

Town of Millville  
Commonwealth of Massachusetts

By-Law Manual

The foregoing by-laws have been reviewed, and approved by the  
Office of the Attorney General.

Effective December 2008

Susan Gray-McNamara  
Town Clerk  
Millville



**Table of Contents**

**CHAPTER 1 - GENERAL BY-LAWS**

**Article I - General By-Laws**

**Section 1 - Rules and Regulations . . . . . 1**

- (A) By-Laws
- (B) Effect
- (C) Provisions

**Section 2 - Violations . . . . . 1**

- (A) Fine
- (B) Criminal Complaint
- (C) Non Criminal
- (D) Public Ways
- (E) Earth Removal
- (F) Hazardous Waste Cost Recovery

**Article II - Town Meetings**

**Section 1 - Annual Town Election . . . . . 3**

- (A) Town Elections
- (B) Polls

**Section 2 - Warrant for Town Meetings. . . . . 3**

- (A) Warrants for Town Meetings

**Section 3 - Procedures at Town Meetings. . . . . 3**

- (A) Town Meetings
- (B) Articles
- (C) Business
- (D) Motions

- (E) Debate
- (F) Amendments
- (G) Reconsideration
- (H) Action
- (I) Non-Voters
- (J) Conduct
- (K) Real Property Valuation

**Section 4 - Joint Meetings of Boards. . . . . 4**

**Article III - Town Officers**

**Section 1 - Board of Selectmen. . . . . 4**

- (A) Board of Selectmen
- (B) Suits and Claims
- (C) Executing Deeds

**Section 2 - Animal Control Officer. . . . . 5**

- (A) Appointment, Term of Office

**Section 3 - Town Moderator. . . . . 5**

- (A) Moderator Duties

**Section 4 - Town Treasurer. . . . . 5**

- (A) Office of Town Treasurer

**Section 5 - Indemnification. . . . . 5**

- (A) Elected or Appointed Officers or Employees

**Article IV - Committees, Boards, Counsels**

**Section 1 - Budgets. . . . . 6**

- (A) Budget Estimates

**Section 2 - Finance Committee. . . . . 6**

- (A) Members
- (B) Vacancy
- (C) Warrant
- (D) Term
- (E) Election of Officers
- (F) Appropriation or Expenditure
- (G) Considerations

**Section 3 - Capital Planning Committee. . . . . 7**

- (A) Members
- (B) Authorities and Responsibilities
- (C) Annual Report
- (D) Stabilization Fund

**Section 4 - Council on Aging. . . . . 9**

- (A) Name
- (B) Purpose
- (C) By-Laws
- (D) Officers and Elections
- (E) Duties
- (F) Committees
- (G) Meetings
- (H) Addendum to the Constitution and By-Laws of the Millville Council on Aging

**Article V - Finance Regulations**

**Section 1 - Records. . . . . 12**

- (A) Town Treasurer

**Section 2 - Excess and Deficiency Accounts. . . . . 12**  
 (A) Purpose

**Section 3 - Payment of Receipts into the Treasury. . . . . 13**  
 (A) Receipts

**Section 4 - Payment of Town Obligations. . . . . 13**  
 (A) Bills

**Section 5 - Approval of Bills. . . . . 13**  
 (A) Procedures

**Section 6 - Payment of Fees and Commissions. . . . . 13**  
 (A) Compensation

**Section 7 - Sales to Town. . . . . 13**  
 (A) Procedures

**Section 8 - Contracts to Town Departments. . . . . 14**  
 (A) Contract Expenditures

**Article VI - Fees of Town Officers and Licenses**

**Section 1 - Town Fees. . . . . 14**  
 (A) Collections  
 (B) Clause Description and Proposed Fee

**Section 2 - Licenses. . . . . 15**  
 (A) Requirements  
 (B) Licenses of Delinquent Taxpayers  
 (1) Listing of Delinquent Taxpayer  
 (2) Effect of Delinquency  
 (3) Payments, Agreements  
 (4) Waiver of Restriction by Selectmen

- (5) Exclusions
- (C) Regulations of Class I, II, and III Motor Vehicle Licenses

**Article VII - Unregistered Motor Vehicles. . . . . 20**

- (A) Owner Responsibilities
- (B) Permits
- (C) Permit Specifications
- (D) Non-Applicable
- (E) Violations

