commission is authorized to require the applicant, to pay the reasonable costs and expenses borne by the Commission (Town) for specific expert engineering and consultant services deemed necessary by the Commission to review the notice of Intent and/or the Request for Determination of Applicability, up to a maximum of two thousand and five hundred dollars (\$2,500.00).

Said payment can be required at any point in the deliberations prior to a final decision being rendered. Said services may include but are not limited to wetland resource area surveys and delineations, wetland resource area reports, hydrogeological and drainage analysis, wildlife evaluation, shellfish surveys, and environmental/land-use law.

The Commission is hereby authorized to charge for said fee when the Notice of Intent and/or the Request for Determination of Applicability proposes any of the following: 500 square feet or greater alteration of a coastal or inland wetland resource area: 50 linear feet or greater of bank alteration to an inland or coastal waterway: 500 square feet or greater alteration to the buffer zone: alteration of greater than 500 square feet of land under a water body or the ocean: discharge of any pollutants into or contributing to surface or groundwater or the wetland resource area or buffer zone: or the construction of any detention or retention basin or water control structure. Any applicant aggrieved by the imposition of, or the size of, the fee, or any act related thereto, may appeal according to the provisions of Massachusetts General Laws.

### **Section 3.7.10**

Appeals. Any person aggrieved by a decision of the Conservation Commission under the Town of Bourne Wetlands Protection Bylaw may appeal to the Barnstable Superior Court by filing a civil action in the nature of certiorari pursuant to M.G.L. c. 249, sec. 4 within sixty (60) days next after the proceeding complained of.

### **Section 3.7.11**

Litigation. After denying a permit and prior to litigation of the matter, the Commission shall meet with the Town Counsel and the Board of Selectmen to evaluate the merits of the pending litigation. After such meeting, the Commission may vote to modify its original position if it determines this action to be in the best interests of the residents of the Town.

### **Section 3.7.12**

Promulgation of Rules and Regulations. After public notice and public hearing the commission may promulgate Rules and Regulations for piers, ramps and floats to effectuate the purpose of this bylaw. Failure by the Commission to promulgate such Rules

and Regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw or any Rules and/or Regulations promulgated hereunder." \*

NOTE: \* Various changes amended by Article 28 & 29, 2000 ATM

### Article 3.8 Underground Storage Regulation

#### **Section 3.8.1**

Definitions. 'Toxic or hazardous materials' shall be defined as all liquid hydrocarbon products including, but not limited to, gasoline, fuel and diesel oil, and any other toxic or corrosive chemicals, radioactive materials or other substance controlled as being toxic or hazardous by the Division of Hazardous Waste of the Commonwealth of Massachusetts, under the provisions of Massachusetts General Laws, Chapter 21C, Section 1, et. seq.

#### **Section 3.8.2**

##### Installation of Underground Storage Tanks (UST).

- a. Following the effective date of this regulation, the installation of all underground fuel, gasoline or other chemical storage tanks shall conform with the following criteria:
- b. In that the United States Environmental Protection Agency designated the Town of Bourne as overlying a sole source aquifer, secondary containment and an approved in-tank or interstitial space monitoring system shall be required for new or replacement tanks.

#### **Section 3.8.3**

Tank Registration. The following regulations shall apply to

1. All underground tanks containing toxic or hazardous materials as defined above which are not currently regulated under 527 CMR 9.05 - Tanks and Containers, to \*
2. All underground tanks containing fuel oil, whose contents are used exclusively for consumption on the premises, and to
3. Farm and residential tanks of 1,100 gallon capacity, or less, used for storing motor fuel for non-commercial purposes.
  - a. Owners shall file with the Board of Health, on or before August 15, 1988 the size, type, age and location of each tank, and type of fuel or chemical stored in them. Evidence of date of purchase and installation, including fire department permit, if any, shall be included along with a sketch map showing the location of such tanks on the property. Upon registering the tank with the Board of Health, the tank owner will receive a permanent metal or plastic tag, embossed with a registration number unique to that tank. This registration tag must be affixed to the fill pipe in such a location as to be visible to any distributor when filling the tank and to any inspector authorized by the Town.
  - b. Effective August 15, 1988 every petroleum and other chemical distributor, when

filling an underground storage tank, shall note on the invoice or bill for the product delivered, the registration number appearing on the tag affixed to the tank which was filled. Every petroleum and other chemical distributor shall notify the Board of Health of the existence and location of any unregistered or untagged tank which they are requested to fill. Such notification must be completed within two (2) working days of the time the distributor discovers that the tank registration tag is not affixed to the fill pipe.

- c. Prior to the sale of a property containing an underground storage tank, the fire department must receive from the current owner a change of ownership form for the registration of the underground storage tank. Such form can be obtained from the fire department.

### **Section 3.8.4**

Testing. The tank owner shall have each tank and its piping tested for tightness fifteen (15) years after installation and annually after twenty (20) years. A tank shall be tested by any final or precision test, not involving air pressure that can accurately detect a leak of 0.05 gal/hr, after adjustment for relevant variables, such as temperature change and tank end deflection, or by any other testing system approved by the Board of Health, as providing equivalent safety and effectiveness. Piping shall be tested hydrostatically to 150 percent of the maximum anticipated pressure of the system. Certification of the testing shall be submitted to the Board of Health by the owner, at the owner's expense. Those tanks subject to the testing requirements of this regulation shall submit the certification of testing to the Board of Health by November 1, 1988. Tanks which are currently tested under the provisions of 527 CMR 9.05 are exempt from this section.\*

### **Section 3.8.5**

Report of Leaks or Spills. Any person who is aware of a spill, loss of product, or unaccounted for increase in consumption which may indicate a leak shall report such spill, loss or increase immediately to the head of the fire department and to the Board of Health.

### **Section 3.8.6**

Tank Removal. Prior to the removal of an underground storage tank governed by this regulation, the owner shall first obtain a permit from the head of the fire department, pursuant to M.G.L. C. 148. Any person granted a permit by the Marshal or the head of a local fire department to remove a tank under the provisions of M.G.L., C. 148 or 527 CMR 9.05, shall within 72 hours provide the permit granting authority with a receipt for delivery of said tank to the site designated on the permit. Before any person is granted a permit by the Marshal or head of a local fire department to remove a tank under the provisions of M.G.L., C. 148 or 527 CMR 9.05, and said tank is not being transported to an approved tank yard, the person requesting the permit shall provide the permit-granting authority with written approval from the owner/manager of the disposal site. (Reference: 502 CMR 3.00 for tank removal and disposal procedure).\*

### **Section 3.8.7**

Costs. In every case, the owner shall assume the responsibility for costs incurred necessary to comply with this regulation.

### **Section 3.8.8**

Variations. Variations from this regulation may be granted by the Board of Health after a hearing at which the applicant establishes the following:

1. The enforcement thereof would do manifest injustice; and
2. Installation or use of an underground storage tank will not adversely affect public or private water resources. In granting a variance, the Board will take into consideration the direction of the ground water flow, soil conditions, depth to ground water, size, shape and slope of the lot, and existing and known future water supplies.

### **Section 3.8.9**

Severability. Provisions of this regulation are severable and if any provision there shall be held invalid under any circumstances, such invalidity shall not affect any other provisions or circumstances.

NOTE: \* Various changes amended by Article 24, 2013 ATM

NOTE: \* Various changes amended by Article 2, 2014 STM

## Article 3.10 Solid Waste Management

### **Section 3.10.1**

This bylaw establishes a solid waste management plan for the Town of Bourne which includes but is not limited to source reduction of waste, reuse rather than disposal, recycling, composting of leaf and yard waste, and the use of recycled products by Town departments and agencies.

The purpose of this Bylaw is to protect and preserve the environment, conserve natural resources, reduce the volume of waste requiring disposal and to comply with Department of Environmental Protection waste disposal restrictions at 310 CMR 19.017.

Any individual, commercial concern or public agency, board or department residing, operating or doing business in the Town of Bourne is hereby subject to this Bylaw.

This Bylaw shall be administered and supervised by the Town of Bourne, Board of Selectmen through the Department of Integrated Solid Waste Management (ISWM) General Manager.

There shall be a Recycling Committee authorized and directed to:

- a. Provide advice and assistance to the Board of Selectmen, the ISWM General Manager and Town residents concerning recycling requirements and procedures.
- b. Assist the Board of Selectmen with public education concerning recycling, composting and source reduction.
- c. The committee shall consist of a minimum of five (5) members who will be appointed by the Board of Selectmen for three year staggered terms.

### **Section 3.10.2 Definitions**

For the purpose of this Bylaw, the following words and phrases shall have the meanings

ascribed to them by this section.

Solid Waste – garbage, rubbish, yard waste and all materials normally collected at curbside or accepted at the ISWM Residential Recycling Center.

Recyclable Materials – the following are considered recyclable materials and will be collected at curbside or accepted at the Residential Recycling Center.

Glass – food and beverage containers. Excluded are mirrors, auto glass, light bulbs, glassware and glass commonly known as window glass.

Paper – corrugated cardboard boxes, newspaper, magazines, chipboard, craft and office paper.

Metal – Food Containers – aluminum and tin cans and all other aluminum food foil containers including aluminum foil.

Metal – Any discarded items that are predominately metal including tire rims, gas grills, bed frames and appliances\*

Plastics – HDPE – polyethylene containers such as milk jugs (No.2), PET polyethylene terphthalate containers such as soda bottles, and detergent bottles (No.1).\*

Yard Wastes – Leaves, garden waste, lawn clippings, weeds, hedge clippings, tree and brush prunings and stumps.\*

Electronic Devices – Television sets, VCR's, computers, radios and other electronic devices, including rechargeable batteries such as ni-cad, lithium, lead-acid and metal hydride batteries. Lithium sulfur dioxide batteries are not accepted.\*

NOTE: \* Various changes amended by Article 21, 2013 ATM

### **Section 3.10.3 Recycling Program**

There is hereby a mandatory recycling program for the purpose of removing recyclables from the Town's waste disposal stream and to recycle any appropriate material including but not limited to the items listed in Section 3.10.2.

