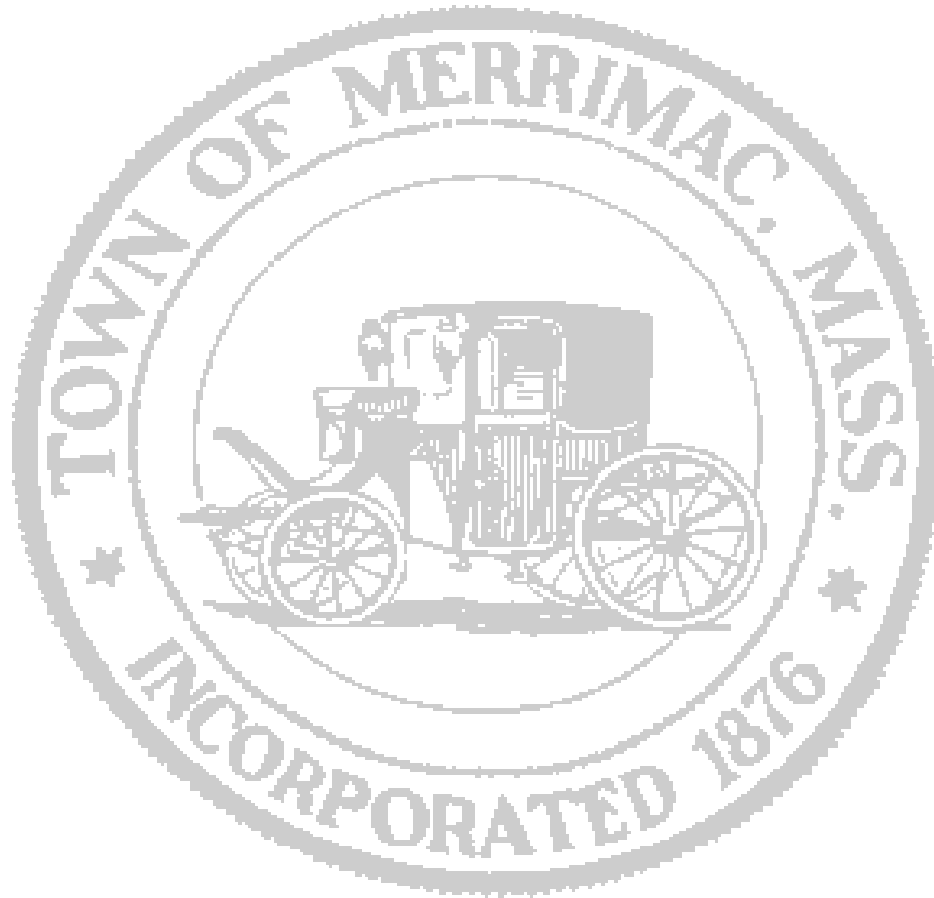


# **TOWN OF MERRIMAC**



## **General By-Laws**

**Revised April 27, 2015**

# **Town of Merrimac General By-Laws**

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# ARTICLE I

## TOWN MEETING/TOWN ELECTIONS

### 1.1. The Annual Town Meeting

Except that part dealing with the election of officers, shall be held each year on the last Monday in April at 7:30 PM. That part of the Annual Town Meeting devoted to the election of the Moderator and other Town officers, and action on such others matters as are required by law and appear on the official ballot, shall be held on the first Monday in May each year. (ATM 5/1/2006)<sup>1</sup>

### 1.2. Quorum

#### 1.2.1 Town Meetings on Dates Certain

Those registered voters of the Town who are present at 7:30 p.m. on the following dates shall constitute the quorum to conduct town meetings otherwise posted as provided by state law: the last Monday of April, the second or third Mondays of May or the third Monday of October. Sessions of town meetings must adjourn for lack of a quorum at 10:00 p.m. or at the conclusion of action on any main motion on the article being considered, unless 100 registered voters remain present.

#### 1.2.2 Town Meeting to Act on Regional School Assessment

Sessions of town meeting conducted to act on a regional school assessment submitted pursuant to G. L. Chapter 71, Section 16B, shall proceed under the quorum and time provisions of subsection (1). No other article may be considered as part of such session. The date of such sessions shall be set either by motion of the town meeting or by warrant for a special town meeting. (ATM 04/30/2012)

#### 1.2.3 Town Meetings on Other Dates

**Except, as provided in Subsection (1), and (2)**, 150 voters of the Town of Merrimac must be present to open Annual Town Meetings and all Special Town Meetings should a warrant be posted as provided by state law. Sessions of town meeting conducted under this **subsection (3)** must be scheduled for 7:30 p.m. and must adjourn for lack of quorum at 10:00 p.m. or at the conclusion of action on any main motion on the article considered unless 100 registered voters remain present. Resumption of town meeting conducted under **subsection (3)** after adjournment shall be no less than seven days later, at 7:30 p.m. Sessions of town meeting conducted under this **subsection (3)** shall not resume unless 100 registered voters are present. (STM 10/22/2007; ATM 04/30/2012)

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<sup>1</sup> Dates of adoption or amendment of by-laws have been inserted as an editorial note, and are not part of the by-laws themselves.

1.3. Notice of every Annual and Special Town Meeting

Shall be given by posting an attested-to copy of the same, in at least three public places in the Town, not less than seven (7) days before the day appointed for an Annual Town Meeting and not less than fourteen (14) days before the day appointed for a Special Town Meeting. All articles submitted to the Board of Selectmen for consideration to be placed on the warrant for the Annual Town Meeting must be presented at least forty-five (45) days before the date of the Annual Town Meeting. This by-law also applies to all articles by petition.

1.4. All motions submitted

For consideration of the Town Meeting, involving the expenditure of money, shall be in writing; and any other motion shall be submitted in writing when requested by the Moderator or by any voter present.

1.5. The conduct of all Town Meeting

Not prescribed by law, nor by the foregoing rules shall be determined by the rules of practice contained in "Robert's Rules", so far as they are adapted to Town Meeting.

1.6. The Town hereby accepts

The provisions of G.L. Chapter 54, Section 103A, as appearing in St. 1948, Chapter 477, Section 2.

1.7. Hours of voting

The polls are to be opened for voting at Annual Town Election no later than 10:00AM and are to remain open until 8:00PM.

1.8. The term of the Town Clerk

Shall be three (3) years (11/5/91)

1.9. The Town accepts the provisions

Of G.L. Chapter 40, Section 8G to allow the Merrimac Police Department to engage in agreements for mutual aid with other state and municipal agencies including TASK Force Units (STM 10/21/98)

1.10. Recall Elections in the Town of Merrimac<sup>2</sup>

1.10.1 Any holder of an elective office in the Town of Merrimac may be recalled by the registered voters of the town as herein provided, for reason of lack of fitness, incompetence, neglect of duties, corruption, malfeasance, misfeasance or violation of oath.

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<sup>2</sup> Editor's Note: This section was added to the Town's General By-laws pursuant to a vote of the May 1, 2006 Annual Town Meeting under Articles 24 and 24A, and enactment of Chapter 129 of the Acts and Resolves of 2007 by the Massachusetts General Court.

- 1.10.2 Four hundred registered voters of the town may file an affidavit with the Town Clerk containing the name of the officer sought to be recalled and a statement of the grounds for recall. The Town Clerk shall thereupon deliver to the voters' copies of printed form petition blanks addressed to the Board of Selectmen demanding the recall. The blanks shall be issued under the signature and official seal of the Town Clerk. The blanks shall be dated and shall contain the names of all persons to whom they are issued, the name of the person whose recall is sought, and the grounds of recall as stated in the affidavit. In addition, the petitions shall demand the election of a successor to the office. A copy of the petition shall be entered in a record book to be kept in the Office of the Town Clerk. The recall petition shall be returned and filed with the Town Clerk within 30 days after the filing of the affidavit, with signatures, names and street addresses of at least 20 per cent of the registered voters of the town. Within 5 working days of receipt, the Town Clerk shall submit the petition to the Registrars of Voters in the town, and the registrars shall forthwith certify thereon the number of signatures which are names of registered voters of the town.
- 1.10.3 If the petition shall be certified by the registrars of voters to contain at least 20 per cent of the qualified registered voters and if the petition shall be found by the Town Clerk to be sufficient, the town clerk shall submit the petition with the registrar's certificate to the Board of Selectmen without delay. The Board of Selectmen shall forthwith give written notice of this receipt of the certificate to the officer sought to be recalled. If the officer does not resign within 5 calendar days after delivery of the notice, the Board of Selectmen shall forthwith order an election to be held on a date fixed by them not less than 64 or more than 90 days thereafter. If any other town election is scheduled to occur within 100 days after the date of the certificate, the Board of Selectmen shall postpone the holding of the recall election to the date of such other election. If a vacancy occurs in the office after a recall election has been ordered, the election shall nevertheless proceed as provided in this act.
- 1.10.4 An officer sought to be removed may be a candidate to succeed himself in an election to be held to fill the vacancy, and unless the officer requests otherwise in writing, the Town Clerk shall place the officer's name on the ballot without nomination. The nomination of other candidates, the publication of the warrant for the removal election, and the conduct of the same, shall be in accordance with the law relating to elections, unless otherwise provided in this section.
- 1.10.5 The incumbent shall continue to perform the duties of his office until the recall election. If the incumbent is not removed, he shall continue in office for the remainder of his unexpired term, subject to recall as before, except as provided in this act. If not re-elected in the recall election, he shall be considered removed upon the qualification of a successor, who shall hold office during the unexpired term. If the successor fails to qualify within 5 days

after receiving notification of election, the incumbent shall be deemed removed and the office vacant.

1.10.6 Ballots used in a recall election shall contain the following propositions in order indicated:

1.10.6.1 For the recall of (name of officer) { }

1.10.6.2 Against the recall of (name of officer) { }

Immediately at the right of each proposition there shall be a designate place for voters to vote for either of the propositions. Under the proposition shall appear the words "Candidates", the directions to voters required by Chapter 54, Section 42, of the General Laws, and beneath this, the names of the candidates nominated as hereinbefore provided. If a majority of votes on the question is against the recall, the ballots for candidates need not be counted or any action taken relative to the ballots. If a majority of the votes cast upon the question of recall is in favor of the recall, the officer shall be recalled and the ballots for candidates shall be counted. The candidate receiving the highest number of votes shall be declared elected.

1.10.7 A recall petition shall not be filed against an officer within 3 months after he takes office, or, in the case of an officer subjected to a recall election and not recalled thereby, until at least 3 months have elapsed after the election at which the recall was submitted to the voters of the town.

1.10.8 A person who has been recalled from an office or who has resigned from office while recall proceedings were pending against him shall not be appointed to any town office within 2 years after the recall or resignation.

## **ARTICLE II TOWN OFFICERS**

### **2.1. Board of Selectmen**

The Board of Selectmen shall have the following powers and authorities, in addition to those set forth in any applicable state or federal law, special act of the Legislature, elsewhere in these bylaws, or by vote of the Town:

2.1.1 The executive powers of the Town shall be vested in the Board of Selectmen which shall be deemed to be the chief executive office of the Town. The Board of Selectmen shall have all of the executive powers it is possible for a board of selectmen to have and to exercise. The Selectmen shall have the general direction and management of the property and affairs of the town in all matters not otherwise provided for by law or these by-laws.

2.1.2 The Selectmen shall serve as the chief policy making agency of the Town. The Board of Selectmen shall be responsible for the formulation and promulgation of policy directives and guidelines to be followed by all town agencies serving under it and, in conjunction with other elected Town officers and multiple member bodies to develop and promulgate policy guidelines designed to bring the operation of all town agencies into harmony.

2.1.3 Licensing Authority – Unless otherwise provided by law, the Board of Selectmen shall be a licensing board for the Town and shall have the power to issue licenses as otherwise authorized by law, to make all necessary rules and regulations regarding the issuance of such licenses, to attach conditions and to impose restrictions on any such license as it may issue as it deems to be in the public interest, and to enforce all laws relating to all businesses for which it issues any license.

2.1.4 Appointments - The Board of Selectmen shall appoint the members of all multi-member boards and commissions for which the manner of election or appointment is not otherwise provided for by law. The Board may remove any board or commission member that it appoints, for good cause shown, unless otherwise provided by law.

2.1.4.1 The Selectman annually shall appoint a Town Counsel for general purposes.

2.1.4.2 The Selectmen shall annually appoint an Inspector of Wires as required by Section 32 of Chapter 166 of the General Laws, who shall enforce the provisions of the General Laws, contained in said Chapter, and perform any other duties as provided by law.

2.1.4.3 The Selectmen shall appoint, and may remove, all other town employees for whom no method of appointment is otherwise provide for by law.

2.1.5 The Board of Selectmen is authorized to adopt such policies and procedures, including personnel policies, as it shall deem in the best interests of the town, and such policies shall be applicable to all town departments, unless otherwise provided by law.

2.1.6 The Selectmen shall be agents of the Town to institute, prosecute and defend any claims, actions and proceedings to which the Town is a party or in which the interests of the Town are or may be involved.

2.1.7 The Selectmen, or its designee, may at its discretion compromise or settle any claim or suit to which the Town is a party within the amount of any appropriation available therefore or as otherwise authorized by law. The Selectmen are authorized to enter into contracts on behalf of the Town, in accordance with any applicable provisions of law.

## 2.2 Residency Requirement

Any appointed member of any board or commission in the Town of Merrimac must be a registered voter in the Town of Merrimac. (ATM 4/30/2007)

## 2.3 Every officer in charge of a department shall annually

On or before the fourth day of March, transmit to the Selectmen a report, containing a statement of the acts and financial transactions of said department for the last financial year, to be printed in the Annual Report.



## ARTICLE III FINANCE COMMITTEE AND CAPITAL PLANNING COMMITTEE

3.1 The Moderator shall,

In accordance with G.L. Chapter 39, Section 16, at the Annual Town Meeting appoint a Finance Committee annually, to consist of not more than nine (9) citizens of the Town. A majority of members appointed shall constitute a quorum. (ATM 4/28/2014)

3.2 The heads of the Boards and Departments of the Town shall

Not later than January 1 prior to the next Annual Town Meeting, submit to the Finance Committee, their budget estimates for the ensuing year, on forms approved by the Finance Committee.

3.3 The Finance Committee shall

Meet with each Department or Board and review their budgetary requests.

3.4 The Finance Committee's recommendations

Shall be prepared in the form of a uniform budget and published prior to the Annual Town Meeting.

3.5 No one shall be eligible

For the appointment to the Finance Committee or shall serve as a member of the Finance Committee who is an elected or appointed official of the Town.

3.6 If a member, during his term,

Becomes ineligible to serve on the Finance Committee, his place shall become vacant.

3.7 If a vacancy occurs of the Finance Committee,

Either by reason of death, resignation, as described in **Section VI** of this article, or in any other way or fashion, said vacancy shall be filled by appointment of the Moderator.

3.8 No action shall be taken

At any meeting appropriating or involving the expenditure of money, the creation of a debt, or disposal of property of the Town, until the proposition has been referred to the Finance Committee with a specific money amount included at least fifteen (15) days prior to Town Meeting (amended ATM 5/29/1979)

3.9 Members absent from one-third

Of the regular meetings in any calendar year may be removed by a two-thirds vote of the other members, present and voting. Said Committee shall choose its own officers. The members of said Committee shall serve without salary.

3.10 In the discharge of its duty

Said Committee shall have free access to all books or records and accounts having to do with the financial affairs of the Town, including bills and vouchers on which money has been or may be paid from the Town treasury. Requests for information from the Committee shall be responded to by Town officers, boards, committees or departments in a reasonable manner, and in a reasonable time frame. However, the provision of such access (including requests for information) shall not unduly interfere with the conduct of official Town business, or the ability of Town employees to perform the functions of their positions.

3.11 The Board of Selectmen shall establish and appoint a committee to be called The Capital Planning Committee.

3.11.1 The Committee shall be composed of one member of the Board of Selectmen, one member from and appointed by the Finance Committee, the Finance Director and three members at large.

3.11.2 The representatives from the Board of Selectmen and Finance Committee shall serve one year terms.

3.11.3 The Finance Director shall serve as an ex officio member with voting authority limited to administrative and procedural questions and during discussions prior to final votes.

3.11.4 The members at large shall serve a three-year rotating term. The Committee shall elect its own officers to annual posts (ATM 4/28/2008)

3.12 The purpose of the Capital Planning Committee

Is to evaluate the financial effect of proposed capital projects and make recommendations including necessary guidelines for the procurement, improvement and maintenance of these major assets and projects. Only assets which have a useful life greater than five years, costing over ten thousand dollars and/or for which the Town is authorized to borrow funds are items which fall under the purview of the Capital Planning Committee. (ATM 4/28/2008)

- 3.13 All department heads, boards and committees, school committee included
- 3.13.1 Shall submit their anticipated capital requests for the next fiscal year and subsequent five years on the forms supplied to them by the Capital Planning Committee, on or before February first prior to the next fiscal year, or 45 (forty five) days before a Special Town Meeting.
- 3.13.2 The Capital Planning Committee shall decide on emergency requests as deemed necessary. All properly submitted capital requests shall be evaluated. (ATM 04/28/2008)
- 3.14 The Capital Planning Committee shall
- Prepare and submit to the Selectmen and Finance Committee by March 15<sup>th</sup>, an annual Budget Report for the ensuing fiscal year.
- 3.14.1 This budget report shall cover all capital assets and projects that have already received funding as well as any capital items considered in the next five years.
- 3.14.2 The Selectmen shall request clarification or make any recommendations and requests within 30 days.
- 3.14.3 The Annual Budget Report shall be submitted to the Annual Town Meeting and any Special Town Meetings. (ATM 5/6/1996)
- 3.15 The Capital Planning Committee Annual Budget Report
- Shall be printed, included and distributed with the report of the Finance Committee. An official copy of the Committee's Annual Budget Report shall be on file with the Town Clerk. (ATM 5/6/1996)

**ARTICLE IIIA**  
**THE DEPARTMENT OF FINANCE, BUDGET AND**  
**PERSONNEL<sup>3</sup>**

3a.1 There is hereby established in the Town of Merrimac

3a.1.1 A department of finance, budget and personnel.

3a.1.2 Said department shall have all the powers and duties presently exercised by the offices of town treasurer, town accountant and tax collector including supervision of budgets and the director of purchasing by the various town boards and departments as may be assigned from time to time by the board of selectmen. 3a.1.3 Said department shall be comprised of the divisions of treasurer, tax collector, assessors, accountant and other such divisions as the board of Selectmen may from time to time assign.

3a.1.4 Said department shall be under the direction of a full time finance director appointed by the board of selectmen. (10/26/98)

3a.2 In accordance with Section 2 of Chapter 76 of the Acts of 1997

Upon appointment of a finance director the office of Town Treasurer and Tax Collector shall be transferred to the Department of Finance, Budget and Personnel. The incumbents in said offices shall be transferred to said department for the remainder of their current term and may be retained as employees thereafter. There shall be a Finance Director, who shall exercise the powers and duties of town treasurer and tax collector and shall, subject to the approval of the Board of Selectmen, appoint a person or persons to direct divisions of accounting and assessing. (STM 10/28/96)

3a.3 The Finance Director, as Treasurer and Budget Officer

3a.3.1 Shall be responsible for coordinating the fiscal management practices of the Treasurer's Department, Collector of Taxes, Town Accountant, Assessor's Department and be administrator of budgeting including financial reporting, accountability and control as well as rendering advice on personnel issues/policies, financial and programmatic implications of current and future policies to all town departments and the Board of Selectmen.

3a.3.2 The director shall be responsible for coordinating all financial tasks upon the dates specified in the Massachusetts Department Revenue Municipal Calendar as amended.

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<sup>3</sup> Editor's Note: Sections I-II were added to the Town's General By-laws pursuant to a vote of the October 28, 1996 Special Town Meeting under Article 14, and enactment of Chapter 76 of the Acts and Resolves of 1997 by the Massachusetts General Court. Section III was added pursuant to a vote of the October 28, 1996 Special Town Meeting under Article 15.

3a.3.3 The director shall oversee and develop guidelines to be followed by all town departments for purchasing supplies and equipment subject to applicable laws.

3a.3.4 The Board of Selectmen shall enter into a formal written contract with the director detailing responsibilities, goals and objectives for performance evaluation criteria, salary, fringe benefits and term of contract, and any other items permitted by law. (STM 10/28/96)

## ARTICLE IV FINANCIAL AFFAIRS

### 4.1 Money receipts and receipted bills when required

Shall be promptly returned to the several Departments from which warrants for payment of the same were issued. The Treasurer shall have custody of all notes, bonds and coupons which have been paid and all bonds running to the Town, except his own and all other official surety bonds which shall be in the custody of the Selectmen.

### 4.2 No bills, charges or accounts

Against the Town shall be paid without being first approved in writing by the person or board incurring the same.

### 4.3 Any portion of an appropriation other than

For a specific purpose, on which the work has not been completed, remaining unexpended at the close of the financial year shall revert to the Town Treasury unless otherwise provided by law or by vote of the Town.

### 4.4 Nothing in the preceding Sections

Shall affect agreements for road construction or reconstruction entered into by the Town with either the Commonwealth or Essex County unless the contributing parties thereto agree.

### 4.5 The Finance Director, with the approval of the Selectmen

Is hereby authorized to sell at public auction, all or any of the property acquired by the Town as the result of non-paying taxes, under the provisions of either G.L. Chapter 60, Section 53 or G.L. Chapter 60, Section 79.

### 4.6 Any Board or Officer in charge of a Department of the Town may

With the approval of the Selectmen

4.6.1 Sell any personal property of the Town within the possession or control of the Department which has become obsolete or is not required for further use by the Department, and

4.6.2 Which does not, in the opinion of the Selectmen, exceed \$300.00 value.

### 4.7 Brownfields Tax Abatement Agreements

#### 4.7.1 Purpose

Pursuant to the provisions of G.L. Chapter 59, Section 59A, it is the intent of the Town to offer and to grant real estate tax abatements to encourage the continued environmental cleanup and redevelopment of sites zoned for industrial and

commercial use from or at which there has been a release of oil or hazardous material.

#### 4.7.2 Eligible Properties

Properties which may be eligible for real estate tax abatement agreements pursuant to this by-law must:

4.7.2.1 Be a site or portion of a site from or at which there has been a release of oil or hazardous material

4.7.2.2 Be owned by an eligible person, as that term is defined in G.L. Chapter 21E, Section 2; and

4.7.2.3 Be zoned for commercial or industrial use.

#### 4.7.3 Abatement Agreements

The Financial Director is hereby authorized to negotiate agreements for the abatement of outstanding interest, penalties and payment of real estate taxes (herein after, "Abatement Agreements") with owners of Eligible Properties. The terms of which Abatement Agreements shall be subject to approval by the Board of Selectmen

4.7.3.1 Abatement Agreements may allow for reductions in outstanding real estate taxes, interest and/or penalties

4.7.3.2 Abatement Agreements shall include, but not be limited to:

4.7.3.2.1 The amount of outstanding real estate taxes;

4.7.3.2.2 The percent of interest to accrue if determined applicable by the Financial Director and the owner of Eligible Property(ies);

4.7.3.2.3 The description of quantifiable monthly payments;

4.7.3.2.4 The date of the final payment;

4.7.3.2.5 The late penalties to be imposed; and

4.7.3.2.6 Any and all other contractual terms as arranged between the Financial Director and the owner of Eligible Property(ies).

4.7.4 All Abatement Agreements shall be signed by the Chairman of the Board of Selectmen and the owner of Eligible Property(ies), whose signatures shall be notarized, and attested by the Town Clerk.

4.7.5 Copies of all Abatement Agreements shall be provided to the Commonwealth of Massachusetts Department of Environmental protection, the United States Environmental Protection Agency, the Commonwealth of Massachusetts

Commissioner of Revenue, the Board of Selectmen, and the owner of Eligible Property(ies). (ATM 4/25/2011)

4.8 All municipal charges and bills are due thirty (30) days from the billing date

Unless otherwise provided on the bill or charge itself. Any charge or bill outstanding after the due date shall be assessed interest on the delinquent amount from the billing date until such charge is paid in full, at a rate of 14% per annum.

4.9 Municipal Charges Lien

4.9.1 A municipal charges lien shall take effect upon the recording of a list of unpaid municipal charges and fees by parcel of land and the name of the person assessed for the charge or fee in the Essex County Registry of Deeds.

4.9.2 If the charge or fee secured by a municipal charges lien remains unpaid when the board of assessors is preparing a real estate tax list and warrant to be committed under Section 53 of Chapter 59 of the General Laws, the town collector (Finance Director) shall certify such charge or fee to the assessors, who shall forthwith add such charge or fee to the tax on the property to which it relates and commit it with their warrant to the town collector as part of such tax.

4.9.3 If the property to which such charge or fee relates is tax exempt, such charge or fee shall be committed as the tax.

4.9.4 A lien imposed under G.L. Chapter 40, Section 58 may be discharged by filing a certificate from the town collector that all municipal charges or fees constituting the lien, together with any interest or costs thereon, have been paid or legally abated.

4.9.5 All costs of recording or discharging a lien under G.L. Chapter 40, Section 58 shall be borne by the owner of the property.

4.9.6 The municipal charges and fees that have been voted as municipal charges liens under the provisions of G.L. Chapter 40, Section 58 by Town Meeting shall be included on a list maintained in the office of the Town Clerk.



## **ARTICLE V SIDEWALKS AND HIGHWAYS**

### **5.1 No person shall leave**

Any vehicle or material or place any obstruction on any sidewalk, street, or public place without the permission of the Selectmen, or suffer the same to remain there after dark without maintaining sufficient light and suitable guards over or near the same or allow the same to remain after notice by a Police Officer, Constable or Selectmen to remove the same.

### **5.2 No person shall, without proper authority**

Extinguish or remove any light placed upon public or private property to denote any obstruction or defect in a street or way.

### **5.3 No person shall park upon, obstruct, damage or destroy**

Any sidewalk or curbing, nor shall any person drive, wheel or draw any vehicle, except a child's carriage drawn by hand, or except at a permanent driveway, upon or across any sidewalk or curbing unless a permit is first obtained from the Director of Public Works as provided in paragraph one (1) hereof.

5.3.1 The Director of Public Works may grant a permit to any person authorizing the crossing or obstruction of a sidewalk, or curbing by a vehicle where the same may be necessary to the performance of any work on land, building or structure abutting thereon.

5.3.1.1 All damage to any sidewalk or curbing thereby caused shall be repaired and restored by person to whom the permit is issued to a condition satisfactory to the Director of Public Works at the expense of the holder of such permit, and the Director may require, as a condition of the issuance of any such permit, a bond in such amount and in such form and such surety as may be satisfactory to him for the performance of the requirement thereof of this by-law.

5.3.2 Before the issuance of a permit for the construction of a building or other structure, there shall be endorsed on the application for the building permit, certification by the Director of Public Works that a permit has been issued in accordance with the provisions of this Section, when the proposed construction requires the crossing by vehicles of any sidewalk or curbing.

### **5.4 No person shall place or maintain**

Any structure, sign apparatus, awning, canopy, shade or frame for the same in or over any sidewalk or street without first obtaining a permit in writing from the Selectmen to do so.

5.5 Any person who deposits

Snow, or water or causes snow or water to be deposited or pumped from private property onto a public way that creates a hazardous condition shall be subject to a fine of \$50.00.

5.6 No person, utility, or Town Department shall

5.6.1 Make any excavation, modify, or fill any excavation within the limits of any public way without first obtaining a written permit from the Board of Selectmen; except, a utility may excavate in the event of an emergency involving the health or safety of the public.

5.6.2 No person, utility, or Town Department shall excavate a public highway to the extent that the highway is closed to traffic without first notifying the Fire, Police and Highway Department of the time excavation will take place and the expected duration of the time during which the highway will be impassable to traffic.

5.7 Any person who

Deposits, throws, or causes to be thrown or placed upon any street, highway, sidewalk or other property of the Town any dirt, rubbish, vegetable substance, nails, spikes, screws, glass, tin can, or other similar articles shall be subject to a fine of up to \$250.00.

5.8 No person shall

Commit a nuisance upon any sidewalk or street, or against any tree, building or structure adjoining the same.