**Article VIII - Acquisition of Property. . . . . 20**

- (A) Requirements

**CHAPTER 2 - PUBLIC SAFETY**

**Article I - Public Ways**

**Section 1 - Use of Public Ways. . . . . 22**

- (A) Street Opening
- (B) Sledding
- (C) Animals/Vehicles
- (D) Wood/Coal
- (E) Projections
- (F) Abutters
- (G) Motor or Horse Drawn Vehicles
- (H) Vehicle Operations
- (I) Signage
- (J) Traffic Rules
- (K) Games

(L) Town Common

(M) Discharge of Water onto Public Ways

**Section 2 - Alcoholic Beverages. . . . . 24**

(A) Massachusetts General Laws

**Section 3 - Parking Regulations. . . . . 24**

(A) Handicapped Spaces

    (1) Parking Signs

(B) Regulation of Unauthorized Vehicles in Handicapped Spaces

    (1) Penalties

**Article II - Fire Department**

**Section 1 - Key Box System. . . . . 24**

(A) Key Box

(B) Applications

(C) Construction/Certification of Occupancy

(D) Written Rules and Regulations

(E) Violation of Key Box By-Laws

(F) Violations

(G) Fines

(H) Enforcement

**Article III - Animal Control**

**Section 1 - Rules and Regulations. . . . . 25**

(A) Definitions

(B) Dogs to be Restrained by Leash; Exceptions

(C) Evidence of Violation

(D) Violations and Penalties

- (E) Licensing; Fees
- (F) Impoundment for Certain Offenses
- (G) Muzzling for Certain Offenses; Exceptions
- (H) Biting; Violations of Quarantine Orders
- (I) Storage Fee; Impoundment of Unlicensed and Licensed Dogs
- (J) Dogs in Estrous Cycle; Violations and Penalties
- (K) Animal Control Officer
- (L) Kennels
- (M) Vaccination Against Rabies
- (N) Defecating on Town or Private Property

**Section 2 - Cat By-Laws. . . . . 31**

- (A) Purpose
- (B) Definitions
- (C) Vaccination Against Rabies
- (D) Violations
- (E) Complaints
- (F) Posting of Notices
- (G) Trapping

**CHAPTER 3 - ELECTED OFFICIALS**

**Article I - Recall of Elected Officials. . . . 33**

- (A) Recall
- (B) Statement of Grounds for Recall
- (C) Petitions
- (D) Officer Removal
- (E) Performance Under Recall

- (F) Ballots
- (G) Filing
- (H) Subsequent Appointments
- (I) Action on a Home Rule Charter

**CHAPTER 4 - EARTH REMOVAL BY-LAW**

**Article I - Earth Removal**

**Section 1 - Definitions. . . . .35**

- (A) Interpretation
  - (1) Abutter
  - (2) Board
  - (3) Earth
  - (4) Earth Removal
  - (5) Earth Removal, General
  - (6) Earth Removal, Miscellaneous
  - (7) Earth Removal, Subdivision
  - (8) Lot
  - (9) Owner
  - (10) Person
  - (11) Removal

**Section 2 - Scope. . . . .36**

- (A) Earth Removal Operations
- (B) Purpose
- (C) Dual Applications

**Section 3 - Earth Removal Board. . . . .36**

- (A) Members
- (B) Meeting Minutes

(C) Budget

**Section 4 - Permit Application and Site Plan Requirements. . . . . 36**

(A) Permit

(B) Applications

(C) Documentation

(1) Filing and Renewal Fee

(2) Description

(3) Legal Name and Address - Owner

(4) Legal Name and Address - Petitioner

(5) Names and Address - Abutters

(6) Land Plan

(7) Quality of Excavation of Fill

(8) Proposed Contours

(9) Bond

(10) Review Fee

**Section 5 - Granting or Denying Permits. . . . . 38**

(A) Issuing Permits

(1) Endangerment

(2) Nuisance

(3) Use of Adjacent Property

(4) Operations

(B) Permit Expiration

(C) Applications

**Section 6 - Operating Standards. . . . . 38**

(A) Permit

(1) Removal

(2) Slopes	
(3) Operations	
(4) Excavation Point	
(5) Excavation - Free Standing Water	
(6) Routes Approved for Truck Traffic	
(7) New Permits	
(8) Other Reasonable Requirements	
(9) Commencing Earth Removal Operations	
<b>Section 7 - Hearing.</b>	<b>40</b>
(A) Public Hearing	
(B) Review Agent	
(C) Town Boards	
(D) Application for Renewal of a Permit	
<b>Section 8 - Exemptions.</b>	<b>40</b>
(A) Earth Removal Operations Provisions	
(1) Earth Removal Operations - Municipal Purpose	
(2) Incidental Earth Operations	
(3) Earth Removal - Construction	
(4) Earth Removal - Private Way	
(5) Earth Removal	
<b>Section 9 - Rules and Regulations.</b>	<b>41</b>
(A) Adoption and Amendment	
<b>Section 10 - Enforcement.</b>	<b>41</b>
(A) Violations	
(B) Receipt of Notice	
(1) Penalties	