Any person disposing of solid waste materials in the Town of Bourne using either public or private disposal services is required to separate and not dispose of recyclables.

The Board of Selectmen, or their designee, has the authority to add, delete or delay collection of recyclables after giving public notice of public hearing of such changes.

### **Section 3.10.4 Leaf And Yard Waste Composting Program**

All leaves and yard waste, whether collected at curbside or brought to the Residential Recycling Center will be composted or otherwise diverted and shall not be disposed of as solid waste.

Any person who has an approved Residential Recycling Center Sticker may bring leaves,

yard waste and tree or brush pruning's into the composting area free of charge.\*

NOTE: \* Various changes amended by Article 21, 2013 ATM

**Section 3.10.5 "Buy Recycled" Program**

All Town Departments, Boards, and Committees shall purchase recycled products in lieu of non-recycled products, whenever they are readily available at the same quality and price.

**Section 3.10.6 Permits**

Commercial/Residential Collections. No person shall remove and transport garbage, offal or other offensive substances through the street of the Town of Bourne without first obtaining a permit from the Bourne Board of Health, in accordance with Massachusetts General Laws Chapter 111, Section 31A.

**Section 3.10.7 Severability**

Provisions of this bylaw are severable and if any provision shall be held invalid under any circumstances, such invalidity shall not affect any other provisions of circumstances.

**Section 3.10.8 Enforcement**

The Superintendent of Public Works in conjunction with the General Manager of the Integrated Solid Waste Management Department will refuse to collect or allow disposal of solid waste if recyclables have not been separated. This Bylaw is exempt from the Town of Bourne Bylaws, Article 6.1, Section 6.1.1.

**Section 3.10.9 Effective Date**

This program will become effective on July 1, 1999. The deadline for compliance with new requirements established in this bylaw will be six (6) months or as required by state law. Exceptions will be made with the express written permission of the Board of Selectmen. From the time of placement at curbside for collection the Town of Bourne or its designated agent become owner of the recyclables.

**Article 3.11 Licenses or Permits - Revocation or Suspension Non-Payment of Taxes or Assessments**

**Section 3.11.1**

Authority. The bylaw is adopted pursuant to the provisions of Chapter 649 of the Acts of 1985, amending Chapter 40, Section 57 of the Massachusetts General Laws, accepted by the Town under Article 67 of the May 12, 1986 annual town meeting.

**Section 3.11.2**

**Right to Revoke or Suspend Licenses or Permits for Non-Payment of Taxes or Assessments.**

- a. Any town board, officer, or department may deny any application for, or revoke or suspend a building permit or any local license or permit including renewals and transfers, to any person, corporation or business enterprise with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or other matter is carried out or exercised on or about real estate whose owner has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges, including amount



assessed under the provisions of section twenty-one D.

- b. The Town Collector shall annually furnish to each department, board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that neglected or refused to pay any local taxes, fees, assessments, betterments for any other municipal charges for not less than a twelve month period, and that such party has not filed in good faith a pending application for an abatement for such tax or a pending petition before the appellate tax board or county commissioners. \*
- c. The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the town collector; provided, however, that written notice is given to the party and the town collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The town collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, revoked or suspended under this bylaw shall not be reissued or renewed until the licensing authority receives a certificate issued by the tax collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the municipality as of the date of issuance of said certificate. \*
- d. Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.
- e. The board of selectmen may waive such denial, suspension, or revocation if it finds that there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in section one of chapter two hundred and sixty eight in the business or activity conducted on such property.

NOTE: \* Various changes amended by Article 19-E, 2007 ATM

### **Section 3.11.3**

Not to Apply to Certain Licenses. The provisions of this bylaw shall not apply to the following licenses and permits: open burning, bicycle permits, sales of articles for charitable

purposes, children's work permits, shellfish permits, clubs, association dispensing food or beverage licenses, dog licenses, fishing, hunting, trapping licenses, marriage licenses, theatrical events, public exhibition permits, yard sale permits, landfill disposal area permits, beach stickers.

## Article 3.12 Prohibition of Smoking in Certain Places Within the Town of Bourne

### **Section 3.12.1 Definitions**

As used in this article:

Board: The Board of Health of the Town of Bourne

Bar: An establishment whose business is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of such beverages. (*Incidental food is limited to prepackaged snack foods and food that only requires minimum preparation.*)

Employee: Any person who performs services for an employer.

Health Care Facility: Any office or institution providing care or treatment of diseases, whether physical, mental or emotional, or other medical, physiological or psychological conditions including but not limited rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, offices of any surgeon, chiropractor, physical therapist, physician, dentist and all specialists within these professions.

Indoor Sports Arena: Any sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys and other similar recreational facilities where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events.

Person: Any person, firm partnership, association, corporation, company or organization of any kind including, but not limited to an owner, operator, manager proprietor or person in charge of any building, establishment, business, or restaurant or retail store, or the agents or designees of the foregoing.

Public Place: Any building or facility owned, leased, operated or occupied by the municipality, including school buildings or grounds; any indoor enclosed area, etc. open to the general public including, but not limited to, libraries, museums, theaters, auditoriums, indoor sports arenas, and/or recreational facilities, inns, hotel and motel lobbies, educational facilities, shopping malls, public restrooms, lobbies, staircases, halls, exits, entrances, elevators accessible to the public, and licensed child-care locations.

Public Transportation: Buses, taxis, and other means of transportation available to the general public while such means of transportation is operating within the boundaries of the town including indoor platforms by which such means of transportation may be accessed.

Restaurant: Any coffee shop, cafeteria, sandwich shop, private and public school cafeteria and other eating establishment which gives or offers food for sale to the public, guests, or

employees for on-premises consumption, as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering facilities.

**Retail Food Store:** Any establishment commonly known as a supermarket, grocery store, bakery, or convenience store in which the primary activity is the sale of food items to the public for off-premises consumption.

**Retail Store:** Any establishment whose primary purpose is to sell or offer for sale to consumers, but not for resale, any goods, wares, merchandise, articles or other things, including retail food stores. "Retail store" shall not include restaurants as defined herein.

**Smoking:** Inhaling, exhaling, burning or carrying any lighted cigar, cigarette, or other tobacco product in any form.

### **Section 3.12.2 Notice of Prohibition.**

Every person having control of premises upon which smoking is prohibited by and under the authority of this bylaw shall conspicuously display upon the premises "No Smoking" signs provided by the Massachusetts Department of Public Health and available from the Bourne Board of Health.

### **Section 3.12.3 Smoking Prohibited.**

No person shall smoke nor shall any person, employer, or other person having control of the premises upon which smoking is prohibited by this bylaw, or the agent or designee or such person, permit a person to smoke in any of the following places as defined herein: bars, health care facilities, public places, public transportation, restaurants, retail stores, and work places except as otherwise provided in Section 4 of this bylaw.

Additionally, no person shall smoke in any place in which a sign conforming to the requirement of Section 2 of this bylaw is posted. No person shall remove a sign posted under the authority of Section 2 of this bylaw.

### **Section 3.12.4 Exceptions.**

Notwithstanding the provision of Section 3, smoking may be permitted in the following places and/or circumstances:

- a. Private residences, except those portions used as a child care or health care office when operating as such.
- b. Hotel and motel rooms rented to guests that are designated as smoking rooms.
- c. Private or semi-private rooms of nursing homes and long term care facilities, occupied by one (1) or more patients, which are separately ventilated and all of whom are smokers who have requested in writing to be placed in rooms where smoking is permitted.
- d. Retail tobacco stores, which are solely for the sale of tobacco products, prohibit minors from entering the establishment, and which are not required to possess a retail food permit.

**Section 3.12.5 Violations.**

It shall be a violation for any employer or other person having control of the premises upon which smoking is prohibited by this bylaw, or the agent or designee of such person to permit a violation of this bylaw.

It shall be a violation for any person to smoke in any area where smoking is prohibited by the provisions of this bylaw.

Any person who violates any provision of this bylaw shall be subject to a fine of fifty (\$50.00) dollars for the first violation, one hundred (\$100.00) dollars for the second violation, and two hundred (\$200.00) dollars for a third or subsequent violations during any one calendar year.

**Section 3.12.6 Enforcement.**

The Bourne Board of Health or its agent shall enforce this bylaw.

One method of enforcement may be periodic, unannounced inspections of those establishments subject to these regulations.

Any citizen who desires to register a complaint under these regulations may do so by contacting the Bourne Board of Health.

Whoever violates any provision of this bylaw, the violation of which is subject to a specific penalty, may be penalized by the non-criminal method of disposition as provided in Massachusetts General Laws, Chapter 40, Section 21D or by filing a criminal complaint. Any fines imposed under the provisions of this bylaw shall inure to the Town of Bourne for such use as the Town may direct.

Each day on which any violation exists shall be deemed to be a separate offense.

**Section 3.12.7 Severability.**

If any paragraph or provision of this bylaw is found to be illegal or against public policy or unconstitutional, it shall not affect the legality of any remaining paragraphs or provisions.

**Section 3.12.8 Other Applicable Laws.**

This bylaw shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable health, safety or fire codes, regulations or statutes.