5.9 The Board of Selectmen may cause repairs

To unaccepted ways maintained by the Town, drainage may be included, provided that the following conditions are met:

5.9.1 There will be no change in the character of the way and no permanent expansion therein.

5.9.2 A determination by majority vote of the board that public convenience and necessity require said repairs.

5.9.3 The Town in making of repairs under this section shall not be liable on account of any damage caused by such repairs.

5.9.4 Said ways shall have been opened to public use for six years or more, and in such cases Section twenty-five (25) of Chapter Eighty-four (84) of the Massachusetts General Laws shall not apply.

**ARTICLE VI**  
**VEHICULAR REGULATIONS**  
**TRAFFIC RULES AND ORDERS**

**6.1 Definitions**

For the purpose of these Traffic Rules and Orders, the words and phrases used herein shall have the following meanings except in those instances where the context clearly indicates a different meaning.

**6.1.1 Bus Stops -**

An area in the roadway set aside for the boarding of or alighting from and the parking of buses.

**6.1.2 Crosswalks-**

That portion of a roadway ordinarily included within the prolongation or connection of curb lines and property lines at intersections, or at any portion of a roadway clearly indicated for pedestrian crossing by lines on the road surface or by other marking or signs.

**6.1.3 Curb Marking, Official -**

That portion of a curbing, the painting of which has been authorized by the Board of Selectmen, and which has the written approval of the Department.

**6.1.4 Emergency Vehicles -**

Vehicles of the Fire Department (Fire Patrol), police vehicles, ambulances and emergency vehicles of federal, state and municipal departments or public service corporations when the latter are responding to an emergency in relation to the police or fire department.

**6.1.5 Funerals -**

Any procession of mourners properly identified as such accompanying the remains of a human body.

**6.1.6 Handicapped Parking Space -**

A parking space or area set aside for the exclusive use of handicapped persons and where parking is prohibited or restricted except to those vehicles displaying a distinguishing registration number or plate issued by the Registrar of Motor Vehicles to handicapped drivers or to non-drivers who are handicapped persons.

**6.1.7 Intersection -**

The area embraced within the extensions of the lateral curb lines or, if none, then the lateral boundary lines, of intersecting ways as defined in Section 1 of Chapter 90 of the General Laws, including divided ways.

The rules and regulations herein contained governing and restricting the

movement of vehicles at and near intersecting ways shall apply at any place along any way at which drivers are to be controlled by traffic control signals whether or not such place is an intersection as herein defined.

6.1.8 Lane -

A longitudinal division of a roadway of sufficient width intended to accommodate the passage of a single line of vehicles.

6.1.9 Officers -

Any officer of the Merrimac Police Department or any officer authorized to direct or regulate traffic or to make arrests for the violation of traffic regulations.

6.1.10 Parking -

The standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading, or in obedience to an officer or traffic signs or signals, or while making emergency repairs or, if disabled, while arrangements are being made to move such vehicle.

6.1.11 Pedestrian -

Any person afoot or riding on a conveyance moving by human muscular power, except bicycles or tricycles, as defined in Chapter 90, Section 1 (General Laws).

6.1.12 Railroad Crossing -

Any intersection of ways with a railroad right-of-way.

6.1.13 Roadways -

That portion of a street or highway between the regularly established curb lines or that part, exclusive of shoulders, improved and intended to be used for vehicular traffic.

6.1.14 Rotary-Traffic -

The counter-clockwise operation of a vehicle around an object or structure.

6.1.15 Safety Zone -

Any area or space set aside within a roadway for the exclusive use of pedestrians and which has been indicated by signs, lines or markings, having the written approval of the Department.

6.1.16 Service Zone -

An area in the roadway set aside for the accommodation of commercial and transient vehicular traffic.

6.1.17 Street or Highway -

The entire width between property lines of every way open to the use of the public for purposes of travel.

6.1.18 Street Marking, Official -

Any painted line, legend, marking or marker of any description painted or placed upon any way which purports to direct or regulate traffic and which has been authorized by the Board of Selectmen and which has the written approval of the Department.

6.1.19 Taxicab Stands -

An area in the roadway in which certain taxicabs are authorized and required to park while waiting to be engaged.

6.1.20 Traffic -

Pedestrians, ridden or herded animals, vehicles, street cars or other conveyances either singly or together while using any street or highway for the purpose of travel.

6.1.21 Traffic Control Area -

Any area along any way, other than an intersecting way, at which drivers are to be controlled by traffic control signals.

6.1.22 Traffic Control Signal -

Any device using colored lights which conforms to the standards as prescribed by the Department, whether manually, electrically or mechanically operated, by which traffic may be alternately directed to stop and to proceed.

6.1.23 Traffic Islands -

Any area or space set aside within a roadway, which is not intended for use by vehicular traffic.

6.1.24 Traffic Signs, Official -

All signs, markings and devices, other than signals, not inconsistent with these rules and orders, and which conform to the standards prescribed by the Department and placed or erected by authority of public body or official having jurisdiction for the purpose of guiding, directing, warning, or regulating traffic.

6.1.25 Traffic Signals, Official -

All signals, conforming to the standards as prescribed by the Department not inconsistent with these rules and orders, placed or erected by authority of a public body or official having jurisdiction, for the purpose of directing or warning traffic.

6.1.26 U-Turn -

The turning of a vehicle by means of a continuous turn whereby the direction

of such vehicle is reversed.

6.1.27 Vehicles -

Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, including bicycles when the provision of these rules are applicable to them, except other devices moved by human power or used exclusively upon stationary rails or tracks and devices which derive their for operation from stationary overhead wires.

6.1.28 Vehicles, Commercial -

Any vehicle being used in the transportation of goods, wares or merchandise for commercial purposes.

6.1.29 Vehicle, Heavy Commercial -

Any commercial vehicle of over two and one-half (2½) ton carrying capacity.

6.1.30 People -

The word "person" shall mean and include any individual, firm, co-partnership, association or corporation.

6.1.31 Parking Meters -

The words "parking meter" shall mean any mechanical device, not inconsistent with the provisions of this regulation, and placed or erected on any public way or municipal off-street parking area within the Town of Merrimac for the regulation of parking. Each parking meter installed shall indicate by proper legend the legal parking time established by this regulation and when operated shall at all times indicate the balance of legal parking time permitted and at the expiration of such period shall indicate illegal or overtime parking.

6.1.32 Parking Meter Zone -

The words "parking meter zone" shall mean and include any street or portion thereof or municipal off-street parking area upon which parking of vehicles is permitted for a limited time subject to compliance with the further provisions of this regulation.

6.1.33 Parking Meter Space -

The words "parking meter space" shall mean any space within a parking meter zone, adjacent to a parking meter which is duly designated for the parking of a single vehicle by lines painted on the surface of the street or municipal off-street parking area adjacent to or adjoining each parking meter.

6.2 Authority and duties of police

6.2.1 Traffic, Police to Direct

It shall be the duty of officers designated by the Chief of Police to enforce the provisions of these Traffic Rules and Orders. Such officers are hereby authorized to direct all traffic either in person or by means of visible or audible signal in conformance with the provisions of these Traffic Rules and Orders

provided that in the event of a fire or other emergency, to expedite traffic or safeguard pedestrians, officers of the Police or Fire Department may direct traffic as conditions may require, notwithstanding the provisions of these Traffic Rules and Orders.

#### 6.2.2 Close Street, Police May Temporarily

The Chief of Police is hereby authorized to close temporarily any street or highway in an impending or existing emergency, or for any lawful assemblage, demonstration or procession.

#### 6.2.3 Parking, Police May Prohibit Temporarily

The Chief of Police is hereby authorized to prohibit, temporarily, parking on any street or highway or part thereof in an impending or existing emergency or for a lawful assemblage demonstration or procession. Vehicles parked in places where parking is prohibited temporarily may be moved by or under the direction of an officer.

#### 6.2.4 Exemptions

The provisions of these Traffic Rules and Orders shall not apply to drivers actually engaged in work upon a street or highway closed to travel or under construction or repair, to officers when engaged in the performance of public duties nor to drivers of emergency vehicles while operating in an emergency and in performance of public duties when the nature of the work of any of these necessitate a departure from any part of these Traffic Rules and Orders. These exemptions shall not, however, protect the driver of any vehicle from the consequences of a reckless disregard of the safety of others.

### 6.3 Traffic signs, signals, markings and zones

#### 6.3.1 Bus Stops, Taxicab Stands and Service Zones, Location of

The location of all bus stops, taxicab stands and service zones shall be specified by the Board of Selectmen and in the case of taxicab stands, the Chief of Police with the approval of the Board of Selectmen shall designate who may use them as such.

#### 6.3.2 Interference with Signs, Signals and Markings Prohibited

Any person, who willfully defaces, damages, moves, obstructs or interferes with any official traffic signs, signals or marking shall be liable to a penalty not exceeding one hundred (100) dollars for each and every offense.

#### 6.3.3 Obedience to Traffic Signs, Signals and Markings

No driver of any vehicle or of any street car shall disobey the instructions of any official traffic control signal, sign, marking, marker or legend unless otherwise directed by a police officer.

#### 6.3.4 Traffic Signs and Signals

6.3.4.1 The Director of Public Works is hereby authorized, and as to those

signs and signals required hereunder it shall be his duty, to place and maintain or cause to be placed and maintained all official traffic signs, signals, markings and safety zones. All signs, signals, markings and safety zones shall conform to the standards as prescribed by the Department.

6.3.4.2 Sections 2-2 and 2-3 of Part II and Section 5-2 and 5-3 and 5-6 and 5-8 to 5-10 inclusive of Part V relating to parking and Sections 7-7 and 7-10 of Part VII concerning turning movements and Section 7-20 of Part VII pertaining to exclusion shall be effective only during such time as official signs are erected and maintained in each block designating the provisions of such sections and located so as to be easily visible to approaching drivers.

6.3.4.3 Sections relating to one-way streets shall be effective only during such time as a sufficient number of official signs are erected and maintained at the entrance and each of the exits for each one-way street, so that at least one sign will be clearly visible for a distance of at least seventy-five (75) feet to drivers approaching such an exit.

6.3.5 Signals, Signals and Markings Prohibited, Display of Unauthorized Devices  
No person or corporation shall place, maintain or display upon or in view of any street any unofficial device, sign, signal, curb marking or street marking which purports, to be or is an imitation of or resembles an official traffic device, sign, signal, curb marking or street marking or which attempts to direct the movement of traffic or which hides from view any official sign, signal, marking or device. The Chief of Police is hereby empowered to remove every such prohibited sign, signal, marking or device or cause it to be removed without notice.

#### 6.3.6 Experimental Regulation

6.3.6.1 For the purpose of trial the Town of Merrimac Board of Selectmen may make temporary rules regulating traffic or test under actual conditions traffic signs, markings, or other devices.

6.3.6.2 No such experimental rules relating to traffic shall remain in effect for a period longer than 30 days.

#### 6.4 Zone of Quiet

The Chief of Police may temporarily establish a zone of quiet upon any street where a person is seriously ill. Said temporary zone of quiet shall embrace all territory within a radius of two hundred (200) feet of the building occupied by the sick person. Said temporary zones of quiet shall be designated by the Chief of Police by causing to be placed at a conspicuous place in the street a sign or marker bearing the words ZONE OF QUIET.



## 6.5 Stopping, standing, parking

### 6.5.1 General Prohibitions

No person shall allow, permit or suffer any vehicle registered in his name to stand or park in any street, way, highway, road or parkway under the control of the Town of Merrimac in violation of any of the Traffic Rules or Orders adopted by the Board of Selectmen and in particular in any of the following places except when necessary to avoid conflict with other traffic or in compliance with the direction of a police officer or traffic sign or signal.

6.5.1.1 Within an intersection "except within those intersections where the installation of parking meters has been specifically approved by the Department."

6.5.1.2 Upon any sidewalk.

6.5.1.3 Upon any crosswalk.

6.5.1.4 Upon the roadway in a rural or sparsely settled district.

6.5.1.5 Upon a roadway where parking is permitted unless both wheels on the right side of the vehicle are within twelve (12) inches of the curb or edge of the roadway, except upon those streets which are designated as one-way streets. On such one-way streets vehicles shall be parked in the direction in which said vehicle is moving and with both wheels within twelve (12) inches of the curb. This shall not apply to streets or parts of streets where angle parking is required by these regulations.

6.5.1.6 Upon any roadway where the parking of a vehicle will not leave a clear and unobstructed lane at least ten (10) feet wide for passing traffic.

6.5.1.7 Upon any street or highway within ten (10) feet of fire hydrant.

6.5.1.8 In front of any private road or driveway

6.5.1.9 Upon any street or highway within twenty (20) feet of an intersecting way, except alleys.

6.5.1.10 Within fifteen (15) feet of the wall of a fire station or directly across the street from such fire station provided signs are erected acquainting the driver of such restriction.

6.5.1.11 Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic.

6.5.1.12 Within twenty-five (25) feet of the nearest rail of a railroad crossing when there are no gates at such crossing, or otherwise within five (5) feet from the gate.

6.5.1.13 On a bridge and the approach thereto.

6.5.1.14 Upon any street, highway, or Town parking lot unless the vehicle displays a valid registration plate as required by Chapter 90 of Massachusetts General Laws.

6.5.1.15 Upon any street, highway, or Town parking lot unless the vehicle displays a valid certificate of inspection as required by Chapter 90 of Massachusetts General Laws.

#### 6.5.2 Service Zones

No person shall park a vehicle upon any street in any service zone for a period of time longer than thirty minutes and except while actually engaged in loading or unloading.

#### 6.5.3 Diagonal Parking

6.5.3.1 The Board of Selectmen shall determine the street upon which diagonal parking will be permitted and shall cause said streets to be designated by signs and the surfaces thereof to be marked as directed by the Chief of Police.

6.5.3.2 Upon the streets or parts of streets which may hereafter be designated by rules and orders and marked and signed for diagonal parking, vehicles shall be parked with one wheel within twelve (12) inches of the curb and at the angle to the curb indicated by official marks and signs. The vehicle shall be parked so that all four wheels thereof shall be placed wholly within the area indicated for parking, and headed to the curb.

#### 6.5.4 Parking Vehicle for Sale Prohibited

It shall be unlawful for any person to park upon a street or highway any vehicle displayed for sale.

#### 6.5.5 No Overnight Parking during Winter Months

6.5.1.1 No person shall allow, permit or suffer any vehicle registered in his name, other than one acting in an emergency, to be parked on any street for more than one (1) hour between the hours of 11:00 p.m. and 6:00 a.m. of any day between November 15<sup>th</sup> and April 1<sup>st</sup>, inclusive.

#### 6.5.6 Parking Location and Prohibitions

Parking is prohibited, restricted or limited as to time, space and streets in accordance with a schedule of streets designated as Schedule I of these Traffic Rules and Orders, and municipal off-street parking areas designated as Schedule I-A of these Traffic Rules and Orders, hereto appended to which reference is made and which Schedule I and Schedule I-A, are specifically incorporated in this Section. No operator shall park a vehicle in the designated prohibited locations or in the restricted locations for a period longer than is designated in

Schedule I and Schedule I-A, except as otherwise provided in those Schedules, or where there is a time limit as to parking.

6.5.7 No Overnight Parking in Municipal Off-Street Parking Areas

No person shall allow, permit or suffer any vehicle registered in his name, other than one acting in an emergency, to be parked in any municipal off-street parking area between the hours of 12:00 a.m. and 6:00 a.m. of any day.

6.5.8 Prohibited at Safety Zones

No person shall park a vehicle within twenty (20) feet of either end of a safety zone which is located within thirty (30) feet of the curb or edge of the roadway.

6.5.9 Bus Stops

6.5.9.1 No person shall stop or park a vehicle other than a bus in a bus stop.

6.5.9.2 No person shall park a bus upon any street within a business district at any place other than a bus stop when a nearby bus stop is available for use.

6.5.10 Taxicab Stands

6.5.10.1 No person shall park a vehicle other than a taxicab upon any street within a business district in any taxicab stand.

6.5.10.2 No person shall park a taxicab upon any street within a business district at any place other than the taxicab stand or stands designated for the use of his taxicab or taxicabs.

6.5.11 Handicapped Parking

Whoever, upon on the streets or ways or portions thereof designated in Schedule I of these Traffic Rules and Orders or in municipal off-street parking areas or portions thereof as designated in Schedule I-A of these Traffic Rules and Orders, or upon any way or in any place to which the public has a right of access, or upon any way or in any place to which the public has access as invitees or licensees, shall be prohibited from parking in spaces designated as Handicapped Parking Spaces unless displaying a distinguishing registration number or plate issued by the Registrar of Motor Vehicles to handicapped drivers or to non-drivers who are handicapped persons.

6.6 One-way Streets

6.6.1 One-Way Streets

The streets or portions thereof designated in Schedule II of these Traffic Rules and Orders hereto appended and specifically incorporated in this Section are declared to be one-way streets and all vehicular traffic shall move on those streets or portions thereof in the direction designated in said Schedule II.

#### 6.6.2 Circular Intersection Traffic

Within the area bounded by West Main Street, Church Street, East Main Street, and School Street, Vehicular Traffic shall move only in a Rotary Counter-Clockwise direction.

### 6.7 Operation of Vehicles (MGL Chapter 89 Governs)

#### 6.7.1 Overtake Only When There is a Space Ahead

The driver of a vehicle shall not overtake and pass a vehicle proceeding in the same direction unless there is sufficient clear space ahead on the right side of the roadway to permit the overtaking to be completed without impeding the safety operation of any vehicle ahead.

#### 6.7.2 Driver to Give Way to Overtaking Vehicle

One driver of a vehicle when about to be overtaken and passed by another vehicle approaching from the rear shall give way to the right in favor of the overtaking vehicle on suitable and visible signal being given by the driver of the overtaking vehicle, and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

#### 6.7.3 Obstructing Traffic

6.7.3.1 No person shall drive in such a manner as to obstruct unnecessarily the normal movement of traffic on any street or highway. Officers are hereby authorized to require any driver who fails to comply with this section to drive to the side of the roadway and wait until such traffic as has been delayed has passed.

6.7.3.2 No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk and on the right half of the roadway to operate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians notwithstanding any traffic control signal indication to proceed.

#### 6.7.4 Following Too Closely

The driver of a vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard to the speed of such vehicle and the traffic upon and condition of the street or highway.

#### 6.7.5 Slow Vehicles to Stay Two Hundred Feet Apart

Upon roadways less than twenty-seven (27) feet wide and upon which vehicular traffic is permitted to operate in both directions, the driver of any slow-moving vehicle when traveling outside of a business or residential district shall not follow another slow-moving vehicle within two hundred (200) feet, but this shall not be construed to prevent such slow-moving vehicle from overtaking and passing

another slow-moving vehicle. This Section shall not apply to funerals or other lawful processions.

#### 6.7.6 Clinging to Moving Vehicles

It shall be unlawful for any person traveling upon a bicycle, motorcycle, coaster, sled, roller skates, or any toy vehicle to cling to, or attach himself or his vehicle to any moving vehicle or street car upon any roadway.

#### 6.7.7 Care in Starting, Stopping, Turning or Backing

The driver of any vehicle before starting, stopping, turning from a direct line or backing shall first see that such movement can be made in safety. If such movement cannot be made in safety or if it interferes unduly with the normal movement of other traffic, said driver shall wait for a more favorable opportunity to make such movement.

If the operation of another vehicle should be affected by a stopping or turning movement, the driver of such other vehicle shall be given a plainly visible signal as required by statute law.

#### 6.7.8 Emerging from Alley or Private Driveway

The operator of a vehicle emerging from an alley, driveway or a garage shall stop such vehicle immediately prior to driving on to a sidewalk or on to the sidewalk area extending across alleyway or driveway.

#### 6.7.9 Obedience to Traffic Control Signals

Colors and arrow indications in traffic control signals shall have the commands ascribed to them in this section, and no other meanings and every driver of a vehicle, railway car, or other conveyance shall comply therewith, except when otherwise directed by an officer or by a lawful traffic regulating sign (other than a "stop" sign), signal or device or except as provided in section 7-18(b) of these rules. In no case shall a driver enter or proceed through an intersection without due regard to the safety of other persons within the intersection, regardless of what indications may be given by traffic control signals.

##### 6.7.9.1 Green indications shall have the following meanings:

6.7.9.1.1 Vehicular traffic facing a CIRCULAR GREEN signal indication is permitted to proceed straight through or turn right or left or make a U-Turn unless such movement is modified by lane use signs, lane markings, roadway design, separate turn signal indications or other traffic control devices. Vehicular traffic turning right or left or making a U-Turn shall yield the right-of-way to other vehicles, and to pedestrians lawfully within the intersection or an adjacent crosswalk, at the time such signal is exhibited.

6.7.9.1.2 Vehicular traffic facing a GREEN ARROW signal indication

displayed alone or in combination with another signal indication, may cautiously enter the intersection only to make the movement indicated by such arrow, or such other movements as is permitted by other indications displayed at the same time. Such drivers shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

6.7.9.2 Steady yellow indications shall have the following meanings:

6.7.9.2.1 Vehicular traffic facing a steady CIRCULAR YELLOW OR YELLOW ARROW signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when drivers shall not enter the intersection.

6.7.9.3 Steady red indications shall have the following meanings:

6.7.9.3.1 Vehicular traffic facing a steady CIRCULAR RED signal and NO TURN ON RED SIGN shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then before entering the intersection and shall remain standing until an indication to proceed is shown except as provided in (b) below.

6.7.9.3.2 When no sign is in place prohibiting a right turn, or a left turn from a one way street to another one way street, drivers facing a steady circular red signal may cautiously enter the intersection to make the right turn, or left turn from a one way street to another one way street, after stopping as provided in (a) above. Such drivers shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

6.7.9.3.3 Vehicular traffic facing a steady RED ARROW indication may not enter the intersection to make the movement indicated by such arrow, and unless entering the intersection to make such other movement as is permitted by other indications shown at the same time, shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then before entering the intersection and shall remain standing until an indication to make the movement indicated by such arrow is shown.

6.7.9.4 Flashing signal indication shall have the following meanings:

6.7.9.4.1 FLASHING RED (stop signal) - When a red lens is illuminated with rapid intermittent flashes, driver of vehicles shall stop at a

clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection, and the right to proceed shall be subject to the provisions of Chapter 89, Section 8 of the General Laws.

6.7.9.4.2 FLASHING YELLOW (caution signal) - When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or pass such signal only with caution.

6.7.9.4.3 FLASHING YELLOW ARROW - Vehicular traffic, on an approach to an intersection, facing a FLASHING YELLOW ARROW signal indication, displayed alone or in combination with another signal indication, is permitted to cautiously enter the intersection only to make the movement indicated by such arrow, or other such movement as is permitted by other signal indications displayed at the same time. Such vehicular traffic, including vehicles turning right or left or making a U-turn, shall yield the right-of-way to:

6.7.9.4.3.1 Pedestrians lawfully within an associated crosswalk, and

6.7.9.4.3.2 Other vehicles lawfully within the intersection.

In addition, vehicular traffic turning left or making a U-turn to the left shall yield the right-of-way to other vehicles approaching from the opposite direction so closely as to constitute an immediate hazard during the time when such turning vehicle is moving across or within the intersection.

#### 6.7.10 Certain Turns Prohibited

No operator of a vehicle or other conveyance shall make a turn from the way or driveway upon which he is driving onto another way or driveway at any point in the way or driveway where such a movement is prohibited by signs. No operator of a vehicle or other conveyance shall back or turn a vehicle so as to proceed in the direction opposite to that in which said vehicle is beaded or traveling wherever signs notifying of such a restriction have been erected. Turns are prohibited on the ways or driveways designated in Schedule III of these Traffic Rules and Orders, and said Schedule III is hereby specifically incorporated in this Section.

#### 6.7.11 Obedience to Isolated Stop Signs

6.7.11.1 In accordance with Massachusetts General Laws Chapter 89, Section 9,

every driver of a vehicle, railway car or other conveyance approaching an intersection of ways where there exists facing him an official sign bearing the word “STOP” or a flashing red signal indication shall, before proceeding through the intersection, bring such vehicle, railway car or other conveyance to a complete stop at such point as may be clearly marked by a sign or line or, if a point is not so marked, then at the nearer line of the crosswalk of said intersection. In the case of a line of two or more vehicles approaching such stop sign or flashing red signal indication, the drivers of the second and third vehicles in any group shall not be required to stop more than once before proceeding through the intersection. This section shall not apply when the traffic is otherwise directed by an officer or by a lawful traffic regulating sign, signal or device as provided in Section 7-18 of this article.

6.7.11.2 In accordance with the foregoing, the erection and maintenance of official stop signs or flashing red signal indications is authorized so as to face the streets or intersections provided in Schedule IV of these Traffic Rules and Orders, and said Schedule IV is hereby specifically incorporated in this Section.

#### 6.7.12 Obedience to Yield Signs

6.7.12.1 In accordance with Massachusetts General Laws Chapter 89, Section 9, every driver of a vehicle, railway car or other conveyance approaching an intersection of ways where there exists facing him an official sign bearing the word “YIELD”, said sign having apart from these rules and orders, the written approval of the Department of Public Works, Commonwealth of Massachusetts, and such approval being in effect, shall surrender to oncoming traffic his right to enter the intersection unit such time as he has brought his vehicle, railway car or other conveyance to a complete stop at a point between said yield sign and the nearer line of the street intersection; provided, however, that this requirement to stop before entering the intersection shall not apply when the driver approaching a yield sign can enter the intersection in safety without causing interference to approaching traffic. This section shall not apply when the traffic is otherwise directed by an officer or by a lawful traffic regulating sign, signal or device as provided in Section 7-18 of this article.

6.7.12.2 In accordance with the foregoing, the erection and maintenance of official yield signs is authorized so as to face the streets or intersections provided in Schedule IV-A of these Traffic Rules and Orders, and said Schedule IV-A is hereby specifically incorporated in this Section.

#### 6.7.13 Obedience to Required Turns

At any signalized or other intersection of ways described herein where the



roadway is divided into lanes by pavement markings or other means and official signs are erected requiring a right turn or left turn only for such lane, any operator of a vehicle or other conveyance in the designated lane or lanes must make such movement and no other at said intersection in accordance with the provisions of Schedule V of these Traffic Rules and Orders, and said Schedule V is hereby specifically incorporated in this Section.

**6.7.14 Keep to the Right of Roadway Division**

Upon such roadways as are divided by a parkway, grass plot, reservation, viaduct, subway or by any structure or area, drivers shall keep to the right of such a division except when otherwise directed by an officer, signs, signals, or markings.

**6.7.15 Operation of Under or Overpasses at Intersection with Islands**

At any junction or crossing of ways where the roadway grades have been separated and where the ways are connected by ramps and at any intersection of ways in which there are traffic islands, drivers of vehicles shall proceed only as indicated by official signs, signals or markings.

**6.7.16 Driving on Road Surfaces Under Construction or Repair**

No operator shall enter upon a road surface of any street or highway or section thereof, when, by reason of construction, surface treatment, maintenance or the like, or because of some unprotected hazard, such road surface of the street or highway is not to be used or when so advised by an officer, watchman, member of a street or highway crew or employees of the town, either audibly or by signals.

**6.7.17 No Driving on Sidewalks**

The driver of a vehicle shall not drive upon any sidewalk except at a permanent or temporary driveway.

**6.7.18 No Driving Through Safety Zones**

It shall be unlawful for the driver of a vehicle, except on signal from a police officer to drive the same over or through a safety zone.

**6.7.19 Funerals to be Properly Identified**

A funeral composed entirely or partly of a procession of vehicles shall be identified as such by means of black pennants bearing a purple symbol attached to both the first and last vehicles or other suitable means.

**6.7.20 Right and Duties of Drivers in Funerals or Other Processions**

6.7.20.1 It shall be the duty of each driver in a funeral or other procession to keep as near to the right edge of the roadway as is feasible and to follow the vehicle ahead as closely as practicable and safe.

6.7.20.2 At an intersection where a traffic control signal is operating the driver of the first vehicle in a funeral or other procession shall be the only one required to stop for a red and/or yellow indication.

6.7.20.3 At an intersection where a lawful Stop sign exists, the driver of first vehicle in a funeral or other procession shall be the only one required to stop before proceeding through the intersection.