(2) Proceedings	
(3) Disposition	
(C) Appointment of an Agent	
<b>Section 11 - Existing Operations.</b>	<b>.42</b>
(A) Provisions	
(1) Applications	
(2) Excavation	
(3) Exemptions	
(4) Buffers	
(5) New Excavations	
<b>Section 12 - Validity/Severability.</b>	<b>43</b>
(A) Provisions	

**CHAPTER 5 - BUILDINGS**

**Article I - Residential**

<b>Section 1 - Numbering of Buildings.</b>	<b>44</b>
(A) Owner Responsibility	
(B) Violations	

**CHAPTER 6 - MILLVILLE FREE LIBRARY**

**Article I - By-Laws, Rules and Regulations Respecting  
Millville Free Library**

<b>Section 1 - Preamble.</b>	<b>45</b>
------------------------------	-----------

**Article II - Government of the Library**

<b>Section 1 - Board of Trustees.</b>	<b>45</b>
(A) Control	

**Section 2 - Trust Fund. . . . . 46**  
(A) Establishment

**Section 3 - Town Appropriations. . . . .46**  
(A) Annual or Special Town Meetings

**Section 4 - Title to Library Property . . . . . 47**  
(A) Title

**Section 5 - Use of Buildings. . . . . 47**  
(A) Use

**Section 6 - Status of Trustees. . . . . 47**  
(A) Officers

**Section 7 - Interim Functioning of the Board of Trustees . .47**  
(A) Business Conducted

**Article III - Rules and Regulations of the Library**

**Section 1 - Rules and Regulations. . . . .47**  
(A) Officers  
(B) President  
(C) Vice President  
(D) Secretary  
(E) Treasurer  
(F) Withdrawal  
(G) Budget  
(H) Bonded  
(I) Finance Committee  
(J) Special Committees  
(K) Librarian  
(L) Librarian - Responsibilities

- (M) Librarian - Procedures
- (N) Librarian - Operation
- (O) Librarian - Meetings
- (P) Librarian - Elected
- (Q) Assistant Librarian
- (R) Part Time Assistants
- (S) Custodian
- (T) Regular Meetings
- (U) Annual Meetings
- (V) Special Meetings
- (W) Quorum

**CHAPTER 7 - WETLAND PROTECTION BY-LAWS. . . . . 51**

- 12-1 Introduction
- 12-2 Jurisdiction
- 12-3 Conditional Exceptions
- 12-4 Application for Permits and Requests for Determination
- 12-5 Notice and Hearings
- 12-6 Coordination with other Boards
- 12-7 Permits and Conditions
- 12-8 Regulations
- 12-9 Definitions
- 12-10 Security
- 12-11 Enforcement
- 12-12 Burden of Proof

12-13 Certiorari Appeal  
 12-14 Relation to the Wetlands Protection Act  
 12-15 Severability

**CHAPTER 8 - STORMWATER MANAGEMENT BY-LAW. . . . . 66**

Section I Purposes  
 Section II Definitions  
 Section III Authority  
 Section IV Administration  
 Section V Applicability  
 Section VI Procedures  
 Section VII Enforcement  
 Section VIII Severability

**ATTACHMENT I - ZONING BY-LAWS**

**Article I - General**

**Section 1 - Authority. . . . . .71**  
 (A) Massachusetts General Law, Chapter 40A  
**Section 2 - Purpose. . . . . .71**  
 (A) Purpose  
**Section 3 - Basic Requirements . . . . . .71**  
 (A) Provisions  
**Section 4 - Definitions. . . . . .72**  
 (A) Terms  
 (1) Accessory Building or Use  
 (2) Dwelling  
 (3) Family  
 (4) Farm