**Section 3.12.9 Effective Date.**

This bylaw will be effective on July 1, 2001 or upon approval by the Office of the Attorney General of the Commonwealth of Massachusetts, whichever date is the later. \*

NOTE: \* Various changes amended by Article 17, 2001 ATM

Article 3.13 Development Mitigation

**Section 3.13.1**

Any Town Board, including, but not limited to the Planning Board and Zoning Board of

Appeals, may as a condition of any permit or any approval otherwise required for any proposed development, require the payment of a development impact fee. The development impact fee may be imposed only upon construction, enlargement, expansion, substantial rehabilitation, or change of use of a development. The development impact fee shall be used for the purposes of defraying the costs of capital facilities to be provided or paid for by the Town and which are caused by and necessary to support or compensate for the proposed development. Such capital facilities may include the costs related to the provision of equipment, infrastructure, facilities or studies associated with the following: libraries; municipal offices; water supply; sewers; storm water management and treatment; pollution abatement; solid waste processing and disposal; traffic mitigation; public transportation; child care; parks, playgrounds, and other recreational facilities; affordable housing; or other capital improvements.

The imposition of a development impact fee shall not prevent the Town from imposing other fees which it may otherwise impose under local ordinances and/or bylaws.

### **Section 3.13.2**

No development impact fee shall be imposed upon: i) dwelling units that will remain affordable for a period of at least 99 years to households at or below 80 percent of the area median income as most recently defined by the United States Department of Housing and Urban Development; or ii) residential development where at least 25 percent of the dwelling units will remain affordable for a period of at least 99 years to households at or below 80 percent of the area median income as most recently defined by the United States Department of Housing and Urban Development; provided in either case that such units or developments have not applied for or received a comprehensive permit under Massachusetts Law Chapter 40B Sections 20-23.

The fee shall not be expended for personnel costs, normal operation and maintenance costs, or to remedy deficiencies in existing facilities, except where such deficiencies are exacerbated by the new development, in which case the fee may be assessed only in proportion to the deficiency so exacerbated.

### **Section 3.13.3**

Prior to the imposition of the development impact fees, the Town shall complete a study that (i) analyzes existing capital improvement plans or the facilities element of a plan adopted under Massachusetts General Law Chapter 41 Section 81D; (ii) estimates future development based on the then current zoning ordinances and bylaws; (iii) assesses the impacts related to such development; (iv) determines the need for capital facilities required to address the impacts of the estimated development including excess facility capacity, if any, currently planned to accommodate future development; (v) develops cost projections for the needed capital facilities and documents costs from existing facilities with planned excess capacity; and (vi) establishes the amounts of any development impact fees authorized in accordance with a methodology determined pursuant to this study. The study shall be updated periodically to reflect actual development activity, actual costs of infrastructure improvements completed or underway, plan changes, or amendments to the zoning ordinances or bylaws.

### **Section 3.13.4**

The development impact fee shall be determined by using the study described in Section 3.13.3. The fee shall be roughly proportionate to the impacts created by the development as determined by the study described in Section 3.13.3. The purposes for which the fee is expended shall reasonably benefit the proposed development. The fee may not be assessed more than once for the same impact, nor may the fee be assessed for impacts, or portions thereof, offset by other dedicated means, including state or federal grants or contributions made by the applicant undertaking the development.

### **Section 3.13.5**

Said payment of the development impact fee may be in cash or cash equivalent, including the transfer of title of real estate located within the Town, under such terms and conditions as the Town Board shall determine to be appropriate under the circumstances. No occupancy permit shall be issued unless or until the provisions of the Bylaw have been satisfied and the Board of Selectmen have notified the Building Inspector in writing that they have approved the terms and conditions of the development impact fee.

### **Section 3.13.6**

The imposition of a development fee as well as the amount of the development impact fee assessed may be appealed by petitioning a court of competent jurisdiction for certiorari pursuant to Mass. Gen. L. Ch. 249 § 4.

### **Section 3.13.7**

This Bylaw shall become effective after it has been approved by Town Meeting and approved by the Attorney General's Office. The effective date of this Bylaw shall be the date that the publishing requirements of Massachusetts General Laws Chapter 40, Section 32 have been satisfied."

## Article 3.14 Demolition of Historic Structures

### **Section 3.14.1 Intent and Purpose**

To preserve and protect historically significant buildings with the Town of Bourne that reflect distinctive features of the architectural, cultural, economic, political or social history of the Town.

The intent of the bylaw is not to permanently prevent demolition, but rather, to provide an opportunity to develop preservation solutions for properties threatened with demolition. The bylaw is intended to encourage property owners and townspeople to seek out persons who might be willing to purchase, preserve, rehabilitate or restore such buildings rather than demolish them, and to limit the detrimental effect of demolition on the historical architectural resources of the Town.

To achieve these purposes, the Bourne Historical Commission is empowered to advise the Building Inspector with respect to the issuance of permits for demolition of significant buildings, and, where appropriate and consistent with the intent and purpose of this bylaw, to allow demolition under conditions designed to minimize the loss of distinctive features of significant buildings.

### **Section 3.14.2 Definitions**

"Building" – any combination of materials forming a shelter for persons, animals, or

property.

“Demolition-Total” – the act of pulling down, destroying, removing, razing, or moving an entire building or structure or the substantial destruction of a building or portion thereof, with the intent of completing the same. \*

“Demolition-Partial” – the act of pulling down, destroying, removing, razing or moving any portion of a building or structure, including the removal of architectural elements, which define or contribute to the character of the structure. However, shall not include the replacement of windows, roof shingles or siding so long as the new materials are the architectural equivalent to the ones being replaced. \*

“Demolition Permit” – any permit without regard to whether it is called a demolition permit, alteration permit, or building permit, if it involves total and partial demolitions. \*

“Significant Building” – any building or portion thereof which in whole or in part is more than seventy-five (75) years old or is listed in the historical survey of the Town of Bourne and on file with the Bourne Historical Commission.

“Commission” – the Bourne Historical Commission.

“preferably preserved Significant Building” – any significant building which the Commission determines ought in the public interest to be preserved or rehabilitated rather than demolished.

“Building Inspector” – the person occupying the office of Inspector of Buildings or otherwise authorized to issue demolition permits.

### **Section 3.14.3 Procedures**

- a. Upon receipt of an application for a demolition permit for any building, or portion thereof, the Building Inspector shall forward a copy thereof to the Town Planner within seven (7) days, and shall notify the applicant in writing of this action. No demolition permit shall be issued at that time.
- b. Within fourteen (14) days of receipt of a copy of an application for a demolition permit, the Town Planner shall make an Initial Determination as to the significance of the subject building. If the Town Planner determines that the building, or a portion thereof, meets one or more of the criteria of the above definition of “Significant Building,” then the Town Planner shall forward a copy of the application for a building permit to the Commission, and no demolition permit shall be issued at that time. If the Town Planner determines that the subject building does not meet one or more of the criteria of the above definition of “Significant Building,” or if the Town Planner fails to notify the Building Inspector of his determination within the said fourteen (14) days, the Building Inspector may, subject to the requirements of the State Building Code and any other applicable law, bylaws, rules and regulations, issue a demolition permit.
- c. If the Town Planner determines that the subject building, or a portion thereof,

meets one of more of the criteria of the above definition of "Significant Building," the Commission shall within thirty (30) days of its receipt of a copy of an application for its demolition, conduct a public hearing to determine whether the Significant Building is preferably preserved; the Commission shall give notice of said hearing by publishing notice of the time, place and purpose of the hearing in a local newspaper at least fourteen (14) days before said hearing. A copy of said notice shall be mailed to the applicant, to the owner of the premises on which the Significant Building is located (if other than the applicant) to the owners of all abutting property as they appear on the most recent tax list, and to such other persons as the Commission shall deem entitled to notice. \*

- d. If, after a public hearing, the Commission determines that demolition of the Significant Building would not be detrimental to the historical or architectural heritage or resources of the Town, the Commission shall so notify the applicant, the owner, if other than the applicant, and the Building Inspector, in writing, within fourteen (14) days of such determination. Upon receipt of such notice, or upon the expiration of fourteen (14) days from the date of the close of the Commission's public hearing, without having received any notification from the Commission, the Building Inspector may, subject to the requirements of the State Building Code and any other applicable laws, bylaws, rules and regulations, issue a demolition permit for the subject building.
- e. If, after the public hearing, the Commission determines that demolition of the Significant Building would be detrimental to the historical or architectural heritage or resources of the Town, such building shall be considered to be a preferably preserved building, and the Commission shall so advise the applicant, the owner if other than the applicant, and the Building Inspector, in writing, within fourteen (14) days, and no demolition permit shall be issued until twelve (12) months after the date of such determination by the Commission.
- f. During the twelve (12) month delay period following the Commission's determination that a building is to be considered preferably preserved, the Commission shall notify the Massachusetts Historical Commission, the Town Planner, the Cape Cod Commission, and any other interested party in an effort to obtain assistance in obtaining preservation funding or in finding an adaptive use of the building which will result in its preservation.
- g. Notwithstanding the preceding paragraphs, the Building Inspector may issue a demolition permit for a preferably preserved significant building at any time after receipt of written advice from the Commission to the effect that
  - i. *the Commission is satisfied that there is no reasonable likelihood that either the owner or some other person or group is willing to purchase, preserve, rehabilitate or restore such building, or*
  - ii. *the Commission is satisfied that for at least six (6) months the owner has made continuing, bonafide and reasonable efforts to locate a purchaser to preserve, rehabilitate and restore the subject building, and that such efforts have been unsuccessful;*



- iii. the Commission has determined that the proposed moving or demolition may be conducted in a specified manner so as not to be detrimental to the historical or architectural heritage or resources of the Town.*

NOTE: \* Various changes amended by Article 19, 2008 ATM

#### **Section 3.14.4 Responsibilities of the Owner**

Once a Significant Building is determined to be a preferably preserved building, the owner shall be responsible for properly securing the building, if vacant, to the satisfaction of the Building Inspector. Should the owner fail to so secure the building, a subsequent destruction of the building at any time during the twelve (12) month delay period, which destruction could have been prevented by the required security measures, shall be considered a demolition in violation of the bylaw.