#### 6.7.21 Unlawful Riding

It shall be unlawful for any reason to ride on any portion of a vehicle not designated or intended for the use of passengers when the vehicle is in motion. This provision shall not apply to any employee engaged in the necessary discharge of a duty or within truck bodies in space intended for merchandise.

#### 6.7.22 Speed Zones

In accordance with Massachusetts General Laws Chapter 90, Section 18, no operator shall operate a motor vehicle on the streets or ways or portions thereof designated in Schedule VI of these Traffic Rules and Orders at speeds in excess of those designated in said Schedule, provided such speeds have been authorized by the Board of Selectmen, and which have the written approval of the Massachusetts Department of Transportation and Registrar of Motor Vehicles. Operation of a motor vehicle at a rate of speed in excess of those limits set forth in said Schedule shall be prima facie evidence that such speed is greater than is reasonable and proper. The provisions of this regulation shall not, however, abrogate in any sense Chapter 90, Section 14 of the General Laws.

#### 6.7.23 School Speed Zones

In accordance with Massachusetts General Laws Chapter 90, Section 17, no operator shall run at a speed greater than twenty (20) miles per hour in an established school zone as designated in Schedule VII of these Traffic Rules and Orders.

#### 6.7.24 Operation of Heavy Commercial Vehicles

6.7.24.1 The use and operation of heavy commercial vehicles having a carrying capacity of more than 2½ tons are hereby restricted on the named streets or parts thereof, and in the manner outlined and during the period of time set forth, as listed on Schedule VIII of these Traffic Rules and Orders.

6.7.24.2 Exemptions - Part 1 of this Section shall not apply to heavy commercial vehicles going to or coming from places upon said streets for the purpose of making deliveries of goods, materials, or merchandise to or similar collections from abutting land or buildings or adjoining streets or ways to which access cannot otherwise be gained; or to vehicles used in connection with the construction, maintenance and repair of said streets or public utilities therein; or to Federal, State, Municipal or public service corporation owned vehicles.

### 6.8 Accident Reports

### 6.8.1 Drivers Must Report Accidents

Every person operating a motor vehicle which is in any manner involved in an accident in which any person is killed or injured or, in which there is damage in excess of one thousand dollars (\$1,000.00) to any one vehicle or other property, shall report such accident within five (5) days to the Registrar and to the Police Department in accordance with the provisions of Chapter 90, Section 26, of the General Laws.

## 6.9 Penalties and repeals

### 6.9.1 Penalties

Any person violating any provisions of any rule, regulation or order regulating the parking of motor vehicles made by anybody authorized to make the same shall be dealt with as provided in General Laws, Chapter 90, Section 20A or any Acts in amendment thereof, or in addition thereto, and any person violating any of the rules and regulations applicable to State Highways made by the Department under authority of General Laws, Chapter 85, Section 2, and Acts in amendment thereof, and in addition thereto, shall be subject to the penalty provided in said rules and regulations.

Any person convicted of a violation of any other rule, regulation or order made hereunder, except as otherwise provided, shall be punished by a fine not exceeding twenty dollars (\$20.00) for each offense.

### 6.9.2 Repeal

These rules are adopted with the intent that each of them shall have force and effect separately and independently of every other except insofar as by express reference or necessary implication any rule or any part of a rule is made dependent upon another rule or part thereof.

All official signs, lights, markings, signal systems or devices erected or installed under prior rules or regulations and necessary to the enforcement of these regulations and necessary to the enforcement of these regulations shall be deemed to have been lawfully erected or installed hereunder provided the same are erected or installed with the permission and approval of the Department and insofar as the same are necessary as aforesaid for the enforcement of these regulations they shall be deemed continuing hereunder but in all other respects all prior rules, orders and regulation so made for the regulation of vehicles are hereby expressly repealed. This repeal, however, shall not affect any punishment or penalty imposed or any complaint or prosecution pending at the time of the passage hereof for any offense committed under said prior rules, order or regulations hereby repealed, nor shall said repeal be effective unless and until these rules and regulations have been approved and published as required by law.

### 6.9.3 Effect of Regulations

If any section, subsection, sentence, clause or phrase of these rules and order is for any reason unconstitutional, such decisions shall not affect the validity of the remaining portion of these Rules and Orders. The Board of Selectmen hereby declares that it would have passed these regulations and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one of more sections, subsection, sentence, clauses or phrases be declared unconstitutional.

#### 6.9.4 Owner Prima Facie Responsible for Violations

If any vehicle is found upon any street or highway in violation of any provisions of these rules and regulations and the identity of the driver cannot be determined, the owner or the person in whose name such a vehicle is registered shall be held prima facie responsible for such violations.

SCHEDULE I

**PARKING**

<i>Location</i>	<i>Side</i>	<i>From</i>	<i>To</i>	<i>Type</i>
Attitash Street Time	West	Meadow Avenue	Dead End	No Parking Any
Broad Street Time	Both	East Main Street	Mill Street	No Parking Any
Central Street Time	West	#8 Central Street	Green Street	No Parking Any
Hansom Drive Time	East	Church Street	Landau Lane	No Parking Any
Locust Street Time	West	Adams Street	Walnut Street	No Parking Any
Town Forest Road Time	Both	Entire Street		No Parking Any
Union Street Extension Street		South No Parking Any Time	Helen Donaghue School	Locust
West Main Street Time	North	Forest Street	Locust Street	No Parking Any
West Main Street Time	North	Little's Court	A point 30' west	No Parking Any
West Main Street 9am-7pm	North	Little's Court	A point 160' east	1 Hour Parking
West Main Street	North	160' east of Little's Court No Parking Any Time		Church Street
West Main Street Any Time	South	School Street	A point 150' west	No Parking
Westminster Road Any Time	South	West Main Street	A point 100' west	No Parking

## SCHEDULE I-A

### OFF-STREET PARKING AREAS

<i>Location</i>	<i>Type</i>
Northwest Corner, West Main Street at lot)	No Parking 12:00 a.m. to 6:00 a.m. (entire
Church Street	Handicapped Parking (one space as noted by signs)
Southeast Corner, East Main Street at lot)	No Parking 12:00 a.m. to 6:00 a.m. (entire
School Street	Handicapped Parking (one space as noted by signs)
West side of School Street, north of lot)	No Parking 12:00 a.m. to 6:00 a.m. (entire
Lancaster Street	Handicapped Parking (two spaces as noted by signs)
East side of School Street, north of lot)	No Parking 12:00 a.m. to 6:00 a.m. (entire
Lancaster Street	Handicapped Parking (one space as noted by signs)
North side of Lancaster Street, east of lot)	No Parking 12:00 a.m. to 6:00 a.m. (entire
School Street	Handicapped Parking (one space as noted by signs)

**SCHEDULE II**  
**ONE WAY STREETS**

<i>Street</i>	<i>Direction</i>	<i>From</i>	<i>To</i>	<i>Time</i>
Union Street	North	Union Street Extension	West Main Street	7:30-8:30 a.m., 2:45-3:15 p.m.

**SCHEDULE III**  
**PROHIBITED TURNS**

Reserved for future use.



**SCHEDULE IV**  
**REQUIRED TURNS**

Reserved for future use.

## SCHEDULE V

### ISOLATED STOP SIGNS

<i>Street</i>	<i>Location</i>
Attitash Street	Southbound at East Main Street
Bartlett Street	Westbound at School Street
Bartlett Street	Westbound at Broad Street
Bear Hill Road	Southbound at East Main Street
Birch Meadow Road	Southeastbound at West Main Street
Bisson Lane	Eastbound at Attitash Street
Broad Street	Southbound at Middle Road
Broad Street	Northbound at East Main Street
Chase Crescent	Southbound at Noyes Lane
Chase Crescent	Eastbound at Noyes Lane
Clement Place	Southwestbound at Stevens Terrace
Clement Place	Northwestbound at West Parish Lane
Currier Avenue	Northbound at West Main Street
Emery Street	Northbound at East Main Street
Grove Street	Northeastbound at Woodland Street
Grove Street	Southwestbound at Woodland Street
Gunnison Drive	Southeastbound at West Main Street
Gunnison Drive	Northwestbound at Noyes Lane
Harriman Road	Southbound at Highland Road
Harriman Road	Northbound at Bear Hill Road
Heath Brook Road	Westbound at Heath Road
Heath Road	Northbound at Hadley Road
High Street	Northeastbound at Broad Street
Lancaster Court	Westbound at School Street
Liberty Street	Southbound at East Main Street
Lincoln Street	Westbound at Winter Street
Little Pond Road	Southeastbound at Merrimac Road
Locust Street	Northbound at West Main Street
Locust Street	Southbound at River Road
Meadow Avenue	Westbound at Attitash Street
Mechanic Street	Northbound at East Main Street
Merrimac Road	Northeastbound at River Road
Middle Street	Eastbound at School Street
Middle Street	Westbound at Locust Street
Mill Street	Northbound at East Main Street
Mill Street	Southbound at Broad Street
Nichols Street	Eastbound at Church Street

North Street	Southbound at Middle Road
Orchard Street	Southeastbound at West Main Street
Pine Street	Eastbound at Pine Street
Pine Street	Westbound at Pine Street
Pleasant Street	Eastbound at School Street
Prospect Hill	Southbound at East Main Street
River Road	Northeastbound at North Street
Skunk Road	Northbound at Middle Road
Skunk Road	Southbound at Middle Road
South Pleasant Street	Northeastbound Broad Street
Spring Hill Road	Eastbound at Little Pond Road
Spring Hill Road	Southeastbound at Little Pond Road
Stevens Terrace	Southbound at Chase Crescent
Summer Street	Southbound at Prospect Street
Summer Street	Northbound at Prospect Street
Sunset Terrace	Southwestbound at Emery Street
Union Street	Northwestbound at West Main Street
Vendome Street	Southwestbound at Winter Street
West Hadley Road	Southeastbound at Hadley Road
West Parish Lane	Southbound at Chase Crescent
West Parish Lane	Southbound at Chase Crescent
West Shore Road	Southwestbound at Bear Hill Road
Winter Street	Northwestbound at Highland Road
Woodland Street	Northwestbound at Grove Street
Woodland Street	Southeastbound at Grove Street
Woodland Street	Southeastbound at West Main Street

**SCHEDULE V-A**

**YIELD SIGNS**

<i>Street</i>	<i>Location</i>
Church Street Street	Southbound entering Roundabout at West Main Street/East Main
East Main Street	Eastbound entering Roundabout at Church Street/School Street
Mill Street	Northbound at Bartlett Street
West Main Street	Eastbound entering Roundabout at Church Street/School Street
School Street Street	Northbound entering Roundabout at West Main Street/East Main

## SCHEDULE VI

### SPEED ZONES

In accordance with the provisions of Chapter 90 Section 18 of the General Laws, as amended, the following Special Speed Regulations have hereby been adopted by the Board of Selectmen of the Town of Merrimac and have been approved by the Massachusetts Department of Transportation and the Registrar of Motor Vehicles, and adopted by Town Meeting, that the following speed limits are established at which motor vehicles may be operated in the areas described:

<i>Street</i>	<i>Direction</i>	<i>Limits</i>
West Main Street	Eastbound thence easterly	Beginning at the end of State Highway, Route 110,  0.29 miles at 30 miles per hour, thence 0.15 miles at 25 miles per hour, ending at the beginning of State Highway; the total distance being 0.44 miles.
West Main Street	Westbound thence westerly	Beginning at the end of State Highway, Route 110,  0.15 miles at 25 miles per hour 0.29 miles at 30 miles per hour, ending at the beginning of State Highway; the total distance being 0.44 miles.

#### **CHURCH STREET/HIGHLAND ROAD - NORTHBOUND**

Beginning at the junction of West Main Street (Route 110), thence northerly on Church Street/Highland Road

0.20 miles at 30 miles per hour

2.27 miles at 35 miles per hour ending at the Massachusetts/New Hampshire State Line;

the total distance being 2.47 miles.

#### **HIGHLAND ROAD/CHURCH STREET - SOUTHBOUND**

Beginning at the New Hampshire/Massachusetts State Line, thence southerly on Highland Road/Church Street

2.27 miles at 35 miles per hour

0.20 miles at 30 miles per hour ending at the junction of West Main Street (Route 110);

the total distance being 2.47 miles.

**RIVER ROAD/MIDDLE ROAD- EASTBOUND**

Beginning at the Haverhill/Merrimac Town Line, thence easterly on River Road/Middle Road

1.40 miles at 35 miles per hour

0.33 miles at 25 miles per hour

0.60 miles at 35 miles per hour ending at the Merrimac/Amesbury City Line;

the total distance being 2.33 miles.

**MIDDLE ROAD/RIVER ROAD- WESTBOUND**

Beginning at the Amesbury/Merrimac Town Line, thence westerly on Middle Road/River Road

0.60 miles at 35 miles per hour

0.33 miles at 25 miles per hour

1.40 miles at 35 miles per hour ending at the Merrimac/Haverhill City Line; the total distance being 2.33 miles.

**BIRCHMEADOW ROAD/HADLEY ROAD- NORTHBOUND**

Beginning at the junction of Route 110 (West Main Street); thence northerly on Birchmeadow Road/Hadley Road

0.71 miles at 35 miles per hour

0.46 miles at 30 miles per hour

1.55 miles at 35 miles per hour ending at the Massachusetts/New Hampshire State Line;

the total distance being 2.72 miles.

**BIRCHMEADOW ROAD/HADLEY ROAD - SOUTHBOUND**

Beginning at the New Hampshire/Massachusetts State line, thence southerly on Hadley Road/Birchmeadow Road

1.55 miles at 35 miles per hour

0.46 miles at 30 miles per hour

0.71 miles at 35 miles per hour ending at the junction of Route 110 (West Main Street);

the total distance being 2.72 miles.

**BEAR HILL ROAD - NORTHBOUND**

Beginning at the junction of Route 110 (East Main Street), thence northerly on Bear Hill Road

2.25 miles at 35 miles per hour ending at the Massachusetts/New Hampshire State Line;

the total distance being 2.25 miles.

**BEAR HILL ROAD - SOUTHBOUND**

Beginning at the New Hampshire/Massachusetts State Line, thence southerly on Bear Hill Road

2.25 miles at 35 miles per hour ending at the junction of Route 110 (East Main Street);

the total distance being 2.25 miles.

Operation of a motor vehicle at a rate of speed in excess of these limits shall be prima facie evidence that such speed is greater than is reasonable and proper.

The provisions of this regulation shall not, however, abrogate M.G.L. c. 90, § 14

**SCHEDULE VII**

**20 MPH SCHOOL ZONES**

<i>School</i>	<i>Street</i>	<i>Limits</i>	<i>Time</i>
Helen Donaghue School	Locust Street (both directions)	Walnut Street to Pleasant Street	When Children are Present
Helen Donaghue School	Union Street Extension (both directions)	Union Street to Locust Street	When Children are Present
Frederick Sweetsir School	Church Street (both directions)	220 ft west of Hanson Drive to 600 ft east of Hansom Drive	When Children are Present



## **SCHEDULE VIII**

### **HEAVY COMMERCIAL VEHICLE EXCLUSION**

Reserved for future use.  
(STM 10/21/13)

## **ARTICLE VII LICENSES**

### **ARTICLE VIIA- LICENSES, GENERAL**

**7a.1 Reasonable fees for any**

Permit, licenses or applications for the same considered or granted by the Selectmen or any licensing or permit-granting authority of the Town shall be established by the Selectmen in conformity with the laws of the Commonwealth. A schedule of the fees so established shall be posted in the Town Offices and in at least three public places in the Town.

**7a.2 Licenses and permits of delinquent taxpayers**

7a.2.1 The Tax Collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges hereinafter referred to as tax collector, shall annually furnish the Board of Selectmen hereinafter referred to as 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 has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve month period and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board

7a.2.2 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 tax collector, provided, however, that written notice is given to the party and the tax collector, as required by applicable provisions of law, and the party is given a hearing to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The tax collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceedings at law, except for any appeal from such license denial, revocation, or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the tax collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the municipality as the date of issuance of said certificate.

7a.2.3 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; however, that the holder be given notice and a hearing as required by applicable provisions of law.

7a.2.4 The Board of Selectmen may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or member of his immediate family, as defined in section one (1) of chapter two hundred and sixty eight (268) in the business or activity conducted in or on said property.

7a.3 This by-law shall not apply to the following licenses and permits

7a.3.1 Permits for open burning: G.L. c.48, Section 13

7a.3.2 Bicycle permit: G.L. c. 85, Section 11A

7a.3.3 Permits to sell articles for charitable purposes: G.L. c.101, Section 33

7a.3.4 Work permits for children: G.L. c.149, Section 69

7a.3.5 Food and Beverage License: G.L. c.140, Section 21E

7a.3.6 Dog License: G.L. c.,140, Section 137

7a.3.7 Fishing & Hunting License: G.L. c.131, Section 12

7a.3.8 Marriage License: G.L. c.207, Section 28

7a.3.9 Theatrical and Public Exhibit Permits: G.L. c.140, Section 181  
(STM 10/28/1996)

## **ARTICLE VII.B JUNK AND SECOND HAND LICENSES**

### **7b.1 The Board of Selectmen may license suitable persons**

To be dealers in and keepers of shops for the purchase, sale or barter of junk, old metals or second-hand articles in the Town. They may also license suitable persons as junk collectors, to collect, by purchase or otherwise, junk, old metals and second-hand articles from place to place in the Town. They may also provide that such shops and all articles or merchandise in any place, vehicle or receptacle used for the collection or keeping of the articles aforesaid may be examined at all times by the Selectmen or by any person by them authorized so to do. The Board may also issue such rules, regulations and restrictions as they deem necessary and appropriate, and such rules, regulations and restrictions shall be indicated in all licenses. The Board may revoke any license issued hereunder, at its discretion.

### **7b.2 Any dealer in or keeper of a shop**

For the purchase, sale or barter of junk, old metals, or second-hand articles shall be required to keep those articles within an enclosed and roofed structure unless he is permitted to do otherwise in writing by the Selectmen.

### **7b.3 Every keeper of a shop**

For the purchase, sale or barter of junk, old metals or second-hand articles, within the limits of the Town shall keep a book in which shall be written, at the time of every purchase of any such articles, a description thereof, the name, age and residence of the person from whom and the day and hour when such a purchase was made; such book shall at all times be open to the inspection of the Selectmen and of any person by them authorized to make such inspection; every keeper of such shop shall put in a suitable and conspicuous place on his shop a sign having his name and occupation legibly inscribed thereon in large letters; such shop and all articles of merchandise therein may at all times be examined by the Selectmen or by any person by them authorized to make such examination; and no keeper of such shop and no junk collector shall directly or indirectly, either purchase or receive by way of barter or exchange any of the articles aforesaid of a minor, apprentice, knowing and having reason to believe him to be such, and no article purchased or received by such shopkeeper shall be sold until at least one week from the date of its purchase or receipts has elapsed.

### **7b.4 No person shall use**

Any building, enclosure or other structure for the storage, sale or keeping of rags, waste, paper stock, old clothing or any flammable material when such building, structure or enclosure is within five hundred (500) feet of any other building; nor in any building, structure or enclosure beyond that distance from another building without a written license therefore from the Selectmen.

### **7b.5 No occupier or owner of land shall**

Permit more than one unregistered used motor vehicle within public view on land owned or occupied by him, unless such used unregistered motor vehicles are used regularly on the premises or unless such unregistered used motor vehicles are displayed by a properly

licensed person or persons or corporation for the purpose of selling the same. Violation of the By-law shall be fined \$20.00 for each offense. Every day that such offending vehicles shall be allowed to remain on the premises after notice by the Selectmen shall be considered a separate offense.

## **ARTICLE VII.C HAWKERS AND PEDDLERS LICENSES**

**7c.1 For the purpose of this By-law**

The definition of hawkers and peddler shall be the same definitions as those contained in Chapter 101 of the Massachusetts General Laws.

**7c.2 No person shall hawk, peddle or barter**

Any goods or merchandise within the Town limits, except as authorized by law, without first obtaining a license to do so from the Chief of Police, upon payment of the licensing fee, said fee in conformity with G.L. Chapter 101 and 801 CMR 4.02. This requirement shall not apply to any hawking or peddling of newspapers, religious publications, ice, flowering plants, flowers, wild fruits, nuts and berries. The sale by hawkers and peddlers of jewelry (valued at more than \$10), furs, wines, spirituous liquors, small artificial flowers or miniature flags is prohibited.

**7c.3 Hawkers and peddlers who intend**

To carry on their business in the Town under authority of licenses granted to them under the provisions of the G.L. Chapter 101 must appear in person before the Chief of Police of the Town at least two days, not including Saturday and Sunday, before they intend to engage in business in the Town and produce a valid driver's license and any available state licenses for the examination and authentication by said Chief of Police.

**7c.4 In lieu of the person appearing before the Chief of Police of the Town**

Required under Section III, hawkers and peddlers may forward, by certified mail, to said Chief of Police, an authenticated copy of the licenses referred to in said Section III (including driver's license), along with a photograph of themselves. This mailing must be sent at least seven (7) days, not including Saturday and Sunday, before said hawkers and peddlers intend to engage in his business in the Town.

**7c.5 Hawkers and peddlers are subject to**

All traffic rules and regulations of the Town as well as all applicable By-laws and rules and regulations. No person licensed under this By-law shall conduct business in such a manner as would impede foot or vehicular traffic along a public way or public street, or along a public sidewalk, access road or driveway.

**7c.6 This article has been enacted as a By-law of the Town**

In order to aid in the preservation of peace and good order in commercial sales, and in no way is designated to discriminate in any way against any persons or group of

persons. All hawkers and peddlers are subject to the same regulations which are to be applied to all in the same way, manner and fashion.

7c.7 No hawker or peddler shall

Call house to house between the hours of 9:00 p.m. and 7:00 a.m.

7c.8 Failure to comply with this By-law

May result in suspension or revocation of licenses granted hereunder. In addition, penalty of \$20 for each offense may be assessed.

## **ARTICLE VIII WELLS AND WELL COVERINGS**

### 8.1 Owners of land whereon is located

An abandoned well, or a well in use shall provide a covering for such well capable of sustaining a weight of three hundred pounds (300) or to fill the same to the level of the ground. The penalty for not complying with this requirement shall be a fine of not less than one hundred dollars (\$100.00) and not more than three hundred dollars (\$300.00).

## **ARTICLE IX INSPECTOR OF WIRES**

9.1 The Selectmen shall annually

Appoint an Inspector of Wires as required by Section 32 of Chapter 166 of the General Laws, who shall enforce the provisions of the General Laws contained in said Chapter.



## **ARTICLE X TRANSPORTATION OF REFUSE**

**10.1 Any person who transports waste, rubbish, garbage or refuse**

On a public way in the Town shall do so only if said material is placed in covered containers unless a permit to do otherwise is granted by the Board of Health. The Board of Health may grant such a permit reasonably restricting the means or method of transportation or conveying said material and the use of other means or methods than those specifically permitted shall revoke the permit granted and shall be considered a violation of this By-law.

**10.2 Any person who deposits rubbish**

At a place other than within the area assigned as the Town refuse disposal area shall be subject to a fine of \$20.00.

**10.3 No person shall deposit rubbish**

In the Town refuse disposal area that is collected outside the boundaries of the Town except by a permit of the Board of Health.

**10.4 Any person transporting rubbish**

Over the streets of the Town who, through carelessness or neglect, allows rubbish to be spilled on the streets of the Town, or on private property, shall be subject to a fine of not more than \$20.00.

**10.5 Refuse of each of the following types**

10.5.1 Cardboard (chipboard, corrugated board, other cardboards), newspapers, magazines

10.5.2 Bottles and other glass containers made of clear or green glass

10.5.3 Aluminum, steel and tin cans, and

10.5.4 All other refuse, shall be separately set out for collection or deposited in the Town Dump and shall be collected and so deposited and then recycled. The Board of Health shall, from time to time, promulgate regulations to implement the purpose of this section; provided that no regulation shall be promulgated under this section except after a public hearing. A notice of any such hearing containing the date, and the time and location of the hearing and a summary of the regulation under consideration shall be published at least seven days prior to the hearing in a newspaper circulated in the Town.

**10.6 Any brush involved in a land clearing operation**

Either single house lot or sub-division must be chipped before being deposited at the Town land fill area. Small quantities of brush gathered from general yard cleaning may be deposited in the land fill area without first being chipped. Stumps, logs or tires shall be deposited in the Town landfill area except from a commercial operation. (amended ATM 5/5/1980)

10.7 No person shall deposit rubbish

In the Town Refuse Area unless such person shall have first obtained a Disposal Area Permit which shall be permanently displayed on said person's motor vehicle.

**ARTICLE XI**  
**(Deleted per attorney suggestion 3/11/15)**

## **ARTICLE XII PUBLIC HEALTH AND SAFETY**

### **12.1 Any person or persons owning or having control**

Of any building or premises, shall keep the same in a clean condition and any such person having control of any building or premises, in or upon which there is any substance or materials, or any condition, which is or may become a source of danger to the public health or a nuisance shall, when ordered by the Board of Health in writing, remove or abate the same within the time specified in said order.

### **12.2 Any person or persons owning or having control**

Of any premises abutting on a private way, and having the right to use such private way shall, when ordered by the Board of Health in writing, remove or abate from that part of said private way adjoining such premises, any substance, material or condition which is, or may become a menace to the public health or a nuisance, and such removal or abatement shall take place within the time specified in said order.

### **12.3 No person or persons shall place or cause**

To be placed or left in or upon any public or private street or way, enclosure or grounds, or in any body or stream of water within the limits of this Town, the body of a dead animal, fowl, or any substance or material that is, or may become offense or cause a nuisance.

### **12.4 No owner or occupant or agent of any building or premises shall**

Permit any sewage, garbage, contents or drainage of a private vault, cesspool or water closet or sink drain or any other filth to empty on the surface of the ground or to enter into any ditch, brook, stream or body of water unless specially permitted to do so by the Board of Health.

### **12.5a The following words, terms and phrases, as used in and for the purpose of this by-law, shall be deemed to have the following meanings:**

12.5a.1 Swimming pool – A body of water, artificially constructed in whole or in part, including so-called below and above ground pools, having at any point a depth of more than eighteen inches below the grade or level of the ground, area, platform or edge surrounding it, located out of doors on a lot or lots, within 250 feet of any abutting property or street line, and designed, established, constructed, maintained or used for bathing or swimming purposes, by any person, the members of his household and their guests.

12.5a.2 Fence – A permanent barrier or obstruction not less than four feet nor more than six feet in height, so constructed as entirely to enclose the area on which the swimming pool is located and to bar all reasonable and normal access to the swimming pool except through a substantial, self-closing gate or gates of the same height as the fence, equipped with facilities for locking said gate or gates when the pool is unattended or unguarded.

12.5a.3 Person – Any individual, firm or corporation having an interest in the lot or lots on which the swimming pool is located, as owner, tenant, occupant, or the agent, servant or employee of such owner, tenant or occupant.

12.5b No person shall construct, maintain or use, or cause, suffer or permit to be constructed, maintained, or used

12.5b.1 A swimming pool on any lot or lots in the Town, unless there shall be constructed and maintained a fence enclosing the area on which the swimming pool is located, provided, however, that in the case of so-called above ground pools, where the side of the pool or other barrier surrounding the pool is three or more feet in height, no fence is required if the ladder or means of access can be removed or raised when the pool is unattended or unguarded.

12.5b.2 The gate or gates in the fence shall be kept closed at all times, except when being used for ingress or egress, and shall be kept locked at all times when the pool is unattended or unguarded. In the case of above ground pools, so constructed in accordance with part two hereof, that a fence is not required, the ladder or other means of access shall be removed from the pool so as to prevent access to the pool at all times the pool is unattended or unguarded.

12.5b.3 Violations of the By-Law shall be fined \$50.00 for each offense. Each day that such violation shall continue shall be deemed a separate offense.

12.6 No person shall use or consume any alcoholic beverages

As defined in G.L. Chapter 138, Section 1, while in or upon any public way or in any way in which the public has access or invitees or licensees, park or playground or private land, building, structure, or place without the consent of the owner or person in control thereof. All alcoholic beverages being used in violation of this by-law shall be seized and safely held until final adjudication against the person or persons arrested or summonsed before court, at which time, they shall be returned to the persons entitled to lawful possession. Each arrest shall be considered a separate offense.