- (5) Lot
- (6) Non-Conforming Use
- (7) Use
- (8) Street
- (9) Yard
- (10) Home Occupation
  - (a) Non-Resident
  - (b) Floor Area
  - (c) Outside Appearance
  - (d) Accessory Buildings
  - (e) Traffic/Parking
  - (f) Disruption
  - (g) Bed and Breakfast Inn

**Section 5 - Nonconformity. . . . .74**

- (A) Continuation and Change
  - (1) Requirements
- (B) Non-Conforming Structure
  - (1) Altered/Enlarged
  - (2) Damaged/Destroyed
- (C) Non-Conforming Use of Buildings or Land
  - (1) Extension of Nonconforming Use of Land
  - (2) Enlargement of a Building housing a Nonconforming Use
    - (a) Detrimental/Injurious Effect
    - (b) Boundaries
    - (c) Dimensional Requirements
  - (3) Alteration of a Building Housing a Non-Conforming Use

- (a) Floor Area
- (b) Dimensional Requirements

**Section 6 - Off-Street Parking. . . . .75**

- (A) Parking Spaces

**Article II - Establishment of Districts**

**Section 1 - Classes of Districts. . . . .75**

- (A) Purpose
  - (1) OR
  - (2) VR - Village Residential
  - (2) VC - Village Center District

**Section 2 - Incorporation of Zoning Map. . . . .75**

- (A) Districts

**Section 3 - Lots in Two Districts. . . . .75**

- (A) Boundary Line

**Article III - Use Regulations**

**Section 1 - Basic Requirements. . . . .76**

- (A) Use
  - (1) Y - Use Permitted
  - (2) SP - Special Permit
  - (3) N - Use Prohibited

- (B) Permitted Uses

**Section 2 - Schedule of Use Regulations. . . . .77**

- (A) Agriculture

- (B) Residential
- (C) Commercial
- (D) Automotive Sales and Service
- (E) Industrial
- (F) Public, Semi-Public, and Institutional
- (G) Bed and Breakfast Inn
  - (1) Accessory Use
  - (2) Exterior Alterations
  - (3) Parking
  - (4) Proposed Plans

**Article IV - Dimensional Requirements**

**Section 1 - Basic Requirements. . . . . 80**

- (A) Building/Structure

**Section 2 - Schedule of Dimensional Requirements. . . . . 80**

- (A) Schedule
  - (1) Outlying Residential
  - (2) Village Residential
  - (3) Village Center

**Section 3 - Modifications to Dimensional Requirements. . . . . 80**

- (A) Corner Lots
- (B) Projections
- (C) Location of Accessory Buildings

**Article V - Administration**

**Section 1 - Enforcement. . . . . 81**

- (A) Enforced

**Section 2 - Building Permits. . . . .81**  
 (A) Construction/Alteration

**Section 3 - Certification of Occupancy. . . . .81**  
 (A) Certificate of Occupancy  
 (B) Conditional

**Section 4 - Board of Appeals. . . . .81**  
 (A) Appointments  
 (B) Appeals  
     (1) Public Hearing  
 (C) Variances  
     (1) Petitions

**Section 5 - Special Permits. . . . .82**  
 (A) Written Application  
     (1) Proposed Use  
     (2) Residence Districts  
     (3) Nuisance/Serious Hazard  
     (4) Facilities  
 (B) Review  
 (C) Adopt/Amend

**Section 6 - Penalty. . . . .83**  
 (A) Violation

**Section 7 - Amendment. . . . .83**  
 (A) Amended

**Section 8 - Repetitive Petitions . . . . .83**  
 (A) Proposed Change

**Section 9 - Validity. . . . .83**

(A) Invalidity	
<b>Section 10 - Other Regulations.</b>	<b>83</b>
(A) Interference	
<b>Section 11 - Effective Date.</b>	<b>84</b>
(A) Effective	
<b>Section 12 - Buffer Requirements.</b>	<b>84</b>
(A) Purpose	
(B) Application	
(C) Residential Buffers	
(D) Utility Areas	
(E) Fences and Walls	
(F) Lighting	
<b>Article VI - Floodplain District.</b>	<b>85</b>
Article I	Statement of Purpose
Article II	Floodplain District Boundaries and Base Flood Elevation and Floodway Data
Article III	Notification of Watercourse Alteration
Article IV	Use Regulations
Article V	Definitions

**BY-LAWS OF MILLVILLE MASSACHUSETTS**

**CHAPTER 1 - GENERAL BY-LAWS**

**Article I - By-Laws**

**Section 1 - Rules and Regulations:**