#### **Section 3.14.5 Emergency Demolitions**

Notwithstanding the following provisions, the Building Inspector may issue a demolition permit at any time in the event of imminent and substantial danger to the health or safety of the public due to deteriorating conditions. Prior to doing so, the Building Inspector shall inspect the building and document, in writing, the findings and reasons requiring an emergency demolition, a copy of which shall be forwarded immediately to the Commission.

Before allowing emergency demolition, the Building Inspector shall make every effort to inform the Chairman of the Commission of his intention to allow demolition before he issues a permit for emergency demolition.

#### **Section 3.14.6 Enforcement and Remedies**

- a. Except as provided below, whenever a significant building or any portion thereof has been voluntarily demolished in violation of this bylaw, and for a period of two years after the date of completion of such demolition, no building permit shall be issued with respect to any premises upon which such demolition has occurred. As used herein, "premises" includes the parcel of land upon which the demolished significant building was located.
- b. Notwithstanding the foregoing, whenever the Commission shall, on its own initiative, or on application of the landowner, determine that earlier reconstruction, restoration or other remediation of any demolition in violation of the bylaw better serves the intent and purpose of this bylaw, it may, prior to the expiration of said period of two (2) years, but no sooner than six (6) months from the date of completion of any demolition in violation of this bylaw, authorize issuance of a building permit, upon such conditions as the Commission deems necessary or appropriate to fulfill the purposes of this bylaw, and may so notify the Building Inspector pursuant to Section VII of this bylaw.

### Article 3.15 Business Licenses

#### **Section 3.15.1**

Certificate. Any person conducting a business in the Town of Bourne under any title or name other than the actual given name of the person conducting the business, whether individually or as a general partnership, shall file with the office of the Town Clerk within thirty (30) calendar days after commencing business a certificate stating the full

name and residence address of each person conducting such business, the place, including street number, where, and the title under which it is conducted, and shall amend and/or renew said certificate from time to time as be necessary.

### **Section 3.15.2**

Oath. Such certificate shall be executed under oath by each person whose name appears therein as conducting such business and shall be signed by each person in the presence of the Town Clerk or a person designated by the Town Clerk or in the presence of a person authorized to take oaths.

### **Section 3.15.3**

Identity. The Town Clerk may request the person filing such certificate to produce evidence of his identity and, if such person does not, upon request, produce evidence thereof satisfactory to such Clerk, the Clerk shall enter a notation of that fact on the face of the certificate.

### **Section 3.15.4**

Discontinuance. A person who has filed such a certificate shall, upon his/her discontinuing, retiring or withdrawing from such business or partnership, or in the case of a change of residence of such person or the location where the business is conducted, file in the office of the Town Clerk a statement under oath that he/she has discontinued, retired or withdrawn from such business or partnership or of such change of his/her residence or of the location of such business. In the case of the death of such person, such statement may be filed by the executor or administrator of his/her estate.

### **Section 3.15.5**

Issuance/Renewal. A certificate issued in accordance with this section shall be in full force and effect for four (4) years from the date of issue and shall be renewed each four years thereafter so long as such business shall be conducted and shall lapse and be void unless so renewed.

### **Section 3.15.6**

Availability. Copies of such certificates shall be available at the address at which such business is being conducted and shall be furnished on request during regular business hours to any person who has purchased goods or services from such business.

### **Section 3.15.7**

Fees. Fees for filings under this section shall be those established pursuant to Massachusetts General Law Chapter 262; Section 34 or as adopted at any Annual or Special Town Meeting.

### **Section 3.15.8**

Certificates. Certificates issued pursuant to this section shall be in lieu of those required

under Massachusetts General Law Chapter 110; Section 5.

### **Section 3.15.9**

Notice. The Town Clerk's office shall cause a notice to be sent via certified mail to the violator informing him/her of such violation and giving the violator thirty (30) calendar days in which to comply with this By-Law.

### **Section 3.15.10**

Fine. Any person found to be in violation of this By-Law may be subject to the provision(s) of Massachusetts General Law Chapter 110; Section 5, by a fine of \$300.00 fine for each month during which such violation continues or subject to the Non-Criminal Violation Section 6.1.1 of the Town By-Laws by a fine of \$50.00 for each month during which such violation continues.

### **Section 3.15.11**

Non-Criminal Violation Procedure. The non-criminal violation procedures of Section 6.1.2 of the Town of Bourne By-Laws may be used for the enforcement of the provisions of this By-Law.

NOTE: \* Various changes amended by Article 24, 2010 ATM

### **Section 3.16.1**

#### **Single Use Plastic Bag Prohibition**

##### Purpose and Intent

The production and use of single-use plastic bags have significant impacts on the marine and land environment of all coastal communities, including, but not limited to: contributing to the potential death of marine and terrestrial animals through ingestion and entanglement; contributing to pollution of the land and coastal environment; clogging our storm drainage systems; creating a burden to our solid waste collection and recycling operations; and requiring the use of millions of barrels of non-renewable, polluting, fossil fuel nationally for their manufacture. Therefore, the Town of Bourne seeks to phase out the use of single-use plastic bags by all retail establishments by **January 1, 2018.**

A plastic bag ban bylaw will provide an environmental benefit and significantly reduce – not increase pollution. This effect is further amplified when a plastic bag ban is paired with a price requirement of paper bags, with the main goal being overall reduction of all single-use bags. The purpose of this bylaw is to phase out the usage of single-use checkout bags by all retail and restaurant establishments in the Town of Bourne.

##### Definitions

“Establishment” means any business selling goods, articles, food or personal services to the public, including restaurants.

“Single-use plastic bags” means bags made of plastic, with integral handles, and thickness less than 3 mils, that are intended to be used for the transport of products

purchased at an Establishment as defined herein.

“Reusable bag” means a bag that is specifically designed for multiple use and is made of cloth, fabric or other durable materials.

#### Use Regulations

Single-use plastic bags shall not be distributed or sold at any Establishment within the Town of Bourne. Existing stock of single-use plastic bags shall be phased out by January 1, 2018. Any remaining stock shall be disposed of properly by the Establishment.

Customers are encouraged to bring their own reusable shopping bags to stores. Establishments may provide reusable bags at no charge, or charge a reasonable fee for each paper or other bag, as they so desire. Establishments are strongly encouraged to make reusable bags available for sale to customers at a reasonable price. Thin-film plastic bags used by Establishments to contain dry cleaning, newspapers, produce, meat, bulk foods, wet items and other similar merchandise, typically without handles, are exempt from the provisions of the bylaw.

#### Administration and Enforcement

This bylaw may be enforced by any Town police officer or agents of the Bourne Board of Health.

This bylaw may be enforced through any lawful means in law or in equity, including, but not limited to non-criminal disposition pursuant to M.G.L. c. 40, §21D and appropriate chapter of the Town’s General Bylaws. If non-criminal disposition is elected, then any Establishment which violates any provisions of the bylaw shall be subject to the following penalties:

First Offense: \$50 fine

Second Offense: \$100 fine

Third and subsequent Offense: \$200 fine

Each day shall constitute a separate offense.

## **CHAPTER 4**

### **INSPECTION AND DEVELOPMENT REGULATIONS**

#### Article 4.1 Department of Inspections

##### **Section 4.1.1**

Officers. There shall be a Department of Inspections under the supervision of the Inspector of Buildings. This Department shall include the Inspector of Buildings, the Inspector of Wires, the Gas Inspector, the Plumbing Inspector, and Public Weighers.

##### **Section 4.1.2**

Appointments. The Inspector of Buildings, Inspector of Wires and Public Weighers shall be appointed annually by the Town Administrator and shall hold office for the term of one (1)

year or until such time as their successors are appointed. The compensation of such officers shall be established by the Town Administrator. The Plumbing Inspector and Gas Inspector shall be appointed by the Inspector of Buildings in accordance with applicable state law.

NOTE: \* Various changes amended by Article 21-18, 2002 ATM

### **Section 4.1.3**

Duties. The duties of such officers shall be as from time established by state law and such additional duties as shall be set forth herein.

## Article 4.2 Commonwealth of Massachusetts State Building Code

### **Section 4.2.1**

Purpose. The purpose of the bylaw is to make provisions complimentary to those of the Commonwealth of Massachusetts' State Building Code ("Basic Code") in order to ensure its appropriate application and effective administration in the Town of Bourne.

### **Section 4.2.2**

Record-Keeping. The Inspector of Buildings shall keep consolidated records of all inspections made pursuant to the Basic Code or any other bylaw or regulations concerning the erection, alteration and demolition of the buildings within the Town.

### **Section 4.2.3**

Permit Fees. A schedule of fees for permits as authorized under Section 118.0 of the Basic Code shall be established and revised from time to time by the Board of Selectmen.

### **Section 4.2.4**

Fire Districts. The entire Town shall be designated as "Outside Fire Limits", as referred to in Section 301.3 of the Basic Code.

## Article 4.3 Inspector of Wires

### **Section 4.3.1**

Record Keeping. The Inspector of Wires shall submit to the Selectmen such statements and information in regard to the matters within his jurisdiction as they may from time to time require. He shall keep a full and complete record of his inspection in duplicate, one copy of which shall be filed with the Town Clerk in January of every year, and one copy retained by him as the permanent record of his office.