12.7 No person shall without right, stand or remain upon

A wall or fence or upon any doorstep or other projection from a house or other building so as to obstruct any passage to or from such house or building, after having been requested by a Police Officer of the Town or by owner or occupant of any such building, to depart there from.

12.8 No person shall make any obscene or indecent

Figure or write any obscene words upon any fence, building, or structure in any public area.

12.9 Hunting on private property in the Town of Merrimac

Shall be with the written permission of the landowner only.

12.10 In order to provide for a uniform numbering system

For residential and commercial structures within the town, the Board of Assessors, with approval of the Selectmen, Fire and Police Departments, shall assign all residential and commercial structures a street number and, furthermore, shall assign to vacant properties street numbers to be held in reserve for future use. For new streets, street numbers will be assigned at the time a street is approved by the Planning Board.

12.11 Animal Control Administration

12.11.1 The Board of Selectmen shall annually appoint an Animal Control Officer who shall be responsible for the enforcement of this bylaw and the General Laws relating to the regulation of animals. The Animal Control Officer shall attend to all complaints and any other matters pertaining to dogs and shall take whatever action deemed necessary.

12.11.2 For purposes of this bylaw and Massachusetts General Laws, Chapter 140, section 157, the Board of Selectmen shall be the Hearing Authority.

12.12 Animal Control

12.12.1 The provisions of G.L. Chapter 140 applicable to animal licensing and tagging are hereby incorporated herein. All dogs six (6) months old or over must be licensed and tagged. Licensing will be done in the office of the Town Clerk. The owner or keeper of an unlicensed dog after June 1<sup>st</sup> will be fined. All fines and license fees are established by the Board of Selectmen, and on record with the Town Clerk. All monies collected for licenses, (minus the \$.75 Town Clerk fee ), and fines will be retained by the Town. (ATM 4/27/09)

12.12.2 No dog collected under the provisions of this Bylaw, or the provisions of Massachusetts General Laws, Chapter 140, as amended, shall be released unless it has been licensed as required by this Chapter.

12.12.3 The owner or keeper of a dog found in violation of this Bylaw or the provisions of Massachusetts General Laws, Chapter 140, as amended, which has been impounded, shall pay fees equal to the expenses incurred by the Town for the collection, initial handling, and daily care (if applicable) of such dogs. These fees shall be established by the Board of Selectmen, in accordance with Massachusetts General Laws, Chapter 140, as amended.

12.12.4 No dog may be allowed to run free in public parks, schoolyards, or recreation areas, except in dog parks designated by the Board of Selectmen.

12.12.5 No owner or keeper of any dog shall permit the same to commit a nuisance by barking, biting, howling, or otherwise disturbing the peace and quiet of any neighborhood or endangering the safety of any person.

12.12.6 No person shall own or keep in the Town of Merrimac, outside the confines of the owner's or keeper's property, any dog which is not held firmly on a leash or

under the immediate control of such owner or keeper, excluding dogs that are used in Police work and/or dogs that are being used for hunting purposes during the hunting season.

- 12.12.7 Any person owning or having custody of an animal, shall immediately remove that animal's waste from any public property or private property other than that of the animal's owner.
- 12.12.8 No owner or person having charge of any horse, cow, swine, sheep, goat, or other grazing animal shall permit the same to pasture in any street, sidewalk or way within the Town, either with or without a keeper; provided that this By-Law shall not affect the rights of any person to use land within the limits of such way adjoining his own premises.
- 12.12.9 Any person may make a written complaint to the selectmen that any dog owned or kept within the Town is a Nuisance Dog or a Dangerous Dog, as those terms are defined in G.L. Chapter 140, Section 157. The Board of Selectmen shall investigate or cause to be investigated such complaint, including an examination under oath of the complainant at a public hearing in the municipality to determine whether the dog is a Nuisance Dog or a Dangerous Dog, and shall make such order concerning the restraint or disposal of such dog as provided in G.L. c.140, Section 157. Violations of such orders shall be subject to the enforcement provisions of G.L. Chapter 140, Section 157 and 157A, which, upon conviction, may include: for a first offense, a fine of not more than \$500 or imprisonment for not more than 60 days in a jail or house of correction, or both, and for a second or subsequent offense by a fine of not more than \$1,000 or imprisonment for not more than 90 days in a jail or house of correction.
- 12.12.10 In accordance with G.L. Chapter 140, Section 173A, and G.L. Chapter 40, Section 21D, Non-Criminal Disposition Fines, may be used to enforce this bylaw. The Animal Control Officer, any police officer or any other person so appointed by the Board of Selectmen may issue notices of violation of bylaw. The fines for such violations, per dog, shall be as follows:
- 12.12.10.1 First offense in calendar year = written warning, no fine
  - 12.12.10.2 Second offense in calendar year: \$50.00
  - 12.12.10.3 Third offense in calendar year: \$60.00
  - 12.12.10.4 Subsequent offenses in calendar year: \$100.00

(Each 24 hour period shall constitute a separate offense)

12.13 Recreational Motorized Vehicles

12.13.1 Definition – Motorized Scooter – Unregistered, two wheels, with handle grips, powered by a gasoline 2- stroke engine. A “motorized bicycle” or a motorcycle, as defined in Massachusetts General Laws, Chapter 90, Section I are not motorized scooters.

12.13.2 Operating Restrictions – It shall be unlawful for any person to operate or permit others to operate and motorized scooter within the Town of Merrimac under any of the following circumstances:

12.13.2.1 On public sidewalks

12.13.2.2 On public and private roadways, if the operator does not possess a valid driver’s license or Massachusetts’ learners permit.

12.13.2.3 In public parks and recreational areas.

12.13.2.4 On public school property.

12.13.2.5 On private property without the written consent of the owner or occupant of said property. Written consent shall be required for operation of any motorized scooter upon the property of any private club or other organization that permits use by club members.

12.13.2.6 In such a manner as to create loud or unnecessary noise as to unreasonably disturb or interfere in the peaceful and quiet enjoyment of their property.

12.13.2.7 No person shall operate a motorized scooter before the hour of 7:00 AM and after the hour of 9:00 PM.

12.13.2.8 With a second rider on the scooter.

12.13.2.9 Without wearing protective headgear conforming to Registry of Motor Vehicles standards

12.13.3 Any person operating a motorized scooter, within the Town of Merrimac, must conform with all traffic laws and regulations of the Commonwealth.

12.13.3.1 Penalty – Violations shall be subject to a \$25.22 (twenty five dollar) fine for the first offense and no more than a \$50.00 (fifty dollar) fine for subsequent offenses.



12.14 Truss Construction Identification of Residential, Commercial and Industrial Buildings

12.14.1 Introduction- This by-law provides that residential, commercial and industrial buildings that utilize truss type construction shall be marked by an emblem that informs persons conducting fire control and other emergency operations of the existence of truss construction.

12.14.2 Definitions

12.14.2.1 For the purpose of this by-law, residential, commercial and industrial buildings and structures shall mean those buildings and structures classified as such by the Merrimac Building Inspector using the classification system found in 780 CMR (The Massachusetts State Building Code) or its successors.

12.14.2.2 For the purpose of this by-law, truss construction shall mean a fabricated structure of wood, steel or combination thereof, made up of a series of members connected at their ends to form a series of triangles to span a distance greater than would be possible with any of the individual members on their own. Truss type construction shall not include:

12.14.2.2.1 Individual wind or seismic bracing components which form triangles when diagonally connected to the main structure system.

12.14.3 Enforcement -The head of the fire department or his or her designee shall be responsible for ensuring the proper placement of emblems on buildings or structures covered by this by-law.

12.14.3.1 All multi-family residential buildings and all commercial and industrial businesses in operation at the time this by-law is ratified shall be required to have an emblem or emblems placed in the locations identified by the Fire Chief within six months of the passage of this by-law. All existing one and two family dwellings shall allow for the placement of this identifying emblem when undergoing additions or alterations or when such construction type is identified.

12.14.3.2 Any person who fails to permit the posting of a structure as set forth in this by-law, or who removes or willingly obstructs from view the fire official's designated posting, shall be punished by a fine not exceeding fifty dollars (\$50.00) for each offense. Every day that a violation continues after its abatement has been ordered by the Town and sufficient time has elapsed to permit abatement shall constitute a new offense.

12.14.3.3 The emblems will be made available by the Merrimac Fire / Rescue Department at no cost to the building owner / manager.

12.14.4 Emblems -The shape of the emblem shall be a circle of six inches in diameter. The emblem background shall be reflective white in color. The circle border and contents shall be reflective red in color, conforming to Pantone matching system (PMS) #187.

12.14.5 Truss Designations - The following letters shall be printed on the emblem identifying the existence of truss construction using the alphabetic designation for the structural components that are of truss construction, as follows:  
 “F” shall mean floor framing, including girders and beams  
 “R” shall mean roof framing  
 “FR” shall mean floor and roof framing

12.14.6 Emblem Locations - Emblems identifying the existence of truss construction shall be permanently affixed in the locations directed and in a manner approved by the Fire Chief.

Table #1 will be used as an emblem location guide for fire officials. Every effort is to be made as to not interfere with advertising or graphic designs located on the doors, windows or face of the buildings covered by this by-law.

**Table #1  
 TRUSS IDENTIFICATION SIGN LOCATIONS**

<b>For 1 and 2 family Dwellings:</b>	The emblem shall be affixed to the electrical meter socket. If the electric meter is located inside the dwelling, the emblem shall be affixed to the natural gas meter if so equipped. If neither location is available additional locations shall follow the guidelines established for multi-unit apartment buildings and commercial and industrial buildings.
<b>Multi-unit apartment buildings, commercial and industrial buildings:</b>	Exterior building entrance doors, exterior exit discharge doors, and exterior roof access doors to a stairway, attached to all main means of egress at the door or sidelight, or directly on the street side of the building
<b>Fire department hose connections:</b>	Attached to the face of the building, not more than 12 inches (305 mm) horizontally from the center line of the fire department hose connection, and not less than 42 inches (1067 mm) nor more than 60 inches (1524 mm) above the adjoining walking surface

## **ARTICLE XIII**

### **AFFORDABLE HOUSING TRUST FUND**

#### **13.1 The Merrimac Affordable Housing Trust Fund**

Hereby called the trust, is established to provide for creation and preservation of affordable housing in Merrimac for the benefit of low and moderate income households, as defined in Article 2 of the Merrimac Zoning By-laws.

#### **13.2 There shall be a board of trustees**

Hereby called the board, which shall include no less than 5 and no more than 7 trustees, including the chief executive officer to be represented by one (1) member of the Board of Selectmen. Trustees shall be appointed by the Board of Selectmen, serve for a term not to exceed two (2) years; and are designated as public agents for the purposes of the constitution of the commonwealth.

#### **13.3 The powers of the board shall include the following**

13.3.1 To accept and receive real property, personal property or money, by gift grant, contribution, devise or transfer from any person, firm, corporation or other public or private entity, including but not limited to money, grants of funds or other property tendered to the trust in connection with any ordinance or by-law or any general or special law or any other source, including money from G.L. Chapter 44B;

13.3.2 To purchase and retain real or personal property, including without restriction investments that yield a high rate or income or no income;

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

13.3.4 To execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, releases and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the board engages for the accomplishment of the purposes of the trust and approved by the Board of Selectmen;

13.3.5 To employ advisors and agents, such as accountants, appraisers and lawyers as the board deems necessary;

13.3.6 To pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the board deems advisable;

13.3.7 To apportion receipts and charges between incomes and principal as the board deems advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation or otherwise;

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

13.3.9 To deposit any security with any protective organization committee, and to delegate to such committee such powers and authority with relation thereto as the board may deem proper and to pay, out of trust property, such portion of expenses and compensation of such committee as the board may deem necessary and appropriate;

13.3.10 To carry property for accounting purposes other than acquisition date values;

13.3.11 To make distributions or divisions of principal in kind;

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

13.3.13 To manage or improve real property; and to abandon any property which the board determined not to be worth retaining;

13.3.14 To hold all or part of the trust property uninvested for such purposes and for such time as the board may deem appropriate; and

13.3.15 To extend the time for payment of any obligation to the trust

13.4 Notwithstanding any general or special law to the contrary

All monies paid to the trust in accordance with any zoning ordinance or by-law, exaction fee, or private contributions shall be paid directly into the trust and need not be appropriated or accepted and approved into the trust. General revenues appropriated into the trust become trust property and to be expended these funds need not be further appropriated. All moneys remaining in the trust at the end of any fiscal year, whether or not expended by the board within 1 year of the date they were appropriated into the trust, remain trust property.

13.5 The trust is a public employer

And the members of the board are public employees for the purposes of G.L. Chapter 258.

13.6 The trust shall be deemed

A municipal agency and the trustees' special municipal employees for the purposes of G.L. Chapter 268A.

13.7 The trust is exempt from G.L. Chapters 59 and 62

And from any other provisions concerning payment of taxes based upon or measured by property or income imposed by the commonwealth or any political subdivision thereof.

13.8 The books and records of the trust

Shall be audited annually by an independent auditor in accordance with accepted accounting practices.

13.9 The trust is a public body

For purposes of G.L. Chapter 30A, Sections 18-25.

13.10 The trust is a board of the town

For purposes of G.L. Chapter 30B and Section 15A of Chapter 40; but agreements and conveyances between the trust and agencies, boards, commissions, authorities, departments and public instrumentalities of the town shall be exempt from said Chapter 30B.

## **ARTICLE XIV VIOLATIONS OF TOWN BY-LAWS**

### **14.1 Enforcement**

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

14.1.2 Non-Criminal Disposition - Whoever violates any provision of these by-laws, the violation of which is subject to a specific penalty, may be penalized by a non-criminal disposition as provided by G.L. Chapter 40, Section 21D. The non-criminal method of disposition may also be used for violations of any rule or regulation of any municipal officer, board or department which is subject to a specific penalty. Each day upon which any violation exists shall be deemed a separate offense. For purposes of non-criminal disposition, the term “enforcing person” shall mean: any Town of Merrimac police officer with respect to any offense; as well as the Fire Chief, Director of Department of Public Works, Building Commissioner, Conservation Commission or its agent, Board of Health or its agent, Sealer of Weights and Measures, Code Enforcement Officer, Zoning Enforcement officer, and their designees, and such other officials as the Board of Selectmen may from time to time designate, each with respect to violation of by-laws, rules and regulations within their respective jurisdictions. If more than one official has jurisdiction in a given case, any such official may be an enforcing person with respect thereto.

14.1.3 The specific penalty for purposes of non-criminal disposition for each such violation, if not otherwise specified, shall be as follows:

14.1.3.1 First violation – warning

14.1.3.2 Second violation - \$50.00

14.1.3.3 Third violation - \$100.00

14.1.3.4 Fourth and subsequent violations - \$300.00

Any particular fine specified in a by-law shall be included on a list maintained in the office of the Town Clerk.

## **ARTICLE XV**

### **BOARD OF CEMETERY TRUSTEES**

#### **15.1 The Board of Cemetery Trustees shall consist**

Of three members, elected by the town, one each year to serve three year terms. There shall be a Clerk, secretary and member-at-large. Meetings are to be held monthly at a day and time to be decided by the members serving. The Clerk shall be responsible for the posting of meeting times and agendas as required by law.

#### **15.2 The Board of Cemetery Trustees shall have**

The sole care, superintendence and management of all public burial grounds in its town, may lay out any existing public burial grounds in its town or any land purchased and set apart by said town for such cemeteries, in lots or other suitable subdivisions, with proper paths and avenues, may plant, embellish, ornament and fence the same and erect therein such suitable edifices and conveniences and make such improvements as it considers convenient: and, subject to the approval of the town, may make such regulations, consistent with law, as it deems expedient.

#### **15.3 Sale of Lots**

15.3.1 Sale of cemetery lots is restricted to residents, former residents and members of deceased families buried in Merrimac Cemeteries. The Trustees may sell lots when and at such rates as they deem advisable.

15.3.2 Said lots shall not be used for any other purpose than as a place for burial of human dead. Single graves shall be limited to six cremation urn burials. Six cremations may be placed over a casket.

15.3.3 The Chair/Clerk of the board or his/her designated representative shall be responsible for the sale of all lots and is the contact for questions, problems, etc.

15.3.4 Prices of lots and perpetual care are available from the Cemetery Office, 2 Locust Grove Road.

15.3.5 Lots must be paid for in full at the time of purchase. A deed will be issued within two months. Payment may be by personal check or cashier' check made payable to the Town of Merrimac.

15.3.6 A detailed list of the rules and regulations is included with each deed.

15.3.7 Lot owners may not privately sell or subdivide their lots. Arrangements must be made through the Trustees.

15.3.8 In case of hardship, assistance is available. Please inquire at the cemetery office.

#### 15.4 Funerals and Interments

- 15.4.1 Funeral Directors normally assume the responsibility for making arrangements for a funeral. A forty-eight hour notice must be provided for cemetery staff. Sunday and holiday funerals are not permitted. The Clerk reserves the right to refuse a funeral, when in his/her best judgment or that of the funeral director the conditions within the cemetery make the burial unsafe or impossible
- 15.4.2 All grave openings and closures are done by cemetery staff.
- 15.4.3 Interments will take place only after receipt of full payment for the lot and appropriate fees, and permits have been submitted to the Trustees.
- 15.4.4 An outer container made of reinforced concrete must be used for cremation remains.
- 15.4.5 Double-deep burials are not allowed.
- 15.4.6 Mausoleums and all above ground containers for the interment of bodies or cremation remains are not allowed.

#### 15.5 Monuments and Markers

- 15.5.1 One upright monument will be allowed per lot. The upright stone size may not exceed the width of the lot
- 15.5.2 No large rocks will be used for monuments.
- 15.5.3 Foundations and corner markers are included in the sale of lots.
- 15.5.4 Footstones must be placed flush to the ground except that any marker already installed may be matched.
- 15.5.5 There shall be no structure or inscription placed on, upon, or around any lot which the Trustees shall deem offensive or improper; and it shall be the duty of the Trustees to remove all offensive or improper objects.
- 15.5.6 No trees, shrubs or bushes may be planted. There are no exceptions.
- 15.5.7 No statues or enclosures of any type are allowed.
- 15.5.8 Baskets, potted plants and flower planting may extend no more than one foot from the front of the monument.
- 15.5.9 Items placed on graves contrary to above regulations will be removed without notice.
- 15.5.10 Purchase of monuments and footstones is between the lot owner and a monument company.



## 15.6 General Rules and Regulations

15.6.1 The cemeteries are closed from sunset to sunrise.

15.6.2 Persons shall not mark upon, deface or injure any grave marking or monument.

15.6.3 Persons shall not gather any flowers, either wild or cultivated, in cemeteries.

15.6.4 All clippings and trash are to be placed in receptacles found throughout the cemetery.

15.6.5 No one shall break or mark any tree, shrub, plant, etc.

15.6.6 Firearms shall not be discharged in cemeteries, except at military funerals or National Observances.

15.6.7 The use of all implements calculated to annoy or destroy wildlife is strictly forbidden.

15.6.8 Alcoholic beverages are not allowed on cemetery grounds. Intoxicated persons will be removed from cemetery grounds.

15.6.9 Pets must remain in vehicles at all times.

15.6.10 Cemetery property is not to be used as a playground.

15.6.11 Loitering is prohibited.

15.6.12 A strict 10 mile per hour speed limit will be enforced.

15.6.13 No metal detectors, horses or unauthorized motor vehicles will be allowed.  
(ATM 04/30/2012)

## **ARTICLE XVI**

### **REGULATION OF SEWER USE**

#### **16.1 Definitions**

16.1.1 Specific definitions - Unless the context of usage indicates otherwise, the meaning of the specific terms in this by-law shall be as follows:

16.1.1.1 Act- Shall mean the Federal Clean Water Act, as amended.

16.1.1.2 Agent- Shall mean a person who has the actual authority to act for, or in the place of another.

16.1.1.3 Applicant- Shall mean a person, partnership or corporation applying to the Board for a connection to the existing wastewater facilities of the Town of Merrimac.

16.1.1.4 ASTM- Shall mean the American Society of Testing and Materials.

16.1.1.5 BOD (denoting biochemical oxygen demand)-  
Shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20°C, expressed in milligrams per liter as determined by Standard Methods.

16.1.1.6 Board- Shall mean Board of Sewer Commissioners of the Town of Merrimac, Massachusetts.

16.1.1.7 Building Drain- Shall mean that part of the lowest horizontal piping of a drainage system, which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning ten (10) feet (3 meters) outside of the outer face of the building wall.

16.1.1.8 Building Sewer- Shall mean the extension from the building drain to the public sewer or other place of disposal.

16.1.1.9 COD (denoting chemical oxygen demand) - Shall mean the quantity of oxygen used in the chemical oxidation of organic matter with a strong chemical oxidant under standard laboratory procedure, expressed in milligrams per liter as determined by standard methods.

16.1.1.10 Commercial User (Class II)- Shall include any property occupied by a nonresidential establishment not within the definition of an “Industrial User (Class III)”, and which is connected to the wastewater facilities.

16.1.1.11 Contractor- Shall mean a person, partnership or corporation which has been actively engaged in work of a similar nature, and which has sufficient equipment, labor and resources to construct the proposed work, and which has obtained a valid

drain layers license from the Board. The Contractor shall be employed by the Applicant and shall be responsible to him for the construction in accordance with the approved plans.

- 16.1.1.12 DEP- Shall mean the Department of Environmental Protection of the Commonwealth of Massachusetts.
- 16.1.1.13 Discharge Limitation- Shall mean any requirement, restriction or standard imposed by the Board, DEP or EPA on quantities, discharge rates and concentrations of pollutants, which are discharged to the public wastewater system.
- 16.1.1.14 Domestic or Sanitary Wastewater- Shall mean liquid wastes of the type originating from typical residential household water usage, and water usage at commercial, institutional, or industrial facilities containing waste from toilets, sinks, showers, and not containing wastes originating from any commercial or industrial process.
- 16.1.1.15 Drain- Shall mean a pipe or conduit for carrying wastewater or drainage within or appurtenant to a structure.
- 16.1.1.16 Easement- Shall mean an acquired legal right for the specific use of land owned by others.
- 16.1.1.17 Engineer- Shall mean the Registered Professional Engineer employed by the Board and acting entirely within the scope of authority granted by the Board, directly or through properly authorized agents.
- 16.1.1.18 EPA- Shall mean the United States Environmental Protection Agency.
- 16.1.1.19 Floatable Oil- Shall mean oil, fat, or grease in excess of 100 mg/1 in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.
- 16.1.1.20 Garbage- Shall mean the solid animal and vegetable wastes from the domestic and commercial preparation, cooking and dispensing of food, and from handling, storage and sale of produce.
- 16.1.1.21 Grease Trap- Shall mean an exterior watertight structure in which grease is separated from wastewater.
- 16.1.1.22 Groundwater- Shall mean water within the earth.
- 16.1.1.23 Industrial User (Class III)- Shall mean any nonresidential user identified in Division A, B, D, E or 1 of the Standard Industrial Classification Manual. Class III also shall include any user that discharges wastewater containing toxic or

poisonous substances as defined in Section 307 and Section 502 of the Clean Water Act, or substance(s) causing interference in the wastewater facilities.

- 16.1.1.24 Industrial Wastewater- Shall mean the liquid wastes from industrial manufacturing processes, trade or business as distinct from domestic or sanitary wastewater.
- 16.1.1.25 Infiltration- Shall mean water entering the sewage system (including building drains and pipes) from the ground through such means as defective pipes, pipe joints, connections, and manhole walls.
- 16.1.1.26 Infiltration/Inflow (I/I)- Shall mean the total quantity of water from both infiltration and inflow.
- 16.1.1.27 Inflow- Shall mean water other than wastewater that enters a sewer system (including building drains) from sources such as, but not limited to, roof leaders, cellar drains, yard and area drains, foundation drains, drains from springs and swampy areas, manhole covers, cross-connections from storm sewers, catch basins, surface runoff, street wash waters or drainage.
- 16.1.1.28 May- is permissible, shall- is mandatory.
- 16.1.1.29 National Categorical Pretreatment Standards- Shall mean federal regulations establishing pretreatment standards for introduction of pollutants in publicly owned wastewater treatment facilities which are determined to be not susceptible to treatment by such treatment facilities or would interfere with the operation of such treatment facilities, pursuant to Section 307(b) of the Act.
- 16.1.1.30 Natural Outlet- Shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.
- 16.1.1.31 Non-contact Cooling Water- Shall mean the water discharged from any use such as air conditioning, cooling or refrigeration, or during which the only pollutant added, is heat.
- 16.1.1.32 NPDES- Shall mean National Pollutant Discharge Elimination System permit program, whether administered by the EPA, by the DEP or by the Town of Merrimac.
- 16.1.1.33 Outfall Sewer- Shall mean any pipe or conduit for carrying treated or untreated wastewater to a point of final disposal.
- 16.1.1.34 Owner- Shall mean the person or persons, who legally own, lease or occupy private property with sanitary sewers that discharge, or will discharge, to the Town's sewer system.

- 16.1.1.35 Person- Shall mean any individual, firm, company, association, society, partnership, corporation, municipality or other similar organization, agency or group. This term does not refer to or imply the Commonwealth of Massachusetts or the Federal Government.
- 16.1.1.36 pH- Shall mean the logarithm of the reciprocal of the hydrogen ion concentration expressed in grams per liter of solution, as determined by Standard Methods. It is understood that neutral pH = 7.0
- 16.1.1.37 Pretreatment- Shall mean that degree of treatment, before any waste is discharged to a public sewer, which is determined to be necessary so as not to interfere with the performance of any part of the wastewater facilities, particularly the treatment units.
- 16.1.1.38 Properly Shredded Garbage- Shall mean the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle greater than one-half (1/2) inch (1.27 centimeters) in any dimension.
- 16.1.1.39 Public Sewer- Shall mean the system of pipes and manholes used to convey wastewater from private building sewers to the wastewater treatment facility.
- 16.1.1.40 Private Building Sewer- Shall mean the system of pipes and manholes used to convey wastewater from residential, commercial, institutional, and industrial structures to the public sewer.
- 16.1.1.41 Residential User (Class I)- Shall mean all premises used only for human residency and that are connected to the wastewater facilities.
- 16.1.1.42 Sanitary Sewer- Shall mean a sewer that carries wastewater and to which storm, surface and ground waters are not intentionally admitted.
- 16.1.1.43 Sanitary Wastewater- Shall mean normal water-carried household and toilet wastes discharged from any residential, commercial, institutional, or industrial structure, excluding ground, surface, storm water, and any industrial process wastewater.
- 16.1.1.44 Septage- Shall mean the waste sludge or liquid pumped from any part of an individual on-site wastewater disposal system.
- 16.1.1.45 Settleable Solids- Shall mean that fraction of suspended solids that will settle to the bottom of a cone-shaped container in a 60-minute period as determined by Standard Methods.
- 16.1.1.46 Sewer- Shall mean a pipe or conduit for carrying wastewater.

- 16.1.1.47 Significant Industrial User- Shall mean any industrial user that will contribute greater than 10 percent of the average daily design flow or waste loading of the wastewater treatment facility.
- 16.1.1.48 Slug (or “shock load)- Shall mean any discharge of water, wastewater or industrial waste which in concentration of any given constituent or in quantity of flow in a reduced period of time or at intermittent intervals will interfere with a wastewater treatment facility’s operation and efficiency. In addition, “Slug” shall mean any discharge of water, wastewater or industrial waste, which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes, more than five (5) times the average twenty-four (24) hour concentration, or flow during normal operation.
- 16.1.1.49 Standard Methods- Shall mean the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, Water Environment Federation, and American Water Works Association.
- 16.1.1.50 Storm Drain- Shall mean a drain that carries storm and surface waters and drainage, but excludes wastewater and industrial wastes, other than unpolluted cooling water.
- 16.1.1.51 Superintendent- Shall mean the Superintendent of the Town of Merrimac Sewer Department or his authorized agent.
- 16.1.1.52 Surface Water- Shall mean water that occurs when the rate of precipitation exceeds the rate at which water may percolate into the soil.
- 16.1.1.53 Total Suspended Solids (TSS)- Shall mean the total suspended matter that either floats on the surface of, or is in suspension in, water or wastewater, as determined by 40 CFR 136 and Standard Methods.
- 16.1.1.54 Town- Shall mean the Town of Merrimac, County of Essex, Commonwealth of Massachusetts.
- 16.1.1.55 Toxics- Shall mean any of the pollutants designated by federal regulations pursuant to Section 307 (a)(1) of the Federal Clean Water Act.
- 16.1.1.56 TR –16- Shall mean Guides for the Design of Wastewater Treatment Works, Prepared by the New England Interstate Water Pollution Control Commission. 1998.
- 16.1.1.57 User Charge- Shall mean the charge levied on the users of wastewater treatment works for the cost of operation and maintenance. This may also include some or all of the recovery of capital costs or the cost of replacement of equipment or material.