### **Section 4.3.2**

Installation of Electricity-Carrying Devices. No person shall install wires, conduits, apparatus, fixtures or other appliances for carrying electricity for light, heat or power within or connected to any building, without first notifying the Inspector of Wires, in writing, of the proposed installation. Whoever violates this bylaw shall be punished by a fine of not more than twenty dollars.

### **Section 4.3.3**

Electric Service Entrance Equipment. All electric service entrance equipment, installed in or on any structure for the purpose of providing a point of attachment to a source of supply of electric energy, its metering, its disconnection means and its protective devices, shall be

installed in or on any structure only by a properly licensed electrician.

#### Article 4.4 Gas Inspector

##### **Section 4.4.1**

Installation of Gas Devices. No person shall install, repair or modify gas pipes, apparatus, fixtures or other appliances without first notifying the Gas Inspector in accordance with applicable laws and regulations.

#### Article 4.5 Numbering of Buildings

##### **Section 4.5.1**

Placement. Every building used for a dwelling house or a place of business in the Town of Bourne shall bear in a conspicuous place on the portion of the building facing the street, or if not readable from the street, on a suitable post or object at least three (3) feet above the ground, the number assigned to it by the Town Engineering Office in at least four (4) inch, Arabic style numbers contrasting with the background. If the number appears on a post or object, said object must be located at the entrance to the driveway or access way serving the building so as to be visible from the street of which the number is assigned. Each entrance to a multiple unit dwelling must bear a suitable number or letter as specified in this bylaw. Such numbers shall be affixed by the owner prior to occupancy of new structures, or prior to any inspections required by any permits, or within three months of notification of assignment in the case of existing buildings. Any pre-existing conflicting numbers shall be removed within the same time limit.

NOTE: \* Various changes amended by Article 26, 2002 ATM

##### **Section 4.5.2**

New Buildings. Prior to the application for a building permit for a dwelling house or place of business, the applicant shall obtain the correct street number from the Town Engineering Office. This street number shall appear on such application for a building permit.

##### **Section 4.5.3**

Violations. This shall be enforced by the Inspector of Buildings or any member of the Police Department. Any person who fails to affix an assigned street number or who unlawfully removes, defaces or changes a number affixed to a building under this bylaw, or affixes thereto a number other than that assigned to it by the Town Engineering Office, shall be punished by a fine of not more than twenty dollars.

[Article 4.6 Sealer of Weights and Measures deleted]\*

NOTE: \* Various changes amended by Article 22, 2002 ATM

#### CHAPTER 5

### **OTIS AIR FORCE BASE APPROACH BY-LAW** **Deleted by Article 21, 2007 ATM**

#### CHAPTER 6

## **VIOLATIONS**

### Article 6.1 Violation of Bylaws

#### **Section 6.1.1**

Penalties. Except where otherwise provided, any person violating any of the provisions of these bylaws shall be subject to a penalty of not less than fifty dollars nor more than three hundred dollars for each offense. Each day that the offense continues shall be considered a separate offense.\*

NOTE: \* Various changes by Article 11, 2011 May ATM.

#### **Section 6.1.2**

Non-Criminal Violation Procedures. Police Officers, Fire Fighters, Board of Health Agent, Natural Resources Officers/The Harbormaster/ Shellfish Constable or their deputies, taking cognizance of a violation, of a specific bylaw rule or regulation which he or she is empowered to enforce, hereinafter referred to as the enforcing person(s), as an alternative to initiating criminal proceedings, may give to the offender a written notice to appear before the Clerk of the District Court having jurisdiction thereof at any time during office hours, not later than twenty-one days after the date of such notice. Such notice shall be in triplicate and shall contain the name and address, if known, of the offender, the specific offense charged and the time and place for his/her required appearance. Such notice shall be signed by the enforcing person, and shall be signed by the offender whenever practicable, in acknowledgement that such notice has been received. Any notice and enforcement of violation shall be in accordance with the provisions of Massachusetts General Law, Chapter 40, Section 21D.

## CHAPTER 7

### **STANDING VOTES OF THE TOWN**

### Article 7.1 The Votes

#### **Section 7.1.1**

Attorney as School Bargaining Representative. The Town does authorize the school committee, in accordance with General Laws Chapter 149, Section 1781 as amended by Chapter 633 of the Acts of 1968, to designate an attorney as a representative of the school committee for the purpose of bargaining with employee organizations for school employees.

### Article 8.1 Community Preservation Committee \*

#### **Section 8.1.1**

Membership of the Committee. There is hereby established a Community Preservation Committee consisting of nine (9) voting members pursuant to the provisions of G.L., c.44B, §5. The composition of the committee, the appointing authority and the term of office for the committee members shall be as follows: one member of the Conservation Commission as designated by said Commission; one member of the Historical Commission as designated by said Commission; one member of the Planning Board as designated by said Board; one member of the Recreation Committee, as designated by the Committee; one member of the Housing Authority as designated by said Authority; four members as

designated by the Open Space Committee. Each member of the Committee shall serve for a term of three years or until the person no longer serves in the position or on the board or committee as set forth above, whichever is earlier. Should any of the officers and commissions, boards, or committees who have appointing authority under this bylaw be no longer in existence for whatever reason, the Board of Selectmen shall appoint a suitable person to serve in their place.

### **Section 8.1.2**

Duties. The community preservation committee shall study the needs, possibilities and resources of the town regarding community preservation. The committee shall consult with existing municipal boards, including the conservation commission, the historical commission, the planning board, the department of public works, and the housing authority, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the committee shall hold one annual public informational hearing, or more at its discretion, on the needs, possibilities and resources of the town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the town.

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

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

In every fiscal year, the Community Preservation Committee must recommend either that the legislative body spend, or set aside for later spending, not less than 70 % of the annual revenues in the Community Preservation Fund for open space (not including land for recreational use), not less than 10% of the annual revenues in the Community Preservation Fund for historic resources; and not less than 10% of the annual revenues in the Community Preservation Fund for community housing.

### **Section 8.1.3**

Requirement for a Quorum and Cost Estimates. The community preservation committee shall comply with the provisions of the Open Meeting Law, G.L. c.39, §23B. The committee shall not meet or conduct business without the presence of a majority of the members of the community preservation. The community preservation committee shall approve its



actions by majority vote. Recommendations to the Town Meeting shall include the committee's anticipated costs.

**Section 8.1.4**

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

**Section 8.1.5**

Severability. In case any section, paragraph or part of this bylaw is for any reason declared invalid or unconstitutional by any court, every other section, paragraph or part shall continue in full force and effect.

**Section 8.1.6**

When Effective. Provided that the Community Preservation Act, MGL c. 44B, is accepted at the 2005 Annual Town election, this section shall take effect upon approval by the Attorney General of the Commonwealth and after all requirements of MGL .c. 40, section 32 have been met. Each appointing authority shall have thirty (30) days after the effective date to make its appointments.

NOTE: \* Various changes amended by Article 8, 2004 Nov STM

**ACTS OF THE LEGISLATURE**  
**ACCEPTED BY THE TOWN**

1. Acts of 1884, Chapter 127, An Act to Incorporate the Town of Bourne. Accepted April 11, 1884.
2. Acts of 1890, Chapter 347, An Act to Promote the Establishment and Efficacy of Free Public Libraries (as extended and amended, now G.L. c.78 14-19 inc.) Accepted March 2 1891.
3. Acts of 1888, Chapter 304, relating to the choice of Boards of Trustees of Public Libraries (as amended, now G.L. c. 78 10-13 inc.) Accepted April 28, 1891.
4. Acts of 1890, Chapter 386, relating to the election of town officers (as amended and considerably modified, G.L. c. 41, 6,7). Accepted September 17, 1891.
5. Acts of 1888, Chapter 431, relating to the Superintendents of Schools for districts composed of more than one town (now G.L. c. 71, 60, 63, 64 & 65). Accepted May 28, 1892.
6. Public Statutes, Chapter 51, relating to Betterments, (now G.L. c. 80, which applies to all towns whether accepted or not). Accepted March 6, 1893.
7. Acts of 1895, Chapter 374, relating to the election of a Surveyor of Highways (now contained in G.L. c. 41, 1 & 62). Accepted March 2, 1896.
8. Acts of 1897, Chapter 254, relating to the prevention of fires in woodlands (now contained in G.L. c. 40, 11). Accepted July 21 1897.
9. Public Statutes, Chapter 82, 17, relating to the deposit of funds with the town for the care of burial lots (now G.L. c. 114, 19). Accepted March 6, 1899.
10. Revised Laws, Chapter 48, 105, relating to the taking of land for road material (now G.L. c 83, 38). Accepted March 2, 1903.
11. Revised Laws, Chapter 11, 353, relating to the establishment of precinct voting (now G.L. c. 39 20). Accepted March 11, 1905.
12. Revised Laws, Chapter 91, 85, relating to the regulation of the taking of eels and shellfish (now G.L. c. 130, 84). Accepted March 6, 1906.
13. Acts of 1908, Chapter 209, relating to the protection of forest and sproutlands from fire (repealed by St. 1916, c. 51). Accepted March 2, 1909.
14. Acts of 1909, Chapter 514, 42, as affected by Acts of 1911, Chapter 494, establishes an eight hour day for town employees (now G.L. c. 149, ~30, 31). Accepted March 2, 1914.