- 16.1.1.58 Wastewater- Shall mean a combination of liquid and water-carried wastes from residences, commercial buildings, industries and institutions, together with any groundwater, surface water or storm water that may be present.
- 16.1.1.59 Wastewater Facilities- Shall mean the combination of wastewater sewers and treatment facilities.
- 16.1.1.60 Sewer System- Shall mean the structures, processes, equipment and arrangements necessary to collect and transport wastewaters to the treatment facility.
- 16.1.1.61 Wastewater Treatment Facility- Shall mean the structures, processes, equipment and arrangements necessary to treat the discharge wastewaters.
- 16.1.1.62 Watercourse- Shall mean a channel in which flow of water occurs, either continuously or intermittently.
- 16.1.1.63 WEF- Shall mean the Water Environment Federation.

## 16.2 General Provisions

- 16.2.1 Purpose - The purpose of this sewer use by-law is to provide for the optimum beneficial public use of Merrimac's wastewater facilities through regulation of sewer construction, sewer use and wastewater discharges; to justify and evenly distribute the costs to operate, maintain and improve the Town's existing wastewater facilities; and to provide procedures for complying with the requirements contained herein.
- 16.2.2 Scope - The definitions of terms used in this by-law are found in Part I. The provisions of this by-law shall apply to the discharge of all wastewater to facilities of the Town of Merrimac. This by-law provides for the use of Merrimac's wastewater facilities, regulation of sewer construction, control of the quality and quantity of wastewater discharged, wastewater pretreatment, equitable distribution of costs, sewer construction plans, issuance of wastewater discharge permits, minimum sewer construction standards and conditions and penalties and other procedures in cases of violation of these Rules and Regulations. Additionally, this by-law shall apply to all users of Merrimac's wastewater sewers or wastewater treatment facilities, including those outside Merrimac who are users by contract or agreement with Merrimac.
- 16.2.3 Administration - Unless otherwise noted, the Town of Merrimac's Board of Sewer Commissioners shall administer, implement and enforce the provisions of this by-law.
- 16.2.4 Notice of Violation - A written notice may be served to any person found in violation of this by-law or requirement of a permit issued hereunder stating the nature of the violation and providing a reasonable time limit for compliance. Any such notice shall be given in writing and served in person or by registered or certified mail. The notice shall be sent to the last address of the violator known to the Board. If this address is

unknown, service may be made on the owner of record of the property in violation. If satisfactory action is not taken in the time allotted by the notice, Section 5 of this Part shall be implemented.

If the Board concludes that a violation may constitute a threat to structures, equipment, personnel or the public, the use of that connection to the Town's wastewater facilities may be immediately terminated.

16.2.5 Violations Section - Any person who continues to violate any provision of this by-law beyond the time limit established by the Board in its Notice of Violation provided in Section 4 of this Part, shall be subject to penalty provisions of Part IX of this by-law for each day the violation continues and may be subject to disconnection from Merrimac's wastewater facilities. A separate violation shall be issued each day or portion thereof a violation continues.

#### 16.2.6 Service charges, fees and related costs

16.2.6.1 All service charges, fees and related costs payable under the provisions of this by-law shall be as established by the Board and shall be paid to the Sewer Department of the Town of Merrimac.

16.2.6.2 All service charges, fees and penalties accumulated under this by-law shall be allocated solely for the purpose of constructing, operating or maintaining the wastewater facilities of Merrimac, or eliminating debt incurred for the same.

16.2.6.3 All service charges, fees and related costs payable under the provisions of this by-law are due and payable in full within thirty (30) days of mailing thereof. Unpaid charges shall become delinquent and shall be subject to penalty and interest charges as outlined in Part VIII of this by-law.

16.2.6.4 Additional fees may be assessed to accommodate specific users or permits if changes and improvements to the wastewater facilities are necessary.

#### 16.2.7 Inspections

16.2.7.1 The Superintendent and all authorized agents of the Board, with appropriate credentials and identification, shall be permitted to enter properties at any reasonable time for the purposes of inspection, observation, measurement and sampling of the wastewater discharge to ensure that the discharge to Merrimac's wastewater facilities is in accordance with provisions of this by-law. In the absence of express permission by the owner or other lawful means, the Superintendent shall obtain an administrative search warrant prior to conducting an inspection.



16.2.7.2 The Superintendent and all authorized agents of the Board with appropriate credentials and identification shall be permitted to enter properties at any reasonable time, on which Merrimac holds an easement for the purposes of inspection, observation, measurement, sampling, repair and maintenance of facilities within the easement. All work within an easement shall be done in accordance with the terms of the easement pertaining to the private property involved.

16.2.7.3 While performing work on private properties, referred above, all safety rules shall be observed which have been established by the owner or occupant of the property and applicable to the premises.

16.2.8 Vandalism - No person shall willfully damage, deface, uncover or tamper with any structure, appurtenance or equipment that is part of Merrimac's wastewater facilities. Any person found in violation of this section shall be subject to a fine of up to \$5,000 (Five Thousand Dollars), per violation plus compensation equal to the damage incurred.

16.2.9 Severability - A finding by any court or other jurisdiction that any part or provision of this by-law is invalid shall not affect the validity of any part or provision of this by-law that can be implemented without the invalid parts or provisions.

16.2.10 Amendments - A public notice shall be given in accordance with applicable provisions of the Bylaws of the Town of Merrimac and a public hearing will be held before any amendments of this by-law are adopted.

### 16.3 Use of Wastewater Facilities

16.3.1 Wastewater Discharges -Wastewater discharges to Merrimac's wastewater facilities are not authorized unless approved in writing by the Board in accordance with this by-law.

16.3.2 Connections to Sewer Required -The determination as to whether or not an owner will be required to connect to the sanitary sewer system will be made by the Merrimac Board of Health in accordance with applicable regulations and laws of the Town of Merrimac and the Commonwealth of Massachusetts. IV.CONNECTIONS AND SEWER EXTENSIONS

16.3.2.1 Permission Required -No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Board of Sewer Commissioners. Any person proposing a new discharge into the system or a substantial change in the volume or character of pollutants that are being discharged into the system shall notify the Board of intent to obtain a permit and submit a completed application for permit at least forty-five (45) days prior to the proposed change or connection.

16.3.2.2 Connection Permit Applications -There shall be three (3) classes of sewer connection permits:

16.3.2.2.1 (Class I) for residential service,

16.3.2.2.2 (Class II) for commercial, institutional, or industrial service discharging of sanitary wastewater, and

16.3.2.2.3(Class III) for industrial services where industrial wastewater is generated from industrial processes.

16.3.2.3 In any case, the owner of developed or developable lots or his agent shall make application on a special form furnished by the Board. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Board. A permit and inspection fee in accordance with a schedule determined by the Board shall be paid to the Town of Merrimac at the time the application is filed.

16.3.2.4 A permit shall be valid only for the use and quantity of flow described in the application. Any change in use of the building or any increase in the quantity of wastewater discharged from the building or any change in the character of the wastewater discharge from the building shall be considered a change of use. The owner or the owner's agent shall make application for a new permit for any change of use and shall pay the appropriate fee.

16.3.3 Connection Costs - All cost and expense incident to the installation and connection of the building sewer from the public sewer to the building drain shall be borne by the owner. The owner shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer from the public sewer to the building drain.

16.3.4 Separate Building Sewers Required - A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway. In such cases, the building sewer serving the front building may be extended to the rear building and the whole considered as one building sewer. The Town of Merrimac assumes no obligation or responsibility for damage caused or resulting from any single building sewer that serves two buildings. Separate connection, inspection, and operating fees are to be paid by the owner of each individual building.

16.3.5 Existing Building Sewers - Existing building sewers may be used in connection with buildings only when they are found, on examination and test approved by the Board, or its authorized agent, to meet all requirements of this by-law.

16.3.6 Installation Requirements - The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of Appendix C of this By-law, the Massachusetts State Building Code, and other applicable rules and regulations of the Town. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the Water Environment Federation (WEF) and American Society of Testing Materials (ASTM) shall apply. The following are the basic requirements for building sewers. More specific requirements are contained in Appendix C.

16.3.6.1 The pipe shall have a minimum nominal diameter of four (4) inches.

16.3.6.2 Pipe materials shall be PVC SDR 35, ductile iron or similar material subject to the approval of the Board. All materials shall be of sufficient strength for the particular installation.

16.3.6.3 Pipe joints shall be of the factory-made compression type. All pipe joints and connections shall be watertight and gas-tight.

16.3.6.4 All building sewers shall be laid to straight line and grade. A desirable grade is one-quarter inch (1/4") per foot. The minimum acceptable grade is one-eighth (1/8") per foot, and at this grade must be provided with a clean out.

16.3.6.5 All building sewers shall be bedded in 3/4" crushed stone with maximum dimension of 1 inch and backfilled to prevent damage.

16.3.6.6 House services require a clean out a minimum of every 100 feet.

16.3.7 Building Sewer Elevators – Gravity Flow -Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary wastewater carried by such a building drain shall be piped to a pumping system approved by the Board and pumped to the public sewer or to a private sewer that can connect to the public sewer.

16.3.8 Surface Runoff and Groundwater Connections - No person shall make connection of roof downspouts, foundation drains, areaway drains or other sources of surface runoff or groundwater to a building sewer or building drain, which in turn is connected directly or indirectly to a public sewer. Such drainage shall discharge to natural outlets or storm drains. Sump or cellar pumps used for the control or relief of ground water and/or drainage shall not be discharged to the building sewer, either directly or indirectly.

16.3.9 Connection Inspection - The applicant for a connection permit shall notify the Board when such connection is ready for inspection before its connection to Merrimac's wastewater facilities. Such connection and all testing, as deemed necessary by the

Board shall be made under the supervision of the Board or its authorized agent. Minimum notice to the Board for an inspection shall be 24 hours.

16.3.10 Approval - The applicant for the building sewer permit shall notify the Board prior to backfilling the trench and prior to connection to the public sewer. Backfilling and connection to the public sewer shall not take place unless approved by the Board, or its authorized agent.

16.3.11 Safety Precautions - All excavations for building sewer installation shall conform to OSHA Regulations and shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Board and the Merrimac Highway Department.

16.3.12 Protection of Capacity for Existing Users - The Board may not issue a permit for any class of connection to Merrimac's wastewater facilities unless there is sufficient capacity not legally committed to other users in the wastewater sewers and treatment facilities to convey and adequately treat the quantity of wastewater that the requested connection will add to the system.

#### 16.4 Conditions for Use

16.4.1 Uncontaminated Discharges - No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, sub-surface drainage, non-contact cooling water or unpolluted industrial process waters to any public sewer. All such uncontaminated discharges shall be made to storm drains or natural outlets designed for such discharges.

16.4.2 Storm Sewers - No person shall discharge wastewater to any storm drain.

16.4.3 General Prohibited Discharges -No person shall discharge or shall cause to be discharged, or shall allow to be discharged any substances, materials, waters or wastes in quantities or concentrations, either singly or in combination with other substances, that will:

16.4.3.1 Endanger life, limb or property;

16.4.3.2 Harm persons, the wastewater facilities or the treatment process;

16.4.3.3 Cause accelerated or undue corrosive damage or hazard to structures, equipment or persons;

16.4.3.4 Interfere with, pass through or be otherwise incompatible with any treatment process;

16.4.3.5 Adversely affect the ability to dispose of residuals from the treatment facility;

16.4.3.6 Cause a violation of any state or federal permit or water quality criteria;

16.4.3.7 Constitute a nuisance;

16.4.3.8 Create a fire or explosion hazard;

16.4.3.9 Obstruct the flow or interfere with the operation of the wastewater facilities;  
or

16.4.3.10 Constitute a “slug” as previously defined.

16.4.4 Specifically Prohibited Discharges - No person shall discharge, or shall cause to be discharged, or shall allow to be discharged any substances, materials, waters or wastes which contain:

16.4.4.1 Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.

16.4.4.2 Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the wastewater treatment plant.

16.4.4.3 Any waters or wastes having a pH lower than 6.5, or in excess of 8.5, or having any other corrosive property capable of causing damage or hazard to the treatment process, structures, equipment and personnel of the wastewater treatment plant.

16.4.4.4 Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater facilities such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc. either whole or ground by garbage grinders.

16.4.4.5 Any waters or wastes (including sludges) containing acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.

16.4.5 Other substances prohibited include:

16.4.5.1 Any liquid or vapor having a temperature higher than one hundred fifty (150) °F. Wastewater at a lower temperature may also be prohibited if it presents any of the issues identified in Section 3.

16.4.5.2 Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) °F. Wastewater at a lower concentration of fats, wax, grease or oils may also be prohibited if it presents any of the issues identified in Section 3.

16.4.5.3 Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp. metric) or greater shall be subject to review and approval by the Board.

16.4.5.4 Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the Board, as necessary after treatment of the composite wastewater, to meet the requirements of the State, Federal or other public agencies or jurisdictions for such discharge to the receiving waters.

16.4.5.5 Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Board in compliance with applicable State or Federal regulations.

16.4.6 Materials which exert or cause:

16.4.6.1 Unusual concentrations of inert suspended solids such as, but not limited to, Fullers earth, lime slurries and lime residues or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

16.4.6.2 Excessive discoloration (such as, but not limited to dye wastes and vegetable tanning solutions).

16.4.6.3 Unusual BOD, COD or chlorine requirements in such quantities as to constitute a significant load on the wastewater treatment facility that may cause effluent limitations to be exceeded.

16.4.6.4 Unusual volume of flow or concentration of wastes constituting “slugs” as previously defined.

16.4.6.5 Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such degree that the wastewater treatment

plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

16.4.6.6 Any waters or wastes (including sludges) containing heavy metals, in concentrations greater than the limits as defined in Section 5, including but not limited to arsenic, barium, cadmium, chromium, cobalt, copper, iron, lead, nickel, tin, silver, gold, zinc, beryllium, mercury and selenium.

16.4.7 Septic Tank Wastes- All septic tank wastes shall be discharged at a properly designated location established by the Board.

16.4.8 Specific Discharge Limitations- No person shall discharge, or shall cause to be discharged, or shall allow to be discharged any water or wastes with parameters in excess of the following concentrations or limitations:

<u>Parameter</u>	<u>Concentrations or Limitations</u>
Flow	Approved Connection Permit Flow
pH	Between 6.5 to 8.5
BOD	400 mg/l max / 250 mg/l avg.
COD	400 mg/l max / 250 mg/l avg.
Total Suspended Solids	400 mg/l max / 250 mg/l avg.
Total Dissolved Solids	850 mg/l
Temperature	150°F
Oil and Grease	150 mg/l
Total Toxic Organics (per EPA list)	2.13 mg/l
Total Petroleum Hydrocarbons	5 mg/l
Total BTEX	0.1 mg/l
Benzene	0.005 mg/l
Aluminum	2.0 mg/l
Antimony	10.0 mg/l
Arsenic	0.5 mg/l
Barium	4.0 mg/l
Boron	5.0 mg/l
Cadmium	0.69 mg/l
Chromium, Total	2.77 mg/l
Copper	3.38 mg/l
Lead	0.69 mg/l
Nickel	3.98 mg/l
Selenium	5.0 mg/l
Silver	0.43 mg/l
Zinc	2.61 mg/l
Total Metals	10.5 mg/l

Nothing in this Part shall be construed as preventing the Board from specifically limiting any other pollutant or parameter. The Board reserves the right to impose more stringent limitations or to revise current limitations as necessary.

#### 16.4.9 Acceptance of Harmful or Potentially Harmful Waters

If any waters or wastes discharged, or proposed to be discharged to the public sewer contain the substances or possess the characteristics enumerated in Section 5 of this Part, and which in the judgment of the Board may have a deleterious effect upon the wastewater facilities, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Board may:

16.4.9.1 Reject the wastes;

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

16.4.9.3 Require control over the quantities and rates of discharge, and/or;

16.4.9.4 Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Part VIII.

If the Board permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Board, and subject to the requirements of all applicable codes, by-laws, laws and Town discharge permits. Further, such pretreatment installations must be consistent with the requirements of any State or Federal pretreatment permits issued to the industry.

#### 16.4.10 Federal Categorical Pretreatment Standards

16.4.10.1 No person shall discharge or cause to be discharged to any wastewater facilities, wastewaters containing substances in excess of the quantity prescribed by the applicable Federal Categorical Pretreatment Standard promulgated by EPA, except as otherwise provided in this section. Compliance with such applicable pretreatment standards shall be required upon connection to the Merrimac wastewater facilities.

16.4.10.2 Upon application by a Class III user, the Board shall adjust any limitation or substances specified in the applicable pretreatment standards to consider factors relating to such users that are fundamentally different from the factors considered by EPA during the development of the pretreatment standard. Requests for and determinations of fundamentally different adjustments shall be in accordance with federal law.



#### 16.4.11 Special Agreements:

16.4.11.1 Any user which discharges any toxic pollutants (as defined in the Sewer Use By-law) which cause an increase in the cost of managing the effluent of the sludge from the Town's treatment works, or any user which discharges any substance which singly or by interaction with other substances causes identifiable increases in the cost of operation, maintenance or replacement of the treatment works, shall pay for such increased costs. The charge to each such user shall be as determined by the Board.

16.4.11.2 At no time shall the pretreated effluent discharge from any industrial or commercial user exceed ½ the maximum daily limits of any metals as determined by current Federal and State regulations.

#### 16.4.12 Water and Energy Conservation

The conservation of water and energy is encouraged by the Board. In establishing discharge restrictions for industrial users, the Board shall consider already implemented or planned conservation steps revealed by the Class III user. At the Board's request, each industrial user shall provide pertinent information showing that the quantities of substances or pollutants have not been nor, will be, increased as a result of the conservation steps. After such a showing is deemed satisfactory, the Board may adjust the discharge restrictions, which have been based on concentrations, to reflect the conservation steps.

#### 16.4.13 Grease, Oil and Sand Interceptors

16.4.13.1 Any establishment where prohibited substances, materials, waters, or wastes are present in substantial amounts, and where the potential exists that these may inadvertently be discharged to the sewer, must install a suitable trap or separator device. Such traps shall not be required for private living quarters or dwelling units. All traps or separators shall be of a type and capacity approved by the Board and shall be located so as to be readily and easily accessible for cleaning and inspection.

16.4.13.2 Exterior grease traps shall have a minimum depth of 4 feet and a minimum capacity of 1,000 gallons and shall have sufficient capacity to provide at least a 24-hour detention period for the kitchen flow. Kitchen flow shall be calculated in accordance with 310 CMR 15.00 (Title V). Grease traps shall be provided with a minimum 24-inch diameter manhole frame and cover to grade over both the inlet and outlet.

16.4.13.3 Grease traps shall be located on the lot so as to be accessible for servicing and cleaning and as far from the building as practical. Grease traps shall be inspected monthly and shall be cleaned when the level of floatable oil is 25 percent of the effective depth of the trap or at least every three

months. The owner shall provide written evidence to the Board each May that all traps are being inspected monthly and cleaned at least every three months. Failure to clean or furnish evidence of such cleaning shall be considered a violation of this by-law.

16.4.14 Flow Equalization- Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, the owner, at his expense, shall maintain them to provide continuous satisfactory and effective operation.

## 16.5 Industrial Discharges

### 16.5.1 Information Requirements

16.5.1.1 All Class III (Industrial) dischargers shall file with the Board all wastewater information deemed necessary by the Board for the determination of compliance with this by-law, Merrimac's NPDES permit conditions and state and federal law. Such information shall be provided by the completion of the application in Appendix A designed and supplied by the Board and by supplements thereto as necessary. Information requested in the application and designated by the discharger as confidential is subject to the conditions of confidentiality as set forth in Section 1 (iv.) of this Part.

16.5.1.2 A person who owns, operates or occupies properties designated as a Class III discharger at more than one location shall submit separate information for each location as required by the Board.

16.5.1.3 All applicants for a Class III connection permit shall submit a "Baseline Monitoring Report" which shall be prepared by a Registered Professional Engineer in accordance with the U.S. EPA "General Pretreatment Regulations for Existing and New Sources of Pollution" (40 CFR 403). The Board may waive the requirement for a "Baseline Monitoring Report" in the case of an application for renewal of a permit when the applicant has submitted evidence that the quality of the wastewater has not changed substantially since the last Baseline Monitoring Report was performed.

16.5.1.4 The Board shall implement measures to ensure the confidentiality of information provided by a Class III discharger pursuant to this by-law. In no event shall the Board disclose any claimed confidential information to any person without prior written notice to the owner and without providing the owner with the opportunity to protect such confidential information, including the right to seek judicial relief.

### 16.5.2 Provisions for Monitoring

16.5.2.1 When required by the Board, the owner of any property serviced by a building carrying Class III wastewater discharges shall provide suitable access and necessary meters and other appurtenances in the building sewer

to facilitate observation, sampling and measurements of the wastewater. Such access shall be in a readily and safely accessible location and shall be provided in accordance with plans approved by the Board. The access shall be provided and maintained at the owner's expense to be safe and accessible at reasonable times. The access shall conform to the requirements contained in the Standard Specifications for Sewer Construction of the Merrimac Sewer Department.

16.5.2.2 The Board shall consider such factors as the volume and strength of discharge, rate of discharge, quantities of toxic materials in the discharge, wastewater treatment facility removal capabilities and cost effectiveness in determining whether access and equipment for monitoring Class III wastewater discharges shall be required.

16.5.2.3 When the Board determines access and equipment for monitoring or measuring Class III wastewater discharges are not practicable, reliable or cost effective, the Board may specify alternative methods of determining the characteristics of the wastewater's discharge that will, in the Board's judgment, provide an equitable measurement.

16.5.3 Determination of Wastewater Characteristics- All industries discharging into a public sewer shall perform such monitoring of their discharges as the U.S. EPA and Massachusetts DEP and the Board and/or duly authorized employees of the Town may reasonably require, including installation, use and maintenance of monitoring equipment, keeping records, and reporting the results of such monitoring monthly to the Board. The Board shall make such records available upon request to other agencies having jurisdiction over discharges to the receiving waters. All measurements, tests, collection of samples and analyses of the characteristics of waters and wastes to which reference is made in this by-law shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at the said control manhole and during in-plant compliance monitoring inspection. In the event that no special manhole has been provided, the Board shall designate the control manhole. Sampling shall be carried out by customarily accepted methods in order to determine the existence of hazards to life, limb and property in compliance with the U.S. EPA and local effluent discharge regulations. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken). Particulars to the determination of wastewater characteristics are as follows:

16.5.3.1 Measurements, tests and analyses of the characteristics of wastewater to which reference is made in this by-law, shall be determined in accordance with methods approved by the Board and shall comply with state and federal law. Sampling locations, times, duration and frequencies shall be determined on an individual basis subject to approval by the Board. The

discharger shall have the option to use, at his own expense, more complete approved sampling methods, locations, times, durations and frequencies than specified by the Board.

16.5.3.2 A qualified laboratory certified by the Commonwealth of Massachusetts to perform such tests shall perform measurements, tests and analyses of the characteristics of wastewater required by this by-law.

16.5.3.3 Monitoring of wastewater characteristics necessary for determining compliance with applicable pretreatment standards shall be conducted once every three (3) months, unless the Board requires more frequent monitoring. More frequent monitoring will be required during initial start-up and operation of a new discharge or of a modified discharge.

16.5.3.4 Monitoring of wastewater characteristics for any purpose other than determining compliance with pretreatment standards shall be conducted on a frequency deemed necessary by the Board.

16.5.3.5 In determining the discharge characteristics, factors such as continuous, batch or seasonal operation, as well as the information requirements of other provisions in this by-law, shall be considered by the Board. The Board may obtain wastewater samples as required to verify the consistency of discharge characteristics.

16.5.3.6 Fees for any given measurement, test or analysis of wastewater required by this by-law and performed by the Merrimac Sewer Department shall be the same for all classes of dischargers, regardless of the quantity or quality of the discharge, and shall reflect only direct cost. Costs of analyses performed by an independent laboratory at the option of the discharger shall be borne directly by the discharger.

16.5.3.7 All costs for monitoring including, but not limited to, those for sampling and sample analysis, flow monitoring, and professional engineering services shall be paid by the discharger.

16.5.3.8 Reports shall be furnished in a form approved by the Board and shall include as a minimum average and maximum daily flow, laboratory analysis, on line monitoring results and description of all alarms received.

16.5.4 Termination of Disposal Authorizations- Any industry held in violation of the provisions of this by-law may have its disposal authorization terminated.

## 16.6 Pretreatment

### 16.6.1 Wastewaters With Special Characteristics

16.6.1.1 The Board will require compliance with the Federal Categorical Pretreatment Standards and Section 5 of Part V of this bylaw, to protect its wastewater facilities and receiving waters; however, if any wastewater that contains substances or characteristics shown to have harmful effects on the wastewater facilities, processes, equipment or receiving waters, or that constitutes a public nuisance or hazard is discharged or proposed for discharge to the wastewater sewers, the Board may:

16.6.1.1.1 Require pretreatment to a condition acceptable for discharge to the wastewater facilities,

16.6.1.1.2 Require control over the quantities and rates of discharges,

16.6.1.1.3 Require payment to cover added cost of handling and treating the wastewaters not covered by existing fees and charges,

16.6.1.1.4 Require the development of compliance schedules to meet any applicable treatment requirements,

16.6.1.1.5 Carry out all inspection, surveillance and monitoring necessary to determine compliance with applicable pretreatment requirements,

16.6.1.1.6 Obtain remedies for noncompliance by any user. Such remedies may include injunctive relief, the civil penalties specified in Part IX of this by-law, or appropriate criminal penalties or,

16.6.1.1.7 Reject the wastewater if scientific evidence indicates the discharge will create unreasonable hazards or have unreasonable deleterious effects on the wastewater facilities.

16.6.1.2 When considering the above alternatives, the Board shall make decisions in the interest of ensuring that conditions of Merrimac's NPDES permit are met. The Board also shall consider the cost effectiveness and the economic impact of the alternatives on the discharger. If the Board allows the pretreatment or equalization of wastewater flows, the installation of necessary facilities shall be subject to the review of the Board.

16.6.1.3 Where pretreatment or flow-equalizing facilities are provided or required for any wastewater, they shall be maintained continuously in satisfactory and effective operation at the owner's expense.

#### 16.6.2 Compliance With Pretreatment Requirements

Owners required to pre-treat wastewater in accordance with Section 1 above, shall provide a statement to be reviewed by an authorized agent of the user and certified by a Registered Professional Engineer. Such statement shall indicate whether

applicable pretreatment requirements are being met on a consistent basis and, if not, describe the additional operation and maintenance or additional pretreatment needed for the user to meet the pretreatment requirements. If additional pretreatment or O&M will be required to meet the pretreatment requirements, the user shall submit a plan (including schedules) to the Board. The plan (including schedules) shall be consistent with applicable conditions of the Town's NPDES permit and other local, state or federal laws.

16.6.3 Monitoring Requirements- Discharge of wastewater to Merrimac's wastewater facilities from the facilities of any Class III user shall be monitored in accordance with the provisions of Part VI, Sections 2 and 3 of this by-law.

#### 16.7 Service Charges, Fees and Related Cost

16.7.1 General- The charges and fees assessed by the Town in accordance with the terms and conditions of this by-law are assessed solely to compensate the Town for its costs and expenses in providing the wastewater services and are not imposed to raise revenue.