15. Acts of 1913, Chapter 407, relating to the promotion of call men in the fire departments (now G.L. c. 48 ~36). Accepted March 2, 1914.
16. Acts of 1913, Chapter 807, relating to the compensation of certain town employees for injuries sustained in public employment (now G.L. c. 152, 69-75 inc.). Accepted March 2, 1914.
17. Accepted the Acts of 1913, Chapter 666, to raise and appropriate annually a sum of money not to exceed \$1,000 to be expended under the direction of the selectmen for the purpose of promoting the interests of the town by advertising its attractions, advantages and resources. Accepted March 2, 1914, Art 48, ATM.
18. Revised Laws, Chapter 33, 28, relating to a Field Driver using his own premises for impounding beasts distrained (now G.L. distrained (now G.L. c. 49, 28). Accepted March 2, 1914.
19. Acts of 1916, Chapter 293, relating to licensing of motor vehicles carrying passengers for hire, (now G.L. c. 159, 45-47 inc. which applies to all towns, whether accepted or not). Accepted March 2, 1917.
20. Acts of 1916, Chapter 59, relating to the holding of annual town meetings (now G.L. c. 39, 23). Accepted March 2, 1917.
21. Acts of 1916, Chapter 153, relating to the license fee for slaughter houses (now G.L. c. 94 120). Accepted March 2, 1917.
22. Acts of 1916, Chapter 240, 1, relating to the hours of labor of public employees (now G.L. c. 149, 30). Accepted March 2, 1917.
23. Acts of 1917, Chapter 254, relative to payment of salaries to employees in military service (a temporary act, not now in force). Accepted March 4, 1918.
24. General Laws Chapter 41, 97, relating to the establishment of a police department under the direction of the Selectmen. Accepted March 7, 1921.
25. General Laws, Chapter 41, S 25A, relating to the appointment of Assistant Assessors. Accepted March 6, 1922.
26. General Laws, Chapter 41 70-72 inc. relating to Planning Boards. Accepted March 3, 1924.
27. General Laws, Chapter 41, 73-75 inc., relating to Boards of Survey. Accepted March 3, 1924.
28. General Laws, Chapter 48, 45-49 inc. and 52-56 inc., relative to Fire Departments. Accepted March 2, 1925.
29. General Laws, Chapter 45, 2, as amended by Acts of 1924, Chapter 209, relative to

- Park Commissioners. Accepted March 2, 1925.
30. General Laws, Chapter 40, 12, relative to the establishments of bathing beaches. Accepted March 1, 1926.
  31. Special Acts 1930, Chapter 228, approved April 18, 1930 under G.L., Chapter 88, 14, relative to piers and wharves.
  32. General Laws, Chapter 48, Sections 42, 43, 44 relative to establishing a Fire Department. Accepted March 7, 1932.
  33. General Laws, Chapter 143, Sections 6-12, relative to the removal or repair of buildings dangerous to life or limb, especially unsafe in case of fire. Accepted February 4, 1935.
  34. General Laws (Ter.Ed.) Chapter 139, Sections 2 & 3, relative to the disposal of burnt, dilapidated buildings. Accepted May 27, 1935.
  35. General Laws, Chapter 40, Section 12, relative to the purchase or leasing land. Accepted February 6, 1939.
  36. General Laws (Ter.Ed.) Chapter 31, Section 48, relative to the Police Department. Accepted February 8, 1943.
  37. General Laws (Ter.Ed.) Chapter 31, Section 49, relative to the Chief of Police. Accepted February 8, 1943
  38. General Laws, (Ter.Ed.) Chapter 152, Section 69, relative to Workmen's Compensation. Accepted February 14, 1944.
  39. General Laws, (Ter.Ed.) Chapter 31, Section 48, relative to Fire Department. Accepted February 16, 1944.
  40. General Laws. (Ter.Ed.) Chapter 31, Section 49A, relative to the Chief of the Fire Department. Accepted February 16, 1944.
  41. General Laws (Ter.Ed.) Chapter 85, Section IIA, as amended by Chapter 710 of the Acts of 1941, relative to the registration and operation of bicycles. Accepted February 12, 1945.
  42. General Laws, as amended, Chapter 211, Acts Of 1936, relative to Municipal Planning. Accepted February 12, 1945.
  43. Acts of 1946, Chapter 1, relative to celebrating the return of men and women in Armed Services. Accepted February 14, 1946.
  44. General Laws, Chapter 71, relative to equal pay for men and women teachers. Accepted February 12, 1947.

45. General Laws, Chapter 32, Sections 1 to 28 inc. relative to contributory retirement system for employees. Accepted November 5, 1946.
46. General Laws, Chapter 40. Section 13, relative to Municipal Building Insurance Fund. Accepted February 9, 1948.
47. Acts of 1948, Chapter 200, relative to Veterans Housing. Accepted June 21, 1948.
48. Acts of 1947, Chapter 282, Sections 1, 2 and 3 relative to the suppression and eradication of poison ivy. Accepted September 28, 1948.
49. General Laws, Chapter 40, Section 6B, relative to Police and Fire uniforms. Accepted February 3, 1950.
50. General Laws, Chapter 33, Section 59, relative to service in the Armed Forces. Accepted 1951 ATM.
51. General Laws, Chapter 54, Section 103A as amended by Chapter 77, Acts of 1937, relative to absent voting. Accepted February 7, 1938. Rescinded February 14, 1944. Accepted February 12, 1951.
52. Acts of 1950, Chapter 783, relative to retirement. Accepted February 12, 1951.
53. Acts of 1950, Chapter 820, relative to retirement. Accepted February 12, 1951.
54. Acts of 1939, Chapter 425, Section 54, relative to members of the organized reserve of the Army of the United States. Accepted February 12, 1951.
55. Acts of 1951, Chapter 781, relative to increasing pension and retirement. Accepted February 11, 1952.
56. Acts of 1952, Chapter 124, relative to advertising Town. Accepted February 9, 1953.
57. General Laws, Chapter 148, Section 56, relative to licensing of open-air spaces. Accepted February 9, 1953.
58. Acts of 1952, Chapter 624, relative to increasing retirement. Accepted February 9, 1953.
59. Acts of 1954, Chapter 231, relative to abandoned well or wells in use. Accepted February 14, 1955.
60. Chapter 40, Section 6C of General Laws relative to the removal of snow and ice from private ways. Accepted February 16, 1955.
61. Chapter 147 of General Laws, Section 16C as amended by Chapter 346, Section 1 of the Acts of 1951, relative to the establishment of a five day week for the Police

Department. Accepted February 14, 1955.

62. Acts of 1955, Chapter 670, relative to increasing the amounts of pensions, retirement allowances and annuities payable to certain former employees. Accepted February 13, 1956.
63. General Laws, Chapter 143, Section 3, relative to Construction, Alteration and Maintenance of Buildings. Accepted February 13, 1956.
64. Chapter 32B, General Laws, relative group life and medical insurance. Accepted February 11, 1957.
65. General Laws, Chapter 40, Section 5B, relative to creating a stabilization fund. Accepted February 9, 1959.
66. General Laws, Chapter 130, Section 52, relative to rules and regulations concerning taking of shellfish, eels, and seaworms. Accepted February 9, 1959.
67. Acts of 1959, Chapter 493, relative to increasing the amount of pensions and retirement allowances payable to certain former public employees. Accepted March 9, 1960.
68. General Laws, Chapter 14, Section 4A, relative to Jonathan Bourne Library janitor. Accepted March 9, 1960.
69. General Laws, Chapter 136, Section 4B, relative to granting Licenses for the operation of bowling alleys on the Lord's Day. Accepted March 9, 1960.
70. Chapter 32B, Section 9A, General Laws, relative to town paying one-half of premium of retired employees. Accepted March 9, 1960.
71. General Laws, Chapter 90, Section 51E, relative to establishing three-man Airport Commission. Accepted March 6, 1961.
72. Acts of 1960, Chapter 737, relative to the appointment of an inspector of gas piping and gas appliances. Accepted March 6, 1961.
73. General Laws, Chapter 40, Section 8C, relative to the establishing of a conservation commission. Accepted March 6, 1961.
74. Acts of 1960, Chapter 647, relative to increasing the pensions and retirement allowances payable to certain public employees and widows of certain deceased former public employees. Accepted March 6, 1961.
75. Chapter 32B, Section 11A, of the General Laws, relative to the town purchasing additional group life insurance and accidental death and dismemberment insurance for employees with no premium contribution by the town. Accepted March 7, 1962.

76. General Laws, Chapter 40, Section 8A, as established by Chapter 297, of the Acts of 1954, and amended by Chapter 102, of the Acts of 1955, relative to establishing a development and industrial commission. Accepted June 4, 1962.
77. Acts of 1962, Chapter 782, relative to construction of roads. Accepted March 4, 1963.
78. General Laws, Chapter 71, Section 14, relative to special unpaid committee to be known as a "Regional Vocational School District Planning Committee" to consist of three members. Accepted March 6, 1963.
79. Chapter 32B, Section 10, of the General Laws, relative to the town extending contributory group medical insurance to elderly retired town employees and their dependents with 50% of the premium cost to be paid by the town. Accepted March 6, 1963.
80. Acts of 1954, Title VII, Section 701, relative to purpose of conducting, planning, and development studies. Accepted March 2, 1964.
81. General Laws, Chapter 50, Section 5 (51), as amended relative to the Conservation Fund. Accepted March 2, 1964.
82. Acts of 1963, Chapter 478, relative to providing increases in the amount of pensions and retirement allowances payable to certain retired town employees. Accepted March 2, 1964.
83. Sections 16 and 161, Chapter 71 of General Laws, relative to establishment of regional school district. Accepted April 13, 1964. Amended August 18, 1964; amended April 24, 1967.
84. Acts of 1964, Chapter 486, relative to increasing the amount of pensions and retirement allowances payable to certain public employees. Accepted March 1, 1965.
85. General Laws, (Ter.Ed.) Chapter 121, Section 26K, relative to establishing a Housing Authority. Accepted March 1, 1965.
86. General Laws (Ter.Ed.) Chapter 41, Section 55 relative to the abolishing of the office of Town Auditor. Accepted March 1, 1965.
87. General Laws, Chapter 54, Section 6, relative to precinct voting. Accepted March 1, 1965 and December 13, 1965.
88. General Laws, Chapter 39, Section 20, establishing precinct voting for Town Elections. Accepted March 7, 1966.
89. General Laws, Chapter 41, Section 97A, relative to regulation of the Police Department. Accepted March 7, 1966.
90. General Laws, Section 69, Chapter 162 as amended by Chapter 401 of the Acts of