16.7.2 Inspection and Privilege- The owner of any lot or structure that is allowed to connect to the sewer system shall pay an inspection fee of \$100 as determined by the Board.

16.7.2.1 A privilege fee of \$2450 shall also be paid to contribute to future capital costs that will be incurred by the Town for system improvements.

#### 16.7.3 Determination of System Use

16.7.3.1 The use of the Merrimac wastewater facilities shall be based on actual measurement and analysis of each user's wastewater discharge, in accordance with provisions of Part VI, Sections 2 and 3 to the extent that such measurement and analysis are considered by the Board to be feasible and cost effective.

16.7.3.2 Where measurement and analysis are not considered feasible, each user's use of the facilities shall be determined by the quantity of water used, whether purchased from a public water utility or obtained from a private source, or by an alternative means as provided by Section (3) below.

16.7.3.3 The Board, when determining actual use of the Merrimac wastewater facilities based on water use, shall consider consumptive, evaporative or other water use that results in a significant difference between a discharger's water use and wastewater discharge. When appropriate, such consumptive water use may be metered to aid in determining actual use of the wastewater facilities. The type of meters used to measure such water uses and their installation shall be approved by the Board.

16.7.4 Betterment Charge- The owner or applicant shall assume a portion of the cost and expense for the installation of a public sewer that is extended to the property of the owner or applicant and shall pay a betterment fee as determined by the Board; such determinations are to be made in accordance with applicable regulations of the Commonwealth and Federal laws and regulations.

16.7.5 Related Costs- All costs incurred by the Town of Merrimac in connection with administration and enforcement of this by-law shall be reimbursed directly to the Board by the applicant for service, or existing user. Such costs include but are not limited to the following:

16.7.5.1 Inspections and monitoring

16.7.5.2 Sampling and analysis

16.7.5.3 Flow monitoring

16.7.5.4 Internal televised inspection of pipes

16.7.5.5 Professional engineering review, evaluation, design, or inspection services

16.7.5.6 Capital improvements specific to the applicant/user

16.7.5.7 Pretreatment program

The Board will obtain invoices for all such costs, review the invoices and forward them to the applicant or user for payment

16.7.6 Surcharges- All persons discharging commercial or industrial wastes, septage or any wastes of unusual character, whose wastewater has a greater strength than normal domestic sewage, a surcharge in addition to the normal user charge, will be collected. The surcharge for operation and maintenance including replacement shall be determined as operating costs become available and/or on an individual basis at the time of sewer connection application and will be based on the average cost to treat a pound of BOD and TSS as outlined in the calculations below:

**FORMULA FOR DETERMINING THE SURCHARGE FOR TREATING EXCESS BIOCHEMICAL OXYGEN DEMAND (BOD)**

$$(C1-250) \times Q \times 8.34 \times S1 = \text{Surcharge, in dollars}$$

C1 = Concentration of BOD in milligrams/liter

Q = Total volume of waste water processed during billing period in millions of gallons

8.34 = Conversion of milligrams/liter to pounds

S1 = Unit charge for each pound of BOD in dollars (as determined by the Board.)

FORMULA FOR DETERMINING THE SURCHARGE FOR TREATING EXCESS AMOUNTS OF SUSPENDED SOLIDS

$$(C2-250) \times Q \times 8.34 \times S2 = \text{Surcharge, in dollars}$$

C2 = Concentration of total suspended solids in milligrams/ liter

Q = Total volume of wastewater treated during the billing period in millions of gallons

8.34 = Conversion of milligrams/liter to pounds

S2 = Unit Charge for each pound of total suspended solids in dollars (as determined by the Board.)

16.7.7 Debt Service- For capital improvements to the wastewater collection and treatment system, i.e. beyond the original capital investment, the Board may levy an appropriate fee as part of the annual user charge fee system. Such fee is to be determined in accordance with Massachusetts General Laws.

16.7.8 Billing Periods- All user charges and surcharges are to be billed on a quarterly basis.

16.7.9 Payment- All charges and surcharges shall be payable as follows. Payment of a betterment fee shall be made to the Tax Collector Office. Payment of the Inspection and connection fees shall be made to the Sewer Department. User charges and surcharges are to be paid within 30 days of receipt of the bill.

16.7.10 Payments and Interest Rate- Betterment charges may be paid in equal annual installments over a 20-year period. The Town shall charge interest on the unpaid balance at an interest rate that is consistent with M.G.L. Chapter 80, Subsection 13.

16.7.11 Professional Engineering Services- The Board regularly relies on the services of Registered Professional Engineers to assist in the following technical matters:

16.7.11.1 Evaluation and review of connection permit applications and their supporting documentation.

16.7.11.2 Review of records and monitoring reports submitted by dischargers.

16.7.11.3 Drafting of plans and specifications for connections, sewer extensions and potential pretreatment facilities.

16.7.11.4 Review of plans and specifications for connections, sewer extensions and potential pretreatment facilities.

16.7.11.5 Observation of construction.



16.7.11.6 Preparation of record (as-built) drawings.

16.7.11.7 Assistance on similar technical matters affecting the wastewater facilities.

The applicant for service or existing users shall reimburse the Board for the cost of providing these and similar professional engineering services incurred as a result of actions or requests by the applicant or users.

## 16.8 Enforcement

16.8.1 Right of Access- Duly authorized agents of the Board may inspect the property or facilities of any user (including facilities under construction) to ascertain compliance with this by-law. Owners or occupants of a premises where storm water or wastewater is either generated or discharged shall allow ready access to properly identified agents of the Board at all reasonable times during normal business hours and at other times when the Board reasonably suspects that a violation of these regulations may be occurring. Agents of the Board shall be admitted to such parts of the premises as necessary to inspect, observe, measure, sample and test:

16.8.1.1 Internal plumbing;

16.8.1.2 Pretreatment facilities;

16.8.1.3 Internal discharge points or connections;

16.8.1.4 Exterior connections;

16.8.1.5 Building sewers or building storm drains;

16.8.1.6 Oil traps and grease traps;

16.8.1.7 Any other facilities required by the authority to be constructed, installed or used;

16.8.1.8 Measurement, sampling and testing facilities and procedures that have been required by the authority; and

16.8.1.9 Such other facilities that the Board reasonably believes may be contributing to a violation of this by-law.

The Board or its agent shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for wastes treatment.

- 16.8.2 Entry to Easements- The Board and other duly authorized employees or agents of the Town bearing proper credentials and identification shall be permitted to enter all private properties through which the Town holds a duly negotiated easement for the purposes of, but not limited to, inspection or observation of the sewage works lying within the said easement. All entry and subsequent work, if any, on the said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.
- 16.8.3 Liability of the Town- While performing the necessary work on private properties, referred to in Part IX, Section 1 above, the Board or duly authorized employees or agents of the Town shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the Town employees or agents and the Town shall indemnify the company against loss or damage to its property by Town employees or agents and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions.
- 16.8.4 Delinquency Penalties- Such charges levied in accordance with this by-law shall be a debt to the Town and shall be a lien upon the property. If this debt is not paid within sixty (60) days after it shall be due and payable, it shall be deemed delinquent and may be recovered by civil action in the name of the Town against the property owner, the person or both and shall be subject to penalty and interest charges as established by the Board.
- 16.8.5 Ownership and Occupancy- Change of ownership or occupancy of premises found delinquent shall not be cause for reducing or eliminating these penalties.
- 16.8.6 Written Notice- Any person found to be violating any provision of this by-law, except Part II, Section 8, shall be served by the Town with written notice, stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within a period of time stated in such notice, permanently cease all violations.
- 16.8.7 Fines- Any person who shall continue any violation beyond the time provided for in Section 6 of this Part shall be guilty of a misdemeanor, and on conviction thereof shall be fined in the amount not exceeding \$5,000 for each violation and may be subject to disconnection from the wastewater facilities. Each day in which any such violation shall continue shall be deemed a separate offense.
- 16.8.8 Enforcement Actions- When the Board determines (a) that a violation of these regulations or any permit, or (b) any damage to the Town's wastewater facilities, is threatened or has occurred, one or more of the following actions may be taken:
- 16.8.8.1 The Board may issue an order to cease and desist any such violation and may direct the violator(s) as follows:

16.8.8.1.1 To comply either forthwith or in accordance with a time schedule set forth by the Board; or

16.8.8.1.2 To take appropriate remedial preventive action in the event of a threatened violation.

16.8.8.2 The Board may require the user in question to submit a detailed time schedule setting forth the specific proposed actions to prevent or correct a violation. The Board may issue an implementation schedule to the user containing or modifying such specific actions and time schedule or requiring other actions within such time as the Board deems appropriate.

16.8.8.3 The Board may issue an order directing the user to pay to the Town penalties and costs in accordance with Section ii above.

16.8.8.4 The Board may take direct enforcement action by filing suit in any court of competent jurisdiction pursuant to general laws or any other applicable statute or regulation.

## 16.9 Administrative Procedure

16.9.1 Informal Conference- Whenever the Board issues an industrial user discharge permit; denies, revokes or modifies any form of permit or application; requires an owner or user to build or install any particular facility or device; issues a cease and desist order, a compliance order, or an implementation schedule; or assesses penalties or other charges for noncompliance with this by-law, any permit, or other lawful requirement, the Board shall promptly inform the owner or user to whom such action is addressed. Such notice shall be sent by first-class mail and shall inform the addressee of his or her right to submit, within 14 days after the date of such notice, a written request for reconsideration of the Board's action. A request for reconsideration shall be addressed to the Board at the Board's main office and shall set forth in detail the facts supporting it. Upon receiving such a timely request for reconsideration, the Board or its designee shall schedule an information conference with the entity making the request. Written notice of the conference date, time and place shall be mailed to that entity at least 10 days before the date of the conference, which shall be held no later than 21 days after the receipt of the request. The Board or its designee shall rule in writing on the request for reconsideration within 14 days after completion of the conference.

16.9.2 Right to Hearing- A copy of the ruling on the request for reconsideration shall be mailed to the entity that submitted the request. The ruling shall be accompanied by a notice that such entity has the right to request a hearing before the Board or its designated agent. The notice shall inform the addressee that a hearing on the Board's action must be requested in writing within 30 days after the date of such notice by contacting the Board at the wastewater treatment facility. When a joint

hearing is requested a written request shall be addressed and sent in duplicate to the Board and the entity who submitted the request.

16.9.3 Notice of Hearing- Within 15 days of receiving a timely written request for a hearing, the Board shall schedule a hearing and shall mail to the entity that requested the hearing, written notice specifying the date, time, place and subject matter of the hearing. The notice also shall state that the entity requesting a hearing has the right to be represented by legal counsel and to present evidence (in both documents and testimony) at the hearing.

16.9.4 Conduct of Hearing- The hearing scheduled under Section 3 above shall be held not sooner than 15 days nor later than 30 days after the notification date of such hearing. The rules of evidence observed by courts need not to be adhered. The proceedings may be tape-recorded. Any person who desires a transcript of the hearing may obtain one from the Board, after paying the transcription charge reasonably incurred by the Board.

16.9.5 Hearing and Record Decision- The documents and other evidence offered at the hearing shall constitute the hearing record. The hearing decision shall be based solely on the hearing record and shall be made within 30 days after the conclusion of the hearing. The decision shall be embodied in a written summary of the matters considered and the reasons for the determination made on each matter. The written decision shall be signed by the Board and mailed to the entity that requested the hearing.

#### 16.10 Validity

16.10.1 Repeal of Conflicting By-Laws- All by-laws or parts of by-laws or regulations or parts of regulations of the Town in conflict with this by-law are hereby repealed.

16.10.2 Invalidation Clause- Invalidity of any section, clause, sentence or provision in this by-law shall not affect the validity of any other section, clause, sentence or provision of this by-law, which can be given effect without such invalid part or parts.

#### 16.11 Import of Regulations

16.11.1 Regulations- No provision of this by-law shall be deemed to contravene or render ineffective any valid regulation.

16.11.2 Prior Regulations- All prior rules and regulations in conflict herewith are hereby repealed.

16.11.2 Amendment- The Town of Merrimac reserves the right to amend this by-law in part or in whole whenever it may deem necessary, but such right will be exercised only after due notice to all persons concerned and after proper hearing on the proposed amendment.

16.11.2.1 Amendments to this by-law shall be accomplished at a town meeting. Every town meeting shall be called in pursuance of a warrant, under the hands of the Selectmen, notice of which shall be given at least seven days before the annual meeting or an annual or special election and at least fourteen days before any special town meeting.

# ARTICLE XVII

## WETLANDS PROTECTION BY-LAW

### 17.0 WETLANDS PROTECTION

17.1. Purpose

17.2. Jurisdiction

17.3. Exceptions

17.4. Promulgation of Regulations

17.5. Definitions

17.6. Permit Applications, Notice and Hearings

17.7. Approval, Conditions and Denials

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17.13. Consultant Fee

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17.16. Severability

17.17. Relation to the Wetlands Protection Act and Other Federal, State and Local Statutes

#### 17.1 Purpose

The purpose of this Bylaw is to protect the wetlands, related water resources and adjoining land areas of the Town of Merrimac by controlling activities deemed by the Merrimac Conservation Commission (“Conservation Commission”) likely to have a significant or cumulative adverse effect upon protection of the following resource area values, including but not limited to the following: protection of public or private water supply; groundwater; flood control, erosion and sedimentation control; storm damage prevention; prevention of water pollution; fisheries, wildlife habitat, rare species habitat, including rare plant and animal species; recreation, agriculture, and aesthetics (collectively, “the wetland values (interests) protected by this Bylaw”). This Bylaw is intended to utilize the Home Rule authority of the Town of Merrimac to protect additional resource areas, for additional values, with additional standards and procedures stricter than those of the Wetlands Protection Act, G.L. Ch. 131, § 40 and Regulations thereunder, 310 CMR 10.00.

#### 17.2 Jurisdiction

Except as permitted by the Conservation Commission or as provided in this Bylaw, no person shall remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter the following resource areas: any bank, fresh water wetland, isolated wetland, beach, dune, flat, marsh, wet meadow, bog, swamp, vernal pool, creek, river, stream, pond or lake, land under water body, land subject to coastal storm flowage or

flooding, land subject to flooding or inundation by ground water or surface water, land within a minimum distance of 100 feet from any of the aforesaid resource areas (buffer zone), and land within 200 feet of a perennially flowing stream or river (collectively the “resource areas protected by this bylaw”). Said resource areas shall be protected whether or not they border surface waters.

### 17.3 Exceptions

Exceptions may be made for maintaining, repairing or replacing, but not substantially changing or enlarging, an existing and lawfully located structure, including but not limited to a structure used for dwelling purposes or a facility used in the service of the public and used to provide electric, gas, water, telephone, telegraph and other telecommunication services provided that the structure or facility was lawfully in existence as of the effective date of this Bylaw.

### 17.4 Promulgation of Regulations

The Conservation Commission may adopt such additional definitions, regulations, fees, and performance standards, as they may deem necessary to protect the interests of this Bylaw. Said definitions, regulations, fees and performance standards shall become effective upon publication following a public hearing for which public notice has been provided.

### 17.5 Definitions

17.5.1 Person- The term “person,” as used in this Bylaw, shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, political subdivision, administrative agency, public or quasi-public corporation or body, or any other legal entity or its legal representative, agents or assigns.

17.5.2 Adverse effect- A greater than negligible change in the resource area or one of its characteristics or factors that diminishes the value of the resource area to one or more of the specific interests of this Bylaw, as determined by the issuing authority. “Negligible” means small enough to be disregarded as determined by the Conservation Commission.

17.5.3 Aesthetics- The natural scenery and appearance of any resource area.

17.5.4 Alter- Includes, without limitation, the following activities when undertaken to, upon, within or affecting resource areas or interests protected by this Bylaw:

17.5.4.1 Removal, excavation or dredging of soil, sand, gravel or aggregate materials of any kind;

17.5.4.2 Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics;

17.5.4.3 Drainage, or other disturbance or change in the water level or water table;

- 17.5.4.4 Dumping, discharging, or filling with any material which may degrade water quality;
- 17.5.4.5 Placing of fill, or removal of material or any disturbance of soil or ground surfaces;
- 17.5.4.6 Driving of piles, construction or expansion or repair of buildings or structures or construction of any kind whether it be for commercial, residential, recreational or other purposes, regardless of its size;
- 17.5.4.7 Placing of obstructions or objects in water or the surface water or groundwater hydrology of any resource area;
- 17.5.4.8 Destruction or removal of plant life, including, but not limited to, cutting or trimming of trees and shrubs;
- 17.5.4.9 Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters;
- 17.5.4.10 Any activities, changes, or work which may cause or tend to contribute to pollution of any body of water or groundwater; and
- 17.5.4.11 Incremental activities that cause, or may cause, a cumulative adverse effect on the resource areas and interests protected by this bylaw.

17.5.5 Cumulative adverse effect: The adverse effects of activities regulated under this Bylaw which may be individually insignificant to the interests and values under this Bylaw, but when considered in relation to other past or present activities in a given area may be significant to said interests and values in the aggregate.

17.5.5.1 Except as otherwise provided in this Bylaw or in regulations of the Conservation Commission, the definitions of terms and procedures in this Bylaw shall be as set forth in the Wetlands Protection Act (G.L. Ch. 131 §40) and Regulations (310 CMR 10.00).

#### 17.6 Permit Applications Notice and Hearings

No one intending to conduct any of the above named activities may commence such activity within the jurisdiction of this Bylaw without filing written notice of their intention so to remove, fill, dredge or alter and without receiving and complying with an order of conditions and provided all appeal periods have elapsed. Such notice shall be sent by certified mail to the Conservation Commission, including such plans as may be necessary to describe such proposed activity and its effect on the environment. The Conservation Commission may require additional materials or information in addition to the plans and specifications required to be filed by an applicant under G.L. c. 131, § 40, in order to fulfill the requirements of this Bylaw. The Conservation Commission, in its discretion, may hear



any oral presentation under this Bylaw at the same public hearing required to be held under the provisions of said c.131, § 40. The Conservation Commission shall make a determination as to whether or not this Bylaw applies to a specific situation prior to the filing of a written notice of intent under the provisions hereof, within twenty-one (21) days of the receipt of a written request sent by certified mail from any person desiring such determination.

#### 17.7 Approval, Conditions and Denials

The Conservation Commission is authorized to approve a permit when proposed work meets all applicable performance standards and procedures under this Bylaw or when work can be conditioned to meet all such performance standards, and where the work will not result in unacceptable significant or cumulative adverse effects upon wetland interests protected by this Bylaw, as determined by the Conservation Commission. The Conservation Commission is empowered to deny a permit for failure to meet the requirements of this Bylaw, for failure to submit necessary information and plans requested by the Conservation Commission, for failure to meet the design specifications, performance standards and other requirements in regulations of the Conservation Commission, for failure to avoid or prevent unacceptable significant or cumulative effects upon the wetland interests protected by this Bylaw, and where no conditions are adequate to protect those values, in its sole discretion as the issuing authority. Each case will be considered on its own merits. The Conservation Commission is empowered to deny permission for any removal, dredging, filling, or altering of subject lands within the town if, in its judgment, such denial is necessary to preserve environmental quality of either or both the subject lands and contiguous lands. Due consideration shall be given to possible effects of the proposal on all values to be protected under this Bylaw and to any demonstrated hardship on the petitioner by reason of a denial, as brought forth at the public hearing. Any order of conditions issued under this Bylaw may differ from any such order issued by the Conservation Commission under the provisions of G.L., c. 131, § 40, where the Bylaw differs.

#### 17.8 Emergency Certification

The notice required by this Bylaw shall not apply to emergency projects necessary for the protection of the health or safety of the citizens of Merrimac and to be performed or ordered to be performed by an administrative agency of the Commonwealth or by the Town. Emergency projects shall mean any projects certified to be an emergency by the Conservation Commission or its agent. In no case shall any removal, filling, dredging or alteration authorized by such certification extend beyond the minimum amount of work and time necessary to abate the emergency. The Conservation Commission or its agent may impose conditions to protect wetland values of this Bylaw. Failure to agree to or follow these conditions shall be due cause for stopping all work. Upon failure to meet these requirements, the Conservation Commission may order all such work stopped and require the filing of a Notice of Intent or other application, as described under Permitting.

#### 17.9 Right of Entry

The Conservation Commission, its agent, and officers, may enter upon the land upon which the proposed work is to be done in response to a request for a

prior determination or for the purpose of carrying out its duties under this Bylaw and may make or cause to be made such examination or survey as deemed necessary and authorized by law.

#### 17.10 Enforcement

The Conservation Commission shall have the authority to enforce this Bylaw, its regulations, and permits issued thereunder by violation notices, administrative orders, and civil and criminal court actions. Upon request of the Conservation Commission to the Board of Selectmen, the Town Counsel may take legal action for enforcement under civil law. Upon request of the Conservation Commission, the Chief of Police may take legal action for enforcement under criminal law. Any person who violates any provision of this Bylaw, regulations thereunder, or permits issued thereunder, shall be punished by a fine set by the Conservation Commission. Each day or portion thereof during which a violation continues shall constitute a separate offense, and each provision of the Bylaw, regulations or permit violated shall constitute a separate offense.

17.10.1 Non-criminal Disposition – In addition to the procedure of enforcement as described above, the provision of this Bylaw may also be enforced by the Conservation Commission or its agent, by non-criminal complaint pursuant to the provisions of G.L., c. 40, § 21D. The penalty for violation of any provision of this Bylaw shall be \$100.00 for the first offense; \$200.00 for the second offense; \$300.00 for the third offense and \$300.00 for each subsequent offense. Each provision of the chapter, regulations or permit violation that is violated shall constitute a separate offense.

#### 17.11 Security

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

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

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

#### 17.12 Burden of Proof

The applicant for a permit shall have the burden of proving by a preponderance of credible evidence that the work proposed in the application will not have unacceptable significant or cumulative adverse effects upon the wetland values protected by this Chapter, as determined by the Conservation Commission. Failure to provide evidence to the Conservation Commission to support this burden shall be sufficient cause for the Conservation Commission to deny a permit or grant a permit with conditions.

#### 17.13 Consultant Fee

Upon receipt of a permit application or request for determination of applicability or other filing, the Conservation Commission is authorized to require an applicant to pay a fee for the reasonable costs and expenses borne by the Conservation Commission for specific expert engineering and other consultant services deemed necessary by the Conservation Commission to make a final decision on the application and for enforcement services. This fee is called the consultant fee. The specific consultant services may include, but are not limited to, resource area survey and delineation, analysis of resource area values, such as wildlife habitat evaluations, hydrological and drainage analysis, hydric soil analysis, and other analyses; and review of applicable environmental or land use law. Fees are to be established by the Conservation Commission.

#### 17.14 Fee Waiver

The Conservation Commission may waive fees when an application fee for a permit filing or request for determination of applicability or other application is made by a government agency or not-for-profit organization.

#### 17.15 Appeals

Any applicant, owner or abutter or any ten (10) residents of Merrimac may appeal an order of the Conservation Commission under this Bylaw to the Superior Court of Essex County within sixty (60) days following the date of issuance of the order, in accordance with G.L. Ch. 249 § 4. However, if an appeal has been made to the Department of Environmental Protection (DEP), then said appeal period under this Bylaw shall commence upon the date of issuance of a superseding order from DEP and shall continue for no more than sixty (60) days from that date, even if a further appeal has been made for a final order of conditions before a DEP adjudicatory hearing. If an appeal under the Wetlands Protection Act is made to DEP within ten (10) days of the issuance of the Order, the sixty-day appeal period under the Bylaw will be suspended during this period of appeal to DEP.

#### 17.16 Severability

Should any section or provision of this Bylaw be found invalid, the validity of any other section or provision thereof shall not be affected, nor shall it invalidate any permit, approval or determination which previously has been issued.

17.17 Relation to the Wetlands Protection Act and Other Federal, State and Local Statutes

This Bylaw is adopted under the Home Rule Amendments of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act G.L. Ch. 131 § 40 and implementing regulations, and other federal, state and local environmental statutes. Activities that may not require review or permitting under the Wetlands Protection Act, the Rivers Protection Act, or other federal, state or local statutes are not assumed to be exempt from this Bylaw.

## **ARTICLE XVIII WATER USE BY-LAW**

### **18.1 Definitions**

#### **18.1.1 Specific Definitions**

18.1.1.1 Agent- Shall mean a person who has the actual authority to act for, or in the place of another.

18.1.1.2 Applicant- Shall mean a person, partnership or corporation applying to the Board for a connection to the existing water facilities in the Town of Merrimac.

18.1.1.3 Board- Shall mean the Merrimac Board of Selectmen of the Town of Merrimac Water Department.

18.1.1.4 Commonwealth- Shall mean the Commonwealth of Massachusetts.

18.1.1.5 Contractor- Shall mean a person, partnership or corporation which has been approved by the Water Department and engaged in work or a similar nature, and which has sufficient equipment, labor and resources to construct proposed work, and which has obtained a valid and proper license. A contractor shall be employed by the Applicant and shall be responsible to him for the construction in accordance with the approved plans.

18.1.1.6 Customer- Shall mean an owner who is connected to and uses water from the Public Water System.

18.1.1.7 DEP- Shall mean the Department of Environmental Protection of the Commonwealth of Massachusetts.

18.1.1.8 Easement- Shall mean an acquired legal right for the specific use of land owned by others.

18.1.1.9 Engineer- Shall mean the Registered Professional Engineer employed by the Manager and acting entirely within the scope of authority granted by the Manager, directly or through properly authorized agents.

18.1.1.10 M.G.L.-Shall mean the Massachusetts General Laws.

18.1.1.11 Manager- Shall mean the DPW Director of the Town of Merrimac.

18.1.1.12 May- Is permissible, Shall- is mandatory.

18.1.1.13 Owner- Applied to a building or land, means and includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety, of the whole or of a part of such building or land which is connected or to be connected to the water system.

18.1.1.14 Person- Shall mean any individual, firm, company, association, society, partnership, corporation, municipality or other similar organization, agency or group.

18.1.1.15 Premises- Shall mean the location, structure, or property where a water service has been provided and water is used.

18.1.1.16 Town- Shall mean the Town of Merrimac, County of Essex, Commonwealth of Massachusetts.

18.1.1.17 Water Department- Shall mean the Merrimac Water Department that is in control of the water system.

18.1.1.18 Public Water System- Shall mean the water mains, water storage tanks, supply wells, water treatment facilities, and all associated appurtenances used to provide potable water to the customers of the Merrimac Water Department.

18.1.1.19 Water Treatment Facility- Shall mean the structures, processes, equipment and arrangements necessary to treat the water supply.

## 18.2 Board of Selectmen

18.2.1 Established- The Merrimac Water Department shall be governed by a Board to be known as the Board of Selectmen. Wherever the word "Board" is used in this by-law, it shall be deemed as intended to mean The Town of Merrimac Board of Selectmen.

18.2.2 Organization -The Board shall consist of three selectmen elected by the Town of Merrimac. The terms shall be three years and staggered so that only one selectmen position is required to be filled each year.

18.2.3 Qualifications- All members of the Board shall be of voting age, and a resident of the Town.

18.2.4 General Powers- The Manager shall have charge, control, and management of the waterworks and water supply of the Town, whether within or without the geographical limits of the Town, and shall have the powers and perform the duties conferred or imposed upon the Board by the Town's by-laws, and in addition thereto, and by any other provision of the Massachusetts General Laws.

18.2.5 Supervision and Control - The Board shall have exclusive and entire charge, management and oversight of all lands, structures, works, apparatus, pipes and fixtures designed and provided for obtaining and supplying water to the Town or to consumers, and of the use, repairs, extensions and improvements of the waterworks, structures, apparatus, pipes and fixtures. The Board shall have control and jurisdiction over all sources of water possessed by the Town and all lands appurtenant thereto, owned or controlled by the Town, and may exercise all rights the Town has or may have as to entry upon and passage over premises of the Town connected with or appurtenant to such waterworks or supply.

#### 18.2.6 Rule - Making

18.2.6.1 Generally - The Board may make rules and regulations for the waterworks and for the management and supervision of the employees of the Merrimac Water Department.

18.2.6.2 Water Use- The Board shall have the power to establish rules and regulations for the introduction, supply and use of water.

18.2.6.3 Water Rates-The Board shall have the power to determine or assess water rates.

18.2.6.4 Shutting Off Water Supply-The Board shall have the power to shut off the water supply of any customer who fails to comply with the requirements of this by-law, other Town by-laws and applicable rules and regulations.

### 18.3 Manager of Water Department

18.3.1 Position Created- The position of Manager of the Merrimac Water Department is hereby created. The Manager shall be responsible to the Board. The Manager shall have such subordinates, agents and assistants as may be determined necessary. The Manager shall perform such duties as the Board shall assign.

18.3.2 Employment- The Board shall employ a Manager of the Merrimac Water Department.

18.3.3 Terms - The Manager of the Merrimac Water Department shall be employed at will and at terms mutually agreed to and contained in the employment agreement.

18.3.4 General Duties- The Manager, under the direction and control of the Board, shall have charge of the works and property connected with the waterworks, and shall perform all services in relation thereto required of him/her by the Board.

18.3.5 Meetings- The Manager shall meet with the Board monthly and report to the Board upon such matters as the Board may require. The Manager shall prepare and submit an annual report to the Board summarizing the operation and general condition of the water system.

18.3.6 Coordination With Other Departments- The Manager shall immediately inform the Chief of the Fire Department of any stoppages or breaks in the water mains.

#### 18.4 Extensions and Connections

18.4.1 Bond Required- When an extension of a water main is requested upon any street or way, a bond shall be given to the Town in such amount and form and with such sureties as the Board shall require before any extension is made. Conditioned obligors shall pay to the Town, for such time as the Board determines, at the times appointed for payment of water rates, such sums as shall amount in the aggregate, annually, to ten percent, upon the cost of such extensions, subject to diminution by the amounts that the Town shall receive, annually, from rates paid for water by consumers connected with such extensions.

18.4.2 Permit for Construction -No alterations in any water pipe or water fixture, that is part of the Merrimac Water Department, shall be made without giving notice to and obtaining a permit from the Board. No plumber or other person shall make alterations in or addition to any water pipe or fixture as aforesaid, unless the owner or agent shows a permit for the change signed by the Board or its duly authorized agent, and then only to the extent stated therein, and such permits shall be returned to the Board within 10 days after the completion of the work.

18.4.3 Application - An application for the construction permit referred to in **18.4.2** shall be made in writing by the Applicant, the owner of the building or property in question or his/her authorized agent, to the Water Department, in such form and including such things as the Board may prescribe. Such application shall include an agreement on the part of the Applicant to observe, comply with, and be bound by such by-laws and orders as the Water Department may establish from time to time, and such rules and regulations as the Water Department may establish from time to time.

18.4.4 Separate Connections -The intention of the Merrimac Water Department is to provide a separate connection to the water system for each individual and separate structure requiring water service. No two buildings shall be supplied with water through the same service pipe, and, so far as possible, each dwelling within a multi-family structure shall be supplied through a separate service pipe. Converted single or multi-unit homes to condominiums are required to have separate water services.



- 18.4.5 Water Services Installation -All water service pipes shall be installed according to the Merrimac Standard Specification for Water Service Installation included in Appendix A.
- 18.4.6 Water Main Installation -All water main installations shall be performed in accordance with the Merrimac Standard Specification for Water Main Construction included in Appendix B.
- 18.4.7 Shut- Off Valve - All service connections must be equipped with a shut-off valve, properly located, inside the building and with other appurtenances or measures as may be deemed necessary by the Board and Manager to protect the Public Water System.
- 18.4.8 Service Pipe Maintenance -The service pipe, shut-off valve and all fixtures connected therewith on the premises must be kept in good repair and protected from frost. The owner of the premises will be held liable for all damage which may result from a failure to do so.
- 18.4.9 Protection From Freezing -Water service pipes within any premises shall be protected from freezing at the expense of the owner of the premises served. Water shall not be allowed to run to prevent freezing of pipes. If any water pipes in any premises are damaged by freezing, the owner or tenant of such premises shall be liable for the costs and damages caused by such damage. Repairs shall be made in a timely manner to avoid waste of water and damage to the Public Water System.
- 18.4.10 Provision of Water Service as Betterment
- 18.4.10.1 Whenever a petition for the construction and installation of a domestic water supply line in any street or way, by the owners of more than one-half of the frontage of all lands fronting upon any such street or way, or any portion thereof, is presented to the Water Department, the Water Department may order the construction and installation of such domestic water supply lines, provided that in such petition it is agreed that the land of each abutter is enhanced in value an amount equal to its proportionate share of the costs of improvements and that the abutters receive benefit other than the general advantages to the community.
- 18.4.10.2 When the order for the construction and installation of such domestic water supply line, and when an appropriation being made by the Water Department of an amount sufficient, in the opinion of the Board, to construct and install such a domestic water supply line, in a manner to comply with all the requirements of this by-law, the Board shall cause such construction and installation to be made; and the Water Department upon being informed of the total expenditures for the purpose stated, shall thereupon cause an order to be passed, providing for a betterment assessment equal to the total amount expended.

## 18.5 Service, Service Charges, Rates, and Billing

18.5.1 Application for Water Service -To have the water service to any premises turned on, an application shall be filed with the Water Department.

The application shall be made in writing by the Applicant for water service and shall include an agreement to be bound by all Town of Merrimac By-Laws and rules and regulations pertaining to water use.

18.5.2 Conformance - No water shall be supplied to any building unless the pipes and fixtures in such building conform to the rules and regulations of the Board and the terms of this by-law.

18.5.3 Books and Records - The Manager shall have charge of the keeping of the books, accounts and records of the waterworks, except collections.

18.5.4 Records of Customers Served - The Manager shall direct staff to keep, in suitable books, the names of all customers who are connected to the Public Water System, the address of the premises, the nature of the use, the number of users, the amount charged and the amounts of abatements.

18.5.5 Authorization to Install Meter - No person except the proper designee of the Water Department will be allowed to set, take off or repair meters.  
Customers will be required to furnish a water meter approved by the Water Department. All water meters will be placed and maintained by the Water Department. Any damage to any meter done or caused by the carelessness or neglect of the customer, owner or occupant will be charged to his/her next bill, and, if not paid as provided for in **18.5.13**, the water will be shut off and not again turned on until such charge and all others are paid.

18.5.6 Inspection and Connection Fees -The owner of any lot or structure that is allowed to connect to the Public Water System shall pay an inspection and a separate connection fee as determined by the Board.

18.5.7 Rates with Meter- Where the Water Department has installed a water meter, the water charge may be established by the quantity of water used, rather than by schedule rates.

18.5.8 Connected Fixtures -In all occupied premises, every fountain, water closet, set basin, sink or other fixture, whether used or not, will be deemed and held to be used, and shall be charged for, so long as the same shall be connected to the Public Water System.

18.5.9 Multiple Users - When water is supplied to more than one user through a single service pipe, the bill for the water rates will be submitted to the owner of the premises. In case of nonpayment, the water may be shut off, notwithstanding the fact that one or more users may have paid their proportion to such owner or to the

Water Department. The owner shall be responsible for water supplied to his premises although a charge for water rates may have been made against a tenant.

- 18.5.10 Preparation of Bills - Bills for the use of water and for other charges in connection therewith shall be prepared by the office staff of the Merrimac Water Departments. Such bills shall be sent by the Merrimac Water Departments to the Public Water System customers containing statements of amounts due for water, on or before the first day of January, April, July, and October in each year, and at such other times as the Board may determine.
- 18.5.11 Water Rates Payable in Advance - Where the amount of water used is not recorded by a meter, charges for water use based on water rates shall be payable in advance.
- 18.5.12 Notice of Delinquent Account - Water bills shall be paid within 30 days of the date of the bill. Nonpayment of a water bill after thirty (30) days will result in an interest charge of ten (10) percent added to the next quarterly billing. In any case of nonpayment of a water bill for sixty (60) days after the same is due, the Water Department Collector shall send a notice to the delinquent, and shall inform the Board in writing that such notice has been sent.
- 18.5.13 Duties of Collector - Water bills shall be committed to the Water Department collector for collection. The collector shall notify the Board monthly of the amounts of water bills collected, and shall keep records of all paid and unpaid water bills.
- 18.5.14 Suspension of Service for Delinquency - Unless any delinquent water bill is paid within three days of sending the notice of delinquency, together with the stipulated late fee for such notice, the Water Department Collector shall notify the Board, who may cause the supply to such premises to be shut off. The water shall not be turned on again until the amount due, together with any fee for such notice and the charge for shutting off and turning on, is paid.  
In cases of specific supply, or where the water service has been on for fractional parts of the term and the water bill is delinquent, the delinquency notice may be served and the water shut off immediately, and the water service shall not be turned on again except upon the conditions set forth in this article.
- 18.5.15 Lien Upon Real Estate -With reference to the statutory lien upon real estate for water rates, the Board shall be the Board or Officer in charge of the Water Department for the purpose of carrying out the requirements of G.L.Chapter 40, Section 42A, and the Board shall file in the registry of deeds a statement as provided by such section in each case when the Board shall receive a notice from the collector that the rates and charges for water supplied to any estate have remained unpaid for thirty (30) days after the due date. In addition to the ten (10) percent interest charge described in Part V Section 12, there shall be a service charge on water liens in the amount of \$50.00.

- 18.5.16 Efficient Use of Water is Encouraged - The water supplied, treated, stored, and conveyed by the Public Water System is provided for the health, safety, and enjoyment of the customers of the Merrimac Water Department. The customers are reminded that the supply is not unlimited and are encouraged to avoid practices that result in the unnecessary use of water.
- 18.5.17 Unauthorized Use of Hydrants - Hydrants shall not be used for any purpose other than to extinguish fires or for such purposes as may be authorized by the Manager. In no case shall hydrants be operated by anyone other than Water Department personnel. A \$300.00 fine plus estimated water usage will be assessed for unauthorized hydrant use.
- 18.5.18 Water Conservation and Restrictions on Use by Hose or Fountain - The Board shall restrict the use of water by hoses, fountains and otherwise, as it may deem necessary. For violation of such restrictions, the water may be shut off to the premises, and the owner shall be liable for the penalties imposed. All rules and regulations pertaining to water conservation are contained in the Merrimac Water Supply Conservation By-law included in Appendix C.
- 18.5.19 Abatement Rates
- 18.5.19.1** Generally -The Board may make abatements in water rates in cases that the Board determines to be appropriate.
- 18.5.19.2 Vacancy -When an abatement of any water rate is desired on account of vacancy of the premises or nonuse of water is projected for and extended period of time, notice thereof must be given to the Board with a request for an abatement. If the request is granted, the water shall be then shut off by a Water Department employee, and an abatement made. No abatement or rebate shall be made for a period of time less than three months of any particular six-month period for which bills are rendered.
- 18.5.20 Use of Seal Locks - When water service is shut off, seal locks as may be prescribed by the Board may be placed upon faucets in the affected premises in those circumstances where the service cannot be shut off to the entire structure. Such seal locks shall not be used where water use can be controlled by a curb stop at the street. The charge for putting on such seal locks shall be established by the Board. Such seal locks shall not be taken off by anyone except an employee of the Water Department, on penalty of forfeiture of all claims for abatements, and of having the water shut off from the premises.
- 18.5.21 Right of Entry - The Board or authorized water department personnel may at all reasonable times, and with the owner's express permission, enter the premises of any customer to examine the internal plumbing system and external connections and associate appurtenances thereon, the quantity of water used, ascertain compliance

with this By-law, and the manner of use, or for the purpose of shutting off the flow of water to customers with delinquent bills or for any purpose whatever pertaining to the care and management of the waterworks. Meter location shall be kept clear of strategic items and remain accessible to the Water Department. In the absence of express permission from the owner the Board will conduct investigations of the premises after receiving an administrative search warrant or by other lawful means.

- 18.5.22 Liability of the Town - While performing the necessary work on the premises of any customer, the Board or duly authorized employees or agents of the Town shall observe all safety rules applicable to the premises established by the owner. The owner shall be held harmless for injury or death to the Town employees or agents and the Town shall indemnify the owner against loss or damage to its property by the Town employees or agents and against liability claims and demands for personal injury or property damage asserted against the owner, except as such may be caused by negligence or failure of the owner to maintain safe conditions.
- 18.5.23 Claims Not Allowed - In cases of abnormal or illegal use of water or for other circumstances or when the Board determines it necessary to suspend water service, consumers will ordinarily be given notice. Failure to give such notice, however, shall not constitute a basis for a claim for any damage that may be occasioned.
- 18.5.24 Concealing Purpose- There shall be no concealment of the purpose for which water is used.
- 18.5.25 Tampering with Seal on Meters - No seals on meters shall be broken. Unauthorized removal and/or tampering with the meter shall result in a fine or termination of water service.
- 18.5.26 Cross- Connection Control Program - Merrimac's Water Department Cross-Connection Program is included as Appendix D.

## 18.6 Water Source Protection

### 18.6.1 Water Resources Protection Overlay District

The Water Resource Protection Overlay District is an overlay district established by the Merrimac Zoning Ordinance. This overlay district requirements apply to the areas that may impact the public water supply wells at the Bear Hill well field and at the East Main Street well field.

- 18.6.2 As noted in the *Revised Draft Zoning Bylaw dated 12-28-03, Article 14 Water Resources Protection Overlay District* specific limits are imposed on development in watershed boundaries and recharge areas in order to protect public health by preventing degradation or contamination of surface and groundwater used for public water supply.

18.6.3 The Board of Water Commissioners shall review and approve proposed development and activities that may potentially impact the groundwater quality of the aquifers for the Town's two well fields.

## 18.7 Validity

### 18.7.1 Repeal of Conflicting By-Laws

All by-laws or parts of by-laws or regulations or parts of regulations of the Town in conflict with this by-law are hereby repealed.

18.7.2 Invalidation Clause - Invalidity of any section, clause, sentence or provision in this by-law shall not affect the validity of any other section, clause, sentence or provision of this by-law, which can be given effect without such invalid part or parts.

## 18.8 Import of Regulations

18.8.1 Regulations - No provision of this by-law shall be deemed to contravene or render ineffective any valid regulation.

18.8.2 Prior Regulations - All prior rules and regulations in conflict herewith are hereby repealed.

18.8.3 Amendment - The Town of Merrimac reserves the right to amend this by-law in part or in whole whenever it may deem necessary, but such right will be exercised only after due notice to all persons concerned and after proper hearing on the proposed amendment.

18.8.3.1 Amendments to this by-law shall be accomplished at Town Meeting. Town Meeting shall be called in pursuance of a warrant, under the hands of the Selectmen, notice of which shall be given at least seven days before the annual meeting or an annual or special election and at least fourteen days before any special town meeting.

## **ARTICLE XIX**

### **DEPARTMENT OF PUBLIC WORKS<sup>4</sup>**

- 19.1 There is hereby established in the Town of Merrimac a Department of Public Works  
Under the jurisdiction of the Board of Selectmen. The Department shall have charge of and responsibility for the management of public works operations of the town not assigned to other departments of the town, including, but not limited to, the following: Highway Department, Parks and Recreation Department, Solid Waste and Recycling, Wastewater Department, Water Department; and all other related construction and operations as may be assigned from time to time by the Board of Selectmen when deemed necessary or desirable. The Board of Selectmen may make all policy decisions relating to the Department of Public Works except as may be reserved to the Parks and Recreation Commissioners.
- 19.2 The Board of Selectmen shall appoint a Director of Public Works  
Who shall recommend to the Board of Selectmen all employees of the Department of Public Works. The compensation of such employees shall be set in the same manner as for other employees of the town, as provided in section 5.
- 19.3 The Director of Public Works shall supervise and direct  
The operations and employees of the Department of Public Works in accordance with the town's personnel By-law and any applicable collective bargaining agreements. The Director of Public Works shall be especially qualified by education, training and experience to perform the duties of the office and shall have such other qualifications as the town may require from time to time. While employed by the town, the Department of Public Works Director shall not hold an elective office, nor shall the Director engage in a business or occupation relating to public works unless approved in advance by the Board of Selectmen. Nothing in this section shall prevent the Director of Public Works from serving on special ad hoc committees in order to represent the Department of Public Works.
- 19.4 On the effective date of this act  
The Wastewater Commissioners and the Water Commissioners and the appointed position of Water Manager shall be abolished, and their powers, duties, responsibilities, and compensation shall be transferred to the Director of Public Works.
- 19.5 No person in the regular, permanent full time or part time service or employment  
Of the town shall the forfeit rate of compensation, grade, step, or time of service on account of the establishment of the Department of Public Works. Each person shall be retained in a capacity as similar to the person's former capacity as practical. No collective bargaining agreement, contract, or liability in force on the effective date of this act shall be affected by this act.

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<sup>4</sup> Editor's Note: This Article was added to the Town's General By-laws pursuant to a vote of the April 28, 2008 Annual Town Meeting under Articles 18 and 19, and enactment of Chapter 392 of the Acts and Resolves of 2008 by the Massachusetts General Court.

## **ARTICLE XX STORMWATER MANAGEMENT AND LAND DISTURBANCE**

### **20.1 Purpose**

20.1.1 Eroded soil and storm water runoff entering water resources are considered non-point sources of pollution that are responsible for the degradation of water quality and hydrology in lakes, ponds, streams, rivers, wetlands and groundwater. The United States Environmental Protection Agency (EPA) estimates that polluted storm water runoff is the leading cause of impairment to the nearly 40% of impaired water bodies in the United States. (Source: 1998 EPA 303(d) list of impairment by category). The impacts of construction activities and post development stormwater runoff quantity and quality can adversely affect public health, land, surface and groundwater resources, drinking water supplies, recreation and aquatic life and habitat. The purpose of this section is to reduce the degradation of public health, land and the environment due to construction activities and land development from:

20.1.1.1 Soil erosion and sedimentation

20.1.1.2 Storm water runoff.

### **20.2 Authority**

This By-law is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34

### **20.3 Definitions**

20.3.1 Abutter - Property owner of any property having a common boundary line with the Applicant's property, or any owner of any property located adjacent to the Applicant's property on a public way or stream, or any property owner located within a distance of three hundred feet (300') of the property.

20.3.2 Agriculture- The normal maintenance or improvement of land in agricultural or aqua cultural use, as defined by the Massachusetts Wetlands Protection Act and its implementing regulations.

20.3.3 Alteration of Drainage Characteristics - Any activity on an area of land that changes the water quality, force, direction, timing or location of runoff flowing from the area. Such changes include: change from disturbed runoff to confined, discrete discharge; change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater on the area.

20.3.4 Applicant - Any person, individual, partnership, association, firm, company, corporation, trust, authority, agency, department, or political subdivision of the



- Commonwealth or the Federal government to the extent permitted by law requesting a soil erosion and sediment control permit for proposed land-disturbance activity.
- 20.3.5 Authorized Enforcement Agency - The Town of Merrimac Planning Board, hereafter the Board, its employees or agents designated to enforce this by-law.
- 20.3.6 Best Management Practices (BMP) - An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.
- 20.3.7 The Board- Town of Merrimac Planning Board.
- 20.3.8 Certified Professional in Erosion and Sediment Control (CPESC) - A certified specialist in soil erosion and sediment control. This certification program, sponsored by the Soil and Water Conservation Society in cooperation with the American Society of Agronomy, provides the public with evidence of professional qualifications.
- 20.3.9 Construction and Waste Material- Excess or discarded building or site materials; including but not limited to concrete truck washout, chemicals, litter and sanitary waste at a construction site that may adversely impact water quality.
- 20.3.10 Conveyance - Any structure or device, including pipes, drains, culverts, curb breaks, paved swales, or man-made swales of all types designed or utilized to move or direct stormwater runoff or existing water flow.
- 20.3.11 Clearing - Any activity that removes the vegetative surface cover.
- 20.3.12 Development- The modification of land to accommodate a new use or expansion of use, usually involving construction.
- 20.3.13 Disturbance of Land- Any action that causes a change in the position, location, or arrangement of soil, sand, rock, gravel or similar earth material
- 20.3.14 Erosion- The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity, or vehicle traffic and subsequent detachment and transportation of soil particles.
- 20.3.15 Erosion and Sedimentation Control- A document containing narrative, drawings and details developed by a qualified professional engineer (PE) and a Certified Professional in Erosion and Sedimentation Control (CPESC), which includes best management practices, or equivalent measures designed to control surface runoff, erosion and sedimentation during pre-construction and construction related land disturbance activities.

- 20.3.16 Estimated Habitat of Rare Wildlife and Certified Vernal Pools-Habitats delineated for state-protected rare wildlife and certified vernal pools for use with the Wetlands Protection Act Regulations (310 CMR 10.00) and the Forest Cutting Practices Act Regulations (304 CMR 11.00)
- 20.3.17 Grading- Changing the level or shape of the ground surface.
- 20.3.18 Groundwater- All water beneath any land surface including water in the soil and bedrock beneath water bodies.
- 20.3.19 Grubbing- The act of clearing land by digging up roots and stumps.
- 20.3.20 Impervious Surface- Any material or structure on or above ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and roof tops.
- 20.3.21 Infiltration- The act of conveying surface water into the ground to permit groundwater recharge and the reduction of stormwater runoff from a project site.
- 20.3.22 Land-Disturbing Activity- Any activity that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material.
- 20.3.23 Massachusetts Endangered Species Act- (G.L. Chapter 131A) and its implementing regulations at (321 CMR 10.00) which prohibit the “taking” of any rare plant or animal species listed as Endangered, Threatened or of Special Concern.
- 20.3.24 Massachusetts Stormwater Management Policy- The policy issued by the Department of Environmental Protection, and as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act G.L. Chapter 131, Section 40 and Massachusetts Clean Water Act G.L. Chapter 21, Sections 23-56, and is incorporated in the Wetlands Protection Act regulations at 310 CMR 10.05(6)(k)-(q). The Policy addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.
- 20.3.25 Municipal Separate Storm Sewer System - (MS4): or municipal storm drain system: The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Merrimac.

- 20.3.26 New Development- Any construction or land disturbance of a parcel of land that is currently in a natural vegetated state and does not contain alterations by man-made activities.
- 20.3.27 Non-point Source Pollution- Pollution from many diffuse sources caused by rainfall or snowmelt moving over and through the ground. As the runoff moves, it picks up and carries away natural and human-made pollutants, finally depositing them into water resource areas.
- 20.3.28 Operation and Maintenance Plan- A plan setting up the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to insure that it continues to function as designed.
- 20.3.29 Outfall- The point at which stormwater flows out from a point source discernible, confined and discrete conveyance into waters of the Commonwealth.
- 20.3.30 Outstanding Resource Waters- (ORWs): Waters designated by Massachusetts Department of Environmental Protection as ORWs. These waters have exceptional sociologic, recreational, ecological and/or aesthetic values and are subject to more stringent requirements under both the Massachusetts Water Quality Standards (314 CMR 4.00) and the Massachusetts Stormwater Management Standards. ORWs include vernal pools certified by the Natural Heritage Program of the Massachusetts Department of Fisheries & Wildlife and Environmental Law Enforcement, all Class A designated public water supplies with their bordering vegetated wetlands, and other waters specifically designated.
- 20.3.31 Owner- A person with a legal or equitable interest in property.
- 20.3.32 Person- An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the Federal government, to the extent permitted by law, and any officer, employee, or agent of such person.
- 20.3.33 Phasing- Clearing a parcel of land in distinct sections, with the stabilization of each section before the clearing of the next.
- 20.3.34 Point Source- Any discernible, confined, and discrete conveyance, including but not limited to, any pipe ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged.
- 20.3.35 Post- Development- The conditions that reasonably may be expected or anticipated to exist after completion of the land development activity on a specific site or tract of land.

- 20.3.36 Pre- Development- The conditions that exist at the time that plans for the land development of a tract of land are submitted to the Conservation Commission or Planning Board.
- 20.3.37 Pre- Construction- All activity in preparation for construction.
- 20.3.38 Priority Habitat of Rare Species- Habitats delineated for rare plants and animal population protected pursuant to the Massachusetts Endangered Species Act and its regulations.
- 20.3.39 Recharge- The replacement of underground water reserves.
- 20.3.40 Redevelopment- Development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface or increase the impervious area previously developed sites.
- 20.3.41 Resource Area- Any area protected under including, without limitation: the Massachusetts Wetlands Protection Act, Massachusetts Rivers Act, or Town of Merrimac Wetlands Protection By-Law and Regulations.
- 20.3.42 Runoff- Rainfall, snowmelt, or irrigation water flowing over the ground surface,
- 20.3.43 Sediment- Mineral or organic soil material that is transported by wind or water, from its origin to another location; the product of erosion processes.
- 20.3.44 Sedimentation- The process or act of sediment.
- 20.3.4 5 Site- Any lot or parcel of land or area of property where land-disturbing are, were, or will be performed.
- 20.3.46 Slope- The incline of a ground surface as a ratio of horizontal distance to vertical distance.
- 20.3.47 Soil- Any earth, sand, rock, gravel, or similar material.
- 20.3.48 Stormwater Authority- Town of Merrimac Planning Board or its authorized agents are responsible for coordinating the review, approval and permit process as defined by this by-law.
- 20.3.49 Stabilization- The use, singly or in combination, of mechanical, structural, or vegetative methods, to prevent or retard erosion.
- 20.3.50 Stormwater- Storm water runoff, snow melt runoff and surface water runoff and drainage.

- 20.3.51 Stormwater Management- A plan required as part of the application for a Stormwater Management and Land Disturbance Permit.
- 30.3.52 Strip- Any activity which removes the vegetated ground surface cover, including tree removal, clearing, grubbing, and storage or removal of topsoil.
- 20.3.53 TSS: Total Suspended Solids.
- 20.3.54 Vernal Pools- Temporary bodies of freshwater which provide critical habitat for a number of vertebrate and invertebrate wildlife species.
- 20.3.55 Watercourse- A natural or man-made channel through which water flows or a stream of water, including a river, brook, or underground stream.
- 20.3.56 Wetland Resource Area- Areas specified in the Massachusetts Wetlands Protection Act G.L. Chapter 131, Section 40 and Town of Merrimac Wetlands Protection By-Law and Regulations.
- 20.3.57 Wetlands- Tidal and non-tidal areas characterized by saturated or nearly saturated soils most of the year that are located between terrestrial (land-based) and aquatic (water-based) environments, as defined in the Massachusetts Wetlands Protection Act G.L. Chapter 131 Section 40, including freshwater marshes around ponds and channels (rivers and streams), brackish and salt marshes; common names include marshes, swamps, bogs and wet meadows.

#### 20.4 Applicability

- 20.4.1 No person may undertake a construction activity, including clearing, grading and excavation that results in a land disturbance that will disturb equal to or greater than 20,000 square feet of land or will disturb less than 20,000 square feet of land but is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than 20,000 square feet of land draining to the Town of Merrimac without a Stormwater Management and Land Disturbance Permit from the Board.
- 20.4.2 In addition, as authorized in Phase II Small MS4 General Permit for Massachusetts, storm water discharges resulting from the above activities that are subject to jurisdiction under the Wetland Protection Act and demonstrate compliance with the Massachusetts Storm Water Management Policy as reflected in an Order of Conditions issued by the Conservation Commission and contain an approved Stormwater Pollution Prevention Plan may be exempt from compliance with the review process of this by-law, as determined by the Planning Board upon submittal of the following:
- 20.4.2.1 Two copies of a completed Application Form along with copies of the Conservation Commission's Order of Conditions. The Planning Board shall issue a Stormwater Management and Land Disturbance Permit at its

next regularly scheduled meeting after receipt of said materials. The filing fee shall be waived.

## 20.5 Exemptions

- 20.5.1 Normal maintenance and improvement of land in agricultural, aqua cultural, forestry, or nursery operations as permitted as a main or accessory use.
- 20.5.2 Any emergency activity which is immediately necessary for the protection of public health, property or natural resources.
- 20.5.3 Emergency repairs to any stormwater structure.
- 20.5.4 Maintenance of existing landscaping, gardens or lawn areas.
- 20.5.5 Construction of patios, walkways, driveways, fences, swimming pools and the replacement of wells or septic systems on lots having an existing dwelling.
- 20.5.6 Construction or emergency repair to any utilities other than drainage, which would not alter the ground cover or drainage patterns.