- 1966 regarding Workmen's Compensation to include coverage of certain elected or appointed municipal officers. Accepted March 6, 1967.
91. Chapter 130, Section 8A, relative to enforcing certain Marine Fisheries Laws by Police Officers. Accepted March 6, 1967.
  92. General Laws, Chapter 121, Section 26QQ as amended, to establish a Redevelopment Authority. Accepted May 2, 1967.
  93. Chapter 71, Section 14, of General Laws as amended relative to establishing a Regional School District Planning Committee. Accepted March 4, 1968.
  94. Acts of 1970, Chapter 820, relative to creating the Bourne Recreation Authority. Accepted by the 1970 November Special Town Meeting, Article 1.
  95. General Laws, Chapter 41, Section 108L, relative to establishing a career incentive pay program for police officers. Accepted by the 1971 Annual Town Meeting, Article 50.
  96. General Laws, Chapter 32B, Section 8A, relative to distribution of group insurance dividends to insured employees. Accepted by the 1971 Annual Election, Question 3.
  97. General Laws, Chapter 40, Section 8D, relative to establishing an Historic Commission. Accepted by the 1972 Annual Town Meeting, Article 75.
  98. General Laws, Chapter 90, Section 20C relative to Violation of Parking Regulations: Notice Appearance; Schedule of Fines; Proceedings not Criminal. Accepted by the 1973 Annual Town Meeting, Article 26.
  99. General Law, Chapter 48, Section 58D, relative to a forty-two hour work week for permanent members of fire departments. Accepted by the 1973 Annual Election, Question.
  100. Chapter 74 of the Acts of 1973 relative to the borrowing of money for construction of the Marina at Taylor's Point.
  101. Act of the General Court, 1973, establishing the Old King's Highway Regional Historic District and the Old King's Highway Regional Historic Commission in Barnstable County. Accepted at the November 4, 1974, State Election.
  102. General Laws, Chapter 32, Section 90C, relative to increasing the retirement allowances for certain former employees of the town. Accepted by the 1974 Annual Town Meeting, Article 12. excise at the rate of four (4%) percent, effective July 1, 1986. Accepted May 12, 1986.
  103. General Laws, Chapter 40, Sections 6J and 6L relative to purchasing and/or renting uniforms and work clothes including rubber boots. Accepted by the 1974 Annual Town Meeting, Article 61.
  104. Chapter 67, Acts of 1973, relative to scenic roads. Accepted by the 1975 Annual



Town Meeting, Article 36.

105. Chapter 332, Section 6M Acts of 1975, relative to Repair of Private Ways. Accepted by the 1976 Annual Town Meeting, Article 14.
106. Chapter 551, Acts of 1975, Section 6N, relative to Repair of Private Ways by Cities and Towns. Accepted by the 1976 Annual Town Meeting, Article 15.
107. Chapter 32B, Section 7A, relative to payment of subsidiary or additional rate for insurance for employees and dependents. 1980 Annual Town Election.
108. Chapter 138 Section 17A, relative to the grant of additional year round all alcoholic beverage licenses. Accepted by the Special Town Meeting of January 4, 1979, Article 6.
109. Chapter 41, Section 100G, regarding payment by the town for burial and funeral expenses of certain fire and police personnel killed in the line of duty. Accepted September 29, 1980. Article 2, STM.
110. General Laws, Chapter 90, Section 20A1/2, relative to providing for the appointment of a parking clerk, establishing a schedule of parking fines, and providing for the local collection of parking fines. Accepted under Article 4 of the October 1981 STM.
111. Section 1 of Chapter 597 of the Acts of 1982, providing for exemption from motor vehicle excise tax for former prisoners of war. Accepted 1983 STM, Article 13.
112. General Laws, Chapter 258, Section 13, relative to indemnification of public employee for personal damages sustained. Accepted Question#1 1981 Annual Town Election.
113. Chapter 606 of the Acts of 1981 adding Section 12B to Chapter 138 of General Laws, regarding nudity or partial nudity. Accepted 1984 ATM, Article 21.
114. General Laws, Chapter 71, Section 40, relative to minimum teacher's salary of \$18,000. Accepted May 12, 1986 ATM, Article 45.
115. General Laws, Chapter 64G, Section 3A, imposing a local room occupancy 1986 ATM, Article 48.
116. General Laws, Chapter 640, Acts of 1985, relative to the granting or renewing of certain licenses and permits in cities and town. Accepted May 12, 1986 ATM Article 67.
117. General Laws, Chapter 148, Section 28-C, requiring heat detectors in certain dwellings. Accepted May 12, 1986 ATM, Article 70.
118. General Laws, Chapter 148, Section 26-E, requiring certain buildings or structures to be equipped with smoke detectors. Accepted May 12, 1986 ATM, Article 71.

119. Chapter 188, Section 12, Acts of 1985, relative to Equal Educational Opportunity Grant or Grants for the Upper Cape Cod Regional Vocational School. Accepted October 1986 STM, Article 13.
120. Chapter 632, Section 5, Acts of 1985, to amend Section 22D, Chapter 40, providing for enforcement of handicapped parking regulation. Accepted May 1987 ATM, Article 38.
121. General Laws, Chapter 41, Section 41B, direct deposit of paychecks. Accepted May 1988 ATM, Article 71.
122. General Laws, Chapter 59, Section 57B, interest on real estate and personal property tax. Accepted May 1988 ATM, Article 74.
123. Chapter 188, Section 12, Acts of 1985, relative to Equal Educational Opportunity Grant or Grants for the Upper Cape Cod Regional Vocational-Technical School. Accepted May 1988 ATM, Article 22.
124. Chapter 188, Section 12, Acts of 1985, relative to Equal Educational Opportunity Grant or Grants for the Bourne School System. Accepted May 1988 ATM, Article 23.
125. Chapter 727, Acts of 1987 (Chapter 71, Section 40), relative to raising teachers salaries to \$20,000.00. Accepted May 1988 ATM, Article 24.
126. Chapter 194, Acts of 1986, relative to a scholarship fund through a voluntary checkoff on municipal and motor vehicle excise tax bills. Accepted May 1987 ATM, Article 87.
127. Chapter 40, Section 39K (Added by Chapter 306 of the Acts of 1986), establishing an "Enterprise Fund" for municipal sewerage and septage treatment. Accepted 1988 STM, Article 10.
128. Chapter 59, Section 5, Clause 41B, eligibility requirements for property tax exemptions for persons over 70. Accepted 1989 ATM, Article 36.
129. Chapter 188, Section 12, Acts of 1985, Equal Educational Opportunity Grant. Accepted 1989 ATM, Article 38.
130. Chapter 262, Section 34, Town Clerk's Fee Schedule. Accepted 1989 ATM, Article 71. Accepted 2011 ATM, Article 30
131. Chapter 71, Section 71E, which provides for expenditure without further appropriation of receipts from adult education, continuing education, summer school, community school programs, and in connection with the use of school property. Accepted 1989 ATM, Article 16.
132. Chapter 32, Section 22D (as added by Acts of 1987, Chapter 697, Section 76) Funding System. Accepted 1990 STM, Article 4.

133. Chapter 131, Section 40 as amended, specifically 310 CMR 10:03 (7) Receipts Reserved for Appropriation Account. Accepted 1990 ATM, Article 18.
134. Chapter 188, Section 12, of the Acts of 1985, Equal Educational Opportunity Grant. Accepted 1990, ATM, Article 23.
135. M.G.L. Chapter 121B, Section 4, abolish Bourne Redevelopment Authority. Accepted 1991 ATM, Article 36.
136. M.G.L. Chapter 40, Section 8G, Mutual Aid. Accepted 1991 ATM, Article 38.
137. Chapter 291 of the Acts of 1990, which provides for Enhanced E-911 Networks and Components. Accepted 1991 ATM, Article 41.
138. M.G.L. Chapter 59, Section 57C, Quarterly Tax Bills. Accepted 1991 STM, Article 2.
139. M.G.L. Chapter 262, Section 34 (79), Filing Fee for Declaration of Homestead in a mobile home. Accepted 1992 STM, Article 7.
140. Chapter 138, Section 122, Acts of 1991, Medicare Health Benefits. Accepted 1992 ATM, Article 26.
141. Chapter 59, Section 5, Clause 41C, Property Tax Exemption. Accepted 1992, ATM, Article 29.
142. M.G.L. Chapter 41, Section 38A Outstanding Sewer Use Charges. Accepted 1992 ATM, Article 31.
143. M.G.L. Chapter 83, Section 16B and 16F Lien Annual Sewer Charges. Accepted Article 25, 1992 STM.
144. General Laws, Chapter 121B, Section 4, Establishing a Redevelopment Authority. Accepted May 10, 1993 STM, Article 6.
145. General Laws, Chapter 44, Section 53E1/2, Establishing a Revolving Fund known as "Shellfish Propagation Fund". Annual reauthorization required. Accepted 1993, ATM, Article 17.
146. General Laws, Chapter 48, Section 36A regarding appointment of members of the call fire department to regular or permanent fire service. Accepted 1993 ATM, Article 39.
147. General Laws, Chapter 44, Section 53E1/2, establishing a Revolving Fund known as "Landfill Closure, Post-Closure or Corrective Action Fund". Accepted 1993 ATM, Article 53(A).
148. General Laws, Chapter 44, Section 53E1/2, establishing a Enterprise Fund known as "Landfill Closure, Post-Closure or Corrective Action Fund". Accepted 1993 ATM, Article 53(B).

149. General Laws, Chapter 453, Section 9A, Final Date for obtaining and submitting nomination papers. Accepted October 1993 STM, Article 15.
150. General Laws, Chapter 41, Section 1 and 2, Reduce School Committee Membership. Accepted October 1993 STM, Article 25.
151. General Laws, Chapter 71, Section 83, Acts of 1993, as amended, known as Early Retirement Incentive Program for the members of the Massachusetts Teachers' Retirement System. Accepted May 1994 STM, Article 5.
152. General Laws, Chapter 151 of the Acts of 1993 Rental of School Facilities shall remain in said account at the close of the fiscal year and may be expended for upkeep and maintenance. Accepted 1995 ATM, Article 28.
153. M.G.L. Chapter 44, Section 53E1/2 Revolving Fund known as the "Composting Bins Fund." Annual re-authorization required. Accepted 1995 ATM, Article 5.
154. M.G.L. Chapter 59, Section 5, Clause Seventeenth D. relating to Tax Exemptions for persons over 70 years of age. Accepted 1995 ATM, Article 21.
155. M.G.L. Chapter 44, Section 65, Advance payment of vacation pay. Accepted 1995 ATM, Article 23.
156. Accept Chapter 110, Section 110, Acts of 1993, Years to qualify for Veteran's Tax Exemption.
157. M.G.L. Chapter 44, Section 53E1/2 Revolving Fund known as the "Landfill Materials Fund." Annual re-authorization required. Accepted 1995 ATM, Article 41.
158. M.G.L.A. Chapter 44, Section 53F 1/2, as amended and supplemented, to establish an Enterprise Fund Account to be know as the "Landfill Closure, Post-Closure or Corrective Action Fund." Accepted 1995 ATM, Article 20.
159. General Laws, Chapter 44, Section 53F1/2, to establish a Revolving fund as "Public Library Book Fund". Accepted 1996 ATM, Article 23. Annual reauthorization required.
160. General Laws, Chapter 41, Section 38A, under title of Town Collector, to collect mooring fees, sewer users fees, sewer user overage fees due the town. Accepted 1996 ATM, Article 27.
161. General Laws, Chapter 111, Section B 1/2, removal of underground storage tanks, and the deleading of dwellings with dangerous levels of lead. Accepted 1996 ATM, Article 50.
162. General Laws, Chapter 40, Section 8J, establish a Commission on Disability. Accepted 1997 ATM, Article 37.
163. General Laws, Chapter 111, Section 1/2, Residential Disposal System Loans. Accepted 1997 ATM, Article 38.

164. General Laws Chapter 127, Section 59 of the Acts of 1999 (Adding G.L. Ch 59 & 5K) Property Tax Work-Off Program. Accepted 2000 ATM, Article 27.
165. General Laws Chapter 31, Section 58A, as amended, Police and Fire Age requirement. Accepted 2001 ATM, Article 25.
166. General Laws Chapter 44, Section 53E1/2 Establishing a Revolving Fund know as "Recreation Programs Fund". Annual reauthorization required. Accepted 2001 ATM, Article 41.
167. General Laws Chapter 148, Section 56, Licensing of commercial Parking Lots. Accepted 2002 ATM, Article 33.
168. General Laws Chapter 653, Section 40, (Amending General Laws, Chapter 59, Section 2A(a), Assessment of New Construction. Accepted 2003 Oct STM, Article 10.
169. General Laws, Chapter 44, Section 53E1/2, Establishing a Revolving Fund known as "Transportation Revolving Fund". Annual reauthorization required. Accepted 2004, ATM, Article 16.
170. General Laws, Chapter 44, Section 53E1/2, Establishing a Revolving Fund known as "Student Parking Revolving Fund". Annual reauthorization required. Accepted 2004, ATM, Article 17.
171. General Laws, Chapter 44, Section 53E1/2, Establishing a Revolving Fund known as "After School Activity Revolving Fund". Annual reauthorization required. Accepted 2004, ATM, Article 18.
172. Community Preservation Act, MGL c. 44B, accepted at the 2005 Annual Town election. This section shall take effect upon approval by the Attorney General.
173. Town Clerk's Fees, Chapter 262, Section 34, accepted at the 2005 October 17, 2005 STM, Article 3.
174. MGL, Chapter 59, Section 5L, as amended by Chapter 260, Section 12 of the Acts of 2006 relative to the deferral of taxes due by members of the Massachusetts National Guard or reservist on active duty outside the Commonwealth of Massachusetts. Accepted 2007, ATM, Article 27.
175. MGL, Chapter 44, Section 55C – Affordable Housing Trust. Accepted 2008, ATM, Article 22.
176. MGL, Chapter 39, Section 23D -Adjudicatory hearings; attendance by municipal board, committee and commission members; voting disqualification. Accepted 2008, ATM, Article 28.
177. MGL, Chapter 43D, provides for expedited permitting for the development of land, buildings or structures in a priority development site. Accepted 2008, STM, Article 6.

178. M.G.L. Chapter 59, Section 5, Clause 41A to reduce rate of interest on property taxes deferred by eligible seniors from 8% to 4%, to apply to taxes assessed for any fiscal year beginning on or after July 1, 2009. Accepted 2009 STM, Article 1.
179. M.G.L. Chapter 32B, Section 20 that allows the Town to establish an Other Post Employment Benefits Liability Trust Fund and a funding schedule for the fund. Accepted 2011 ATM, Article 15.
180. M.G.L. Chapter 23A, Sections 3A-3H, Economic Opportunity Area (E.O.A) the area on which the Coady School is sited and to authorize the Board of Selectmen to grant Special Assessments or Tax Increment Financing packages for qualified economic development projects undertaken within said Economic Opportunity Area. Accepted 2011 ATM, Article 34.
181. M.G.L. Chapter 41, Section 108P, relative to additional compensation for Collectors or Treasurers. Accepted Oct 2011 STM, Article 2.
182. M.G.L. Chapter 40, Section 22F, relative to allowing municipal board or officer to fix reasonable charges to be paid for the services rendered or work performed. Accepted May 2012 ATM, Article 37.
183. M.G.L. Chapter 60, Section 15, to set the demand fee from the current fee of Five (\$5.00) to fee in the amount of Fifteen (\$15.00) Dollars as issued by the Town Collector to be added to and collected as part of the tax, with the new fee of Fifteen (\$15.00) to be effective July 1, 2013 Accepted May 2013 STM, Article 2.
184. M.G.L. Chapter 60, Section 2, relative to unpaid tax commitments less than \$10.00. Accepted Oct 2013 STM, Article 7.
185. M.G.L. Chapter 64L, §2(a) to impose a local meals excise. Accepted May 2014 ATM, Article 17.
186. M.G.L. Chapter 54, Section 16A permitting the Town Clerk to appoint the Warden, Clerk or Inspectors in circumstances where any of these persons are not present at the opening of the polls. Accepted February 2016 STM, Article 2.
187. M.G.L. Chapter 60 Section 15B, relative to establishing a tax title collection revolving fund. Accepted May 2016 ATM, Article 17.
188. M.G.L. Chapter 40 Section 13E, relative to establishing a Special Education Reserve Fund. Accepted May 2017 ATM, Article 18.

## **SPECIAL LEGISLATION**

1. To authorize the Board of Selectmen to petition the General Court for special legislation to provide, notwithstanding the provisions of any general or special law to the contrary that there be a department of public works, headed by a superintendent of public works. Approved 1990 STM Article 12
2. To authorize the Board of Selectmen to petition the General Court for special legislation that, notwithstanding the provisions of chapter 41 of the General Laws, tree warden shall be appointed by and under the supervision of the superintendent of public works. Approved 1991 ATM, Article 39.
3. To authorize the Board of Selectmen to petition the General Court for special legislation that, notwithstanding the provisions of section 3 of chapter 32 of the General Laws, police dispatchers in the Town of Bourne shall be classified in Group 2 for the purposes of said Chapter 32. Approved 1993 ATM, Article 4.
4. To authorize the Board of Selectmen to petition the General Court to enact special legislation to provide for recall elections in the Town of Bourne. Approved 1993 ATM, Article 41.
5. To authorize the Board of Selectmen to petition the General Court to enact special legislation to amend the provisions of Chapter 495, Acts of 1990 notwithstanding the provisions of Chapter forty-one of the General Laws or any other general special law or the contrary, that the duties and responsibilities and functions of sanitary landfill, and composting and recycling, be transferred to an Integrated Solid Waste Management Department. Approved 1998 ATM, Article 40.
6. To authorize the Board of Selectmen to petition the General Court to enact special legislation establishing the Bourne Financial Development Corporation. Approved 1998 ATM, Article 15.
7. To authorize the Board of Selectmen to petition the General Court To enact special legislation to General Laws Chapter 16, section 24A authorizing the Town to collect tax from ISWM. Approved 2000 ATM, Article 11.
8. To authorize the Board of Selectmen to petition the General Court To enact special legislation to General Laws Chapter 40, Section 8c to provide for three (3) Associate Members for the Conservation Commission. Approved 2002 ATM, Article 34.
9. To authorize the Board of Selectmen to petition the General Court to enact special legislation to the General Laws Chapter 40, Section 8c to reimburse Bourne for education the children of military families. Approved 2003 Oct STM, Article 6.