## 20.6 Administration

- 20.6.1 The Board shall administer, implement and enforce this by-law. Any powers granted to or duties imposed upon the Board may be delegated in writing by the Board to its agent.
- 20.6.2 The Board may waive strict compliance with any requirement of this by-law or the rules and regulations promulgated hereunder, where:
  - 20.6.2.1 such action is allowed by federal, state and local statutes and/or regulations
  - 20.6.2.2 is in the public interest, and
  - 20.6.2.3 is not inconsistent with the purpose and intent of this by-law.
- 20.6.3 Rules and Regulations. The Board may adopt, and periodically amend rules and regulations to effectuate the purposes of this by-law. Failure by the Board to promulgate such rules and regulations shall not have the effect of suspending or invalidating this by-law.

## 20.7 Permits and Procedure

- 20.7.1 If a project requires a Stormwater Management and Land Disturbance Permit, the applicant shall file eight (8) copies of a completed Stormwater Management and Land Disturbance Permit Application Package to the Planning Board. Review of the complete application may be conducted concurrently with other applications to the Board. The applicant shall include the following

- 20.7.1.1 Completed Application Form with original signatures.
  - 20.7.1.2 A list of abutters, certified by the Assessors Office.
  - 20.7.1.3 A Stormwater Management and Erosion and Sediment Control Plan as specified in Section 8 of this by-law.
  - 20.7.1.4 A Stormwater Operation and Maintenance Plan (O&M) as specified in Section 8.3.30 of this by-law
  - 20.7.1.5 Payment of the application and review fees as specified in Section 7 of this by-law.
- 20.7.2 Filing an application for a permit grants to the Board or its agent, permission to enter the site to verify the information and to inspect for compliance with permit conditions.
- 20.7.3 The Board shall notify the Town Clerk of receipt of the application, and shall give one copy of the application package to the Department of Public Works, the Conservation Commission and the Board of Health.
- 20.7.4 Public Hearing
- 20.7.4.1 The Board shall hold a public hearing in conformance with the provisions of G.L. Chapter 40A, Section 9.
  - 20.7.4.2 The public hearing shall be held within 65 days after the filing of the application.
  - 20.7.4.3 Notice shall be given by publication and posting and by first class mailing to parties of interest as defined in G.L. Chapter 40A, Section 11.
- 20.7.5 The applicant shall submit all additional information requested by the Board to issue a decision on the application.
- 20.7.6 The Board may:
- 20.7.6.1 Approve the Stormwater Management and Land Disturbance Permit Application and issue a permit if it finds that the proposed plan will protect water resources and meets the objectives and requirements of this by-law.
  - 20.7.6.2 Approve the Stormwater Management and Land Disturbance Permit Application and issue a permit with conditions, modifications or restrictions that the Board determines are required to ensure that the

project will protect water resources and meets the objectives and requirements of this by-law.

- 20.7.6.3 Disapprove the Stormwater Management and Land Disturbance Permit Application and deny the permit if it finds that the proposed plan will not protect water resources or fails to meet the objectives and requirements of this by-law.
- 20.7.6.4 The decision of the Board shall be filed with the board and the Town Clerk within 90 days following the close of the public hearing.
- 20.7.6.5 Failure of the Board to act within 90 days of the close of the public hearing shall be deemed a grant of the permit applied for.
- 20.7.7 Fees. Each application must be accompanied by the appropriate application fee as established by the Board. Applicants shall pay review fees as discussed and determined by the Board sufficient to cover any expenses connected with the public hearing and review of the Stormwater Management and Land Disturbance Permit Application before the review process commences. The Board is authorized to retain a Registered Professional Engineer or other professional consultant to advise the Board on any or all aspects of the Application. The Board may require an additional fee for review of any change in or alteration from an approved permit. The review fee collected under the by-law shall be deposited in a passbook account held by the Town of Merrimac, Subject to applicable law, any unused portion of any review fees collected shall be returned by Planning Board to the applicant within forty-five calendar days of a written request by the applicant, unless the Planning Board decides in a public meeting that other action is necessary.
- 20.7.7.1 A non-refundable application fee of \$100 plus \$.0030 times the total square footage of the area to be altered by the project shall be due and payable to the Town of Merrimac at the time an application is filed.
- 20.7.8 Project Changes. The permittee, or its agent, must notify the Board in writing of any change or alteration of a land-disturbing activity authorized in a Stormwater Management and Land Disturbance Permit before any change or alteration occurs. If the Board determines that the change or alteration is significant, based on the design requirements listed in Section 8.2 and accepted construction practices, the Board may require that an amended Stormwater Management and Land Disturbance Permit application be filed and a public hearing held. If any change or alteration from the Stormwater Management and Land Disturbance Permit occurs during any land disturbing activities, the Board may require the installation of interim erosion and sedimentation control measures before approving the change or alteration.



20.8 Stormwater Management & Erosion and Sediment Control-

20.8.1 The Stormwater Management & Erosion and Sediment Control Plan shall contain sufficient information to describe the nature and purpose of the proposed development, pertinent conditions of the site and the adjacent areas, proposed erosion and sedimentation controls and proposed stormwater management controls. The applicant shall submit such material as is necessary to show that the proposed development will comply with the design requirements listed in Section 20.8.2 below.

20.8.2 The design requirements of the Stormwater Management & Erosion and Sediment Control Plan are:

20.8.2.1 Minimize total area of disturbance.

20.8.2.2 Sequence activities to minimize simultaneous areas of disturbance.

20.8.2.3 Minimize peak rate of runoff in accordance with the Massachusetts Department of Environmental Protection's Stormwater Management Policy dated March 1997 as amended.

20.8.2.4 Minimize soil erosion and control sedimentation during construction, provided that prevention of erosion is preferred over sedimentation control.

20.8.2.5 Encourage the use of nonstructural stormwater management and low-impact development practices, such as reducing impervious cover, preserving green space, using bio-retention areas, rain gardens and vegetated filter strips.

20.8.2.6 Divert uncontaminated water around disturbed areas.

20.8.2.7 Maximize groundwater recharge.

20.8.2.8 Install and maintain all Erosion and Sediment Control measures in accordance with the manufacturer's specifications and good engineering practices.

20.8.2.9 Prevent off site transport of sediment.

20.8.2.10 Protect and manage on and off-site material storage areas (Overburden and stockpiles of dirt, borrow areas or other areas used solely by the permitted project are considered a part of the project).

20.8.2.11 Comply with applicable Federal, State and local laws and regulations, including waste disposal, sanitary sewer or septic system regulations, and air quality requirements, including dust control.

- 20.8.2.12 Prevent significant alteration of habitats mapped by the Massachusetts Natural Heritage & Endangered Species Program as Endangered, Threatened or Of Special Concern, Estimated Habitats of Rare Wildlife and Certified Vernal Pools, and Priority Habitats of Rare Species from the proposed activities.
- 20.8.2.13 Institute interim and permanent stabilization measures, which shall be instituted on a disturbed area as soon as practicable but no more than 14 days after construction activity has temporarily or permanently ceased on that portion of the site.
- 20.8.2.14 Properly manage on-site construction and waste materials.
- 20.8.2.15 Prevent off-site vehicle tracking of sediments.
- 20.8.3 Stormwater Management & Erosion and Sediment Control Plan Content. The plan shall contain the following information.
  - 20.8.3.1 Names, addresses and telephone numbers of the owner, applicant, and person (s) or firm(s) preparing the plan.
  - 20.8.3.2 Title, date, north arrow, names of abutters, scale. Legend and locus map.
  - 20.8.3.3 The existing zoning, and land use at the site.
  - 20.8.3.4 The proposed land use.
  - 20.8.3.5 Watercourses and water bodies, wetland resources areas and all floodplain information, including the 100- year flood elevation based upon the most recent Flood Insurance Rate Map, or as calculated by a professional engineer for areas not assessed on these maps.
  - 20.8.3.6 Existing and proposed vegetation including tree lines, canopy layer, shrub layer, and ground cover.
  - 20.8.3.7 Surveyed property lines showing distances and monument locations, all existing and proposed easements, the size of the entire parcel, and the delineation and number of square feet of the land area to be disturbed.
  - 20.8.3.8 Habitats mapped by the Massachusetts Natural Heritage & Endangered Species Program as Endangered, Threatened or of Special Concern, Estimated Habitats of Rare Wildlife and Certified Vernal Pools, and Priority Habitats of Rare Species within five hundred (500) feet of any construction activity.

- 20.8.3.9 Lines of existing abutting streets showing drainage and driveway locations, curbs cuts and utilities.
- 20.8.3.10 Topographical features including existing and proposed contours at intervals no greater than two (2) feet with spot elevations provided when needed.
- 20.8.3.11 Proposed improvements including location of buildings or other structures, impervious surfaces, and drainage facilities, if applicable.
- 20.8.3.12 Existing soils, volume and nature of imported soil materials.
- 20.8.3.13 Location and details of erosion and sediment control measures with a narrative of the construction sequence/phasing of the project, including both operation and maintenance for structural and non-structural measures, interim grading, and material stockpiling areas.
- 20.8.3.14 Estimated seasonal high groundwater elevation in areas to be used for stormwater retention, detention, or infiltration.
- 20.8.3.15 A drainage area map showing pre and post construction watershed boundaries, drainage areas and stormwater flow paths.
- 20.8.3.16 Pre and post development stormwater runoff calculations in accordance with the Department of Environmental Protection's Stormwater Management Policy.
- 20.8.3.17 A description and drawings of all components of the proposed drainage system including:
  - 20.8.3.17.1 location, cross sections, and profiles of all brooks, streams, drainage swales and their method of stabilization.
  - 20.8.3.17.2 all measures for the detention, retention or infiltration of water
- 20.8.3.18 All measures for the protection of water quality.
- 20.8.3.19 The structural details for all components of the proposed drainage systems and stormwater management facilities.
- 20.8.3.20 Notes on drawings specifying materials to be used, construction specifications, and typicals.
- 20.8.3.21 Path and mechanism to divert uncontaminated water around disturbed areas, to the maximum extent practicable.

- 20.8.3.22 Location and description of industrial discharges, including stormwater discharges from dedicated asphalt plants and dedicated concrete plants, which are covered by this permit.
- 20.8.3.23 Location and description of and implementation schedule for temporary and permanent seeding, vegetative controls and other stabilization measures,
- 20.8.3.24 A description of construction and waste materials expected to be stored on-site. The Plan shall include a description of controls to reduce pollutants from these materials, including storage practices to minimize exposure of the materials to stormwater and spill prevention and response.
- 20.8.3.25 A description of provisions for phasing the project where one acre of area or greater is to be altered or disturbed.
- 20.8.3.26 Plans must be stamped and certified by a qualified Professional Engineer registered in Massachusetts and a Certified Professional in Erosion and Sediment Control (CPESC).
- 20.8.3.27 Timing, schedules, and sequences of development including clearing, stripping, rough grading, construction, final grading, and vegetative stabilization.
- 20.8.3.28 A maintenance schedule for the period of construction
- 20.8.3.29 Any other information requested by the Board.
- 20.8.3.30 An Operation and Maintenance Plan (O&M Plan) is required at the time of application for all projects. The Board will consider natural features, proximity of site to water bodies and wetlands, extent of impervious surfaces, size of the site, the types of stormwater management structures, and potential need for ongoing maintenance activities when making this decision. The Operation and Maintenance Plan shall remain on file with the Board and shall be an ongoing requirement. The maintenance plan shall contain the following:
- 20.8.3.30.1 Designed to ensure compliance with the Permit, this By-law, and that the Massachusetts Surface Water Quality Standards, 314 CMR 4.00 are met in all seasons and throughout the life of the system.

- 20.8.3.30.2 The O&M Plan shall be prepared in conformance with the Department of Environmental Protection Stormwater Management Policy.
- 20.8.3.30.3 The owner(s) of the stormwater management system must notify the Board of changes in ownership or assignment of financial responsibility.
- 20.8.3.30.4 The maintenance schedule in the Maintenance Agreement may be amended to achieve the purposes of this by-law by mutual agreement of the Board and the Responsible Parties. Amendments must be in writing and signed by all Responsible Parties. Responsible Parties shall include owner(s) persons with financial responsibility, and persons with operational responsibilities.

## 20.9 Performance Guarantee

- 20.9.1 As a condition of a Stormwater Management and Land Disturbance Permit approval, the Planning Board may require that a performance bond, secured by deposit of money or negotiable securities in the form elected by the Planning Board, be posted with the Town to guarantee that the work will be completed in accordance with the permit. The Board may also require that an amount must be included for land restoration not having to do with the construction of improvements. The amount of security shall be determined by an estimate from the applicant's engineer which may be confirmed or increased by the Board. If the project is phased, the Board may release part of the bond as each phase is completed in compliance with the permit but the bond may not be fully released until the Board has received the final report as required in Section 11 and issued a certificate of completion.
- 20.9.2 The Town may use the secured funds for their stated purpose in the event that the applicant does not complete all improvements in a manner satisfactory to the Board within two years from the date of approval, or the final date of the last extension of such approval, if any.

## 20.10 Inspections

- 20.10.1 Prior to starting clearing, excavation, construction, or land disturbing activity the applicant, the applicant's technical representative, the general contractor or any other person with authority to make changes to the project, shall meet with the Board and its designated agent, to review the permitted plans and their implementation.
- 20.10.2 The Board or its designated agent shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the land disturbance permit as approved. The Permit and associated plans for grading, stripping, excavating, and filling work, bearing the signature of approval of the Board, shall be maintained at the site during the progress of the work. In order to obtain inspections, the permittee

shall notify the Board or its designated agent at least two (2) working days before each of the following events:

20.10.2.1 Erosion and sediment control measures are in place and stabilized, and site clearing limits are clearly marked in the field.

20.10.2.2 Site Clearing has been substantially completed

20.10.2.3 Rough Grading has been substantially completed

20.10.2.4 Final Grading has been substantially completed.

20.10.2.5 Close of the Construction Season; stabilization of the site.

20.10.2.6 Final Landscaping (permanent stabilization) and project final completion.

20.10.3 The permittee or his/her agent shall conduct and document inspections of all control measures no less than weekly or as specified in the permit, and following storm events greater than 0.5 inches. The purpose of such inspections will be to determine the overall effectiveness of the control plan, and the need for maintenance or additional control measures. The permittee or his/her agent shall submit bi-weekly reports to the Board of designated agent in a format approved by the Board.

20.10.4 To the extent permitted by State law, or if authorized by the owner or other party in control of the property, the Board, its agents, officers and employees may enter upon private property for the purpose of performing their duties under this by-law and may make or cause to be made such examinations, surveys or sampling as the Board deems reasonably necessary to determine compliance with the permit.

#### 20.11 Final Reports

20.11.1 Upon completion of the work, the permittee shall submit a report (including certified as-built construction plans) from a Professional Engineer (P.E.) or a Profession Land Surveyor (P.L.S.) and a Certified Professional in Erosion and Sediment Control (CPESC), certifying that all erosion and sediment control devices and approved changes and modifications, have been completed in accordance with the conditions of the approved permit. Any discrepancies should be noted in the cover letter.

20.11.2 The Board will issue a letter certifying completion upon receipt and approval of the final reports and/or upon otherwise determining that al work of the permit has been satisfactorily completed in conformance with this by-law.

#### 20.12 Enforcement

20.12.1 The Board or an authorized agent of the Board shall enforce this by-law, regulations, orders, violations notices and enforcement orders, and may pursue all non-criminal dispositions for such violations.

- 20.12.2 The Board or an authorized agent of the Board may issue a written order to enforce the provisions of this by-law or the regulations hereunder, which may include:
- 20.12.2.1 A requirement to cease and desist from the land-disturbing activity until there is compliance with the by-law and provisions of the land-disturbance permit.
  - 20.12.2.2 Maintenance, installation or performance of additional erosion and sediment control measures.
  - 20.12.2.3 Monitoring, analyses, and reporting
  - 20.12.2.4 Remediation or erosion and sedimentation resulting directly or indirectly from the land-disturbing activity.
- 20.12.3 If the enforcing person determines that abatement or remediation of erosion and sedimentation is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Merrimac may, at its option, undertake such work and the property owner shall reimburse the Town of Merrimac's expenses.
- 20.12.4 Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner shall be notified of the costs incurred by the Town of Merrimac, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Board within thirty (30) days of receipt of the notification of costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Board affirming or reducing the costs, or from a final decision of a court competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate, as provided in G.L Chapter 59, Section 57, after the thirty-first day following the day on which the costs were due.
- 20.12.5 Any violation of this by-law, any regulation promulgated hereunder, or any Stormwater Management and Land Disturbance Permit, will be punishable by non-criminal disposition under G.L. Chapter 40, Section 21D and the Town of Merrimac General By-Laws, in which case, the Planning Board or authorized agent shall be the enforcing person. The penalty for the 1<sup>st</sup> violation shall be \$250. The penalty for the 2<sup>nd</sup> violation shall be \$300. The penalty for the 3<sup>rd</sup> and subsequent violations shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

20.13 Severability

20.13.1 If any provision, paragraph, sentence, or clause of this by-law shall be held invalid for any reason, all other provisions shall continue in full force and effect.

20.14 General

20.14.1 Any application not accompanied by the appropriate fee shall be deemed incomplete. Payment must be made to the Town of Merrimac in cash, money order, bank or certified check payable to the Town of Merrimac.

20.14.2 An Applicant's failure to pay additional review or inspection fee within five business days of receipt of the notice that further fees are required shall be grounds for disapproval.

20.14.3 The Applicant or the Applicant's representative will publish the public notice and send abutter notifications. Abutter notification shall be by certified mail-return receipt requested, or by certificates of mailing. The applicant shall provide the Planning Board with copies of the public notice and the return receipt cards or certificate of mailing receipts.

20.14.4 Professional review fees include engineering review, legal review, and clerical fees associated with the public hearing and permit processing. A fee estimate may be provided by the Planning Board's consulting engineer. (STM 10/22/2007)



# ARTICLE XXI

## ILLICIT DISCHARGE DETECTION AND ELIMINATION

### 21.1 Purpose

Regulations of illicit connections and discharges to the municipal drain system is necessary for the protection of the Town of Merrimac water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment.

The objectives of this by-law are:

21.1.1 to prevent pollutants from entering the Town of Merrimac's municipal separate storm sewer system (MS4);

21.1.2 to prohibit illicit connections and unauthorized discharges to the MS4;

21.1.3 to require the removal of all such illicit connections;

21.1.4 to comply with state and federal statutes and regulations relating to stormwater discharges; and

21.1.5 to establish the legal authority to ensure compliance with the provisions of this by-law through inspection, monitoring and enforcement.

### 21.2 Authority

This by-law is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Procedures Act, and pursuant to the regulations of the Federal Clean Water Act found at 40 CFR 122.34

### 21.3 Definitions

21.3.1 Authorized Enforcement Agency: The Merrimac Board of Selectmen (hereafter the Board), its employees or agents designated to enforce this by-law.

21.3.2 Board: The Merrimac Board of Selectmen

21.3.3 Best Management Practices: An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.

21.3.4 Clean Water Act: The Federal Water Pollution Control Act (33 A.S. C. Sec 1251 *et seq.*) as hereafter amended.

21.3.5 Discharge of Pollutants: The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth from any source.

21.3.6 Groundwater: Water beneath the surface of the ground.

- 21.3.7 Illicit Connection: A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this by-law.
- 21.3.8 Illicit Discharge: Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Section 9 of this by-law. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or a surface Water Discharge Permit, or resulting from fire fighting activities exempt pursuant to Section 9.
- 21.3.9 Impervious Surface: Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and rooftops.
- 21.3.10 Municipal Separate Storm Sewer System (MS4) or Municipal Storm Drain System: The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Merrimac.
- 21.3.11 National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit: A permit issued by the United States Environmental Protection Agency or jointly with the State that authorizes the discharge of pollutants to water of the United States
- 21.3.12 Non-Stormwater Discharge: Discharge to the municipal storm drain system not composed entirely of stormwater.
- 21.3.13 Person: An individual, partnership, association, firm, company, trust, corporation, agency, authority, department, or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.
- 21.3.14 Pollutant: Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works or waters of the Commonwealth. Pollutants shall include without limitation:
  - 21.3.14.1 paints, varnishes, and solvents;
  - 21.3.14.2 oil and other automotive fluids

- 21.3.14.3 non-hazardous liquid and solid wastes and yard wastes;
  - 21.3.14.4 refuse, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
  - 21.3.14.5 pesticides, herbicides, and fertilizers;
  - 21.3.14.6 hazardous materials and wastes; sewage, fecal coliform and pathogens;
  - 21.3.14.7 dissolved and particulate metals;
  - 21.3.14.8 animal wastes;
  - 21.3.14.9 rock, sand, salt, soils;
  - 21.3.14.10 construction wastes and residues; and
  - 21.3.14.11 noxious or offensive matter of any kind.
- 21.3.15 Process Wastewater: Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waster product,
- 21.3.16 Recharge: The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.
- 21.3.17 Stormwater: Storm water runoff, snow melt runoff, and surface water runoff and drainage.
- 21.3.18 Surface Water Discharge Permit: A permit issued by the Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to the waters of the Commonwealth of Massachusetts,
- 21.3.19 Toxic or Hazardous Material or Waste: Any material, which because of its quantity, concentration, chemical corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous material include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under G. L. Chapter 12 and Chapter 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.
- 21.3.20 Watercourse: A natural or man-made channel through which water flows or a stream of water, including a river, brook, or underground stream.

21.3.21 Waters of the Commonwealth: All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters and groundwater.

21.3.22 Wastewater: Any sanitary waste, sludge, or septic tank, or cesspool overflow, and water that during manufacturing, cleaning, or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product or byproduct or waste product.

#### 21.4 Applicability

This by-law shall apply to flows entering the municipally owned storm drainage system.

#### 21.5 Authority

This by-law is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Procedures Act, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34.

#### 21.6 Responsibility for Administration

The Board shall administer, implement and enforce this by-law. Any powers granted to or duties imposed upon the Board may be delegated in writing by the Board to employees or agents of the Board.

#### 21.7 Regulations

The Board may promulgate rules and regulations to effectuate the purpose of this by-law. Failure by the Board to promulgate such rules and regulations shall not have the effect of suspending or invalidating this by-law.

#### 21.8 Prohibited Activities

21.8.1 Illicit Discharges. No person shall dump, discharge, cause or allow to be discharged any pollutants or non-stormwater discharge into the municipal separate storm sewer system (MS4), into a watercourse, or into the waters of the Commonwealth.

21.8.2 Illicit Connections. No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection

21.8.3 Obstruction of Municipal Storm Drain System. No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal drain system without prior written approval of the Board.

#### 21.9 Exemptions

Discharge or flow resulting from firefighting activities

The following non-stormwater discharges or flows are exempt from the prohibition of non-stormwaters provided that the source is not a significant contributor of a pollutant to the municipal storm drain system.

21.9.1 Waterline flushing

21.9.2 Flow from potable water sources.

21.9.3 Springs;

21.9.4 Natural flow from riparian habitats and wetlands;

21.9.5 Diverted stream flow;

21.9.6 Rising groundwater

21.9.7 Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;

21.9.8 Water from exterior foundation drains, footings drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning;

21.9.9 Discharge from landscape irrigation or lawn watering;

21.9.10 Water from individual residential car washing;

21.9.11 Discharge from dechlorinated swimming pool water (less than 1 ppm chlorine) provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance;

21.9.12 Discharge from street sweeping;

21.9.13 Dye testing, provided verbal notification is given to the Board prior to the time of the test; Non-stormwater discharge permitted under NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection provided that the discharge is in full compliance with the requirements of the permit, waiver, or ordered and applicable laws and regulations.

#### 21.10 Emergency Suspension of Storm Drainage System Access

The Board may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or environment. In the event any person fails to comply with an emergency suspension order, the Authorized Enforcement Agency may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

#### 21.11 Notification of Spills

Notwithstanding other requirements of local, state, federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility

or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the Commonwealth, the person shall take all necessary steps to ensure containment, and clean-up of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the municipal fire and police departments and the Merrimac Department of Public Works. In the event of a release of non-hazardous material, the reporting person shall notify the Authorized Enforcement Agency no later than the next business day. The reporting person shall provide to the Authorized Enforcement Agency written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

## 21.12 Enforcement

- 21.12.1 The Board or an authorized agent of the Board shall enforce this by-law, regulations, orders, violation notices and enforcement orders, and may pursue all civil remedies for such violations
- 21.12.2 If an Illicit Discharge occurs or an Illicit Connection is maintained, the Board shall give or cause to be given written notice directed to the Owner of the parcel from which the Illicit Discharge is emanating, or on which the Illicit Connection is maintained, ordering an immediate cessation of any act or condition in violation of this By-law.
- 21.12.3 The Board either with such notice or at any reasonable time thereafter may order the Owner or any other person either responsible for violating this By-law to begin and thereafter diligently prosecute to compliance, such remediation efforts as the Board in its reasonable discretion may deem appropriate.  
Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Merrimac may, at its option undertake such work, and expenses thereof shall be charged to the violator.
- 21.12.4 Within thirty (30) days after completing all measures to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town of Merrimac including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Board within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Board affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate

provided in G.L. Chapter 59, Section 57 after the thirty-first day at which the costs first become due.

21.12.5 Any violation of this by-law, any regulation promulgated hereunder, will be punishable by non-criminal disposition under G.L. Chapter 40, Section 21D and the Town of Merrimac General By-Laws, in which case, the Board of Selectmen or authorized agent shall be the enforcing person. The penalty for any person or entity which causes an illicit discharge shall be a fine of \$100 per day for each day that the illicit discharge continues after notice thereof is given by or at the direction of the Board. This fee may be waived by the Board to allow time for compliance. The penalties set out herein may be assessed by the Board and are in addition to and not in substitution for any remedial action the Board may order.

#### 21.13 Appeals

Any person or Owner aggrieved by an action of the Board which was neither (i) the assessment of a penalty for which the provisions of M.G.L. Chapter 40, Section 21D apply, nor (ii) an action taken by the Board at a meeting of which the aggrieved person or Owner was given notice and was afforded the opportunity to present evidence and argument with a view to causing the Board to modify its earlier action (such action being a “final action”) shall, within thirty days of such Board action, request a hearing before the Board at which the aggrieved person or Owner may present evidence and argument concerning final action by the Board. The Board shall hold such hearing within thirty (30) days following said request and within thirty days thereafter shall either confirm the Board’s previous action or order such other final action as it may determine.

Any person or Owner aggrieved by a decision of the Board of Selectmen under this by-law may appeal such decision to the appropriate court of competent jurisdiction.

#### 21.14 Severability

The provisions of this by-law are hereby declared to be severable. If any provision, paragraph, sentence, or clause, of this by-law or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this by-law. (STM 10/22/07)

## **ARTICLE XXII USE OF LAKE ATTITASH**

- 22.1 The use of gas powered  
augers, chain saws or similar cutting devices on the Lake Attitash ice is prohibited except between the hours of 7:00 AM and 4:00 PM.
- 22.2 The use of  
trucks, campers, trailers, automobiles, or other motorized street vehicles on the Lake Attitash ice is prohibited.
- 22.3 Any person violating any provision of this Bylaw shall be punished by a fine not to exceed \$200 (two hundred dollars).
- 22.4 Restrictions regarding Indian Head Park
- 22.4.1 Sticker required to enter park with Selectmen determining the fee to be charged and enforcement by the Merrimac Police Department
- 22.4.2 Park open sunrise to sunset from Memorial Day to Columbus Day
- 22.4.3 Sticker required to enter the park beginning on the Friday before Memorial Day through Columbus Day.
- 22.4.4 No beaching or launching of power operated watercraft
- 22.4.5 Charcoal fires in designated grill areas only and no open fires of any kind.
- 22.4.6 No glass containers
- 22.4.7 No pets
- 22.4.8 No alcoholic beverages
- 22.4.9 Local groups and organizations require special permission from the Merrimac Parks & Recreation Commission or Selectmen to use Indian Head Park for a group outing.



**Personnel Bylaw has been removed from the compilation of  
General Bylaws, in its entirety.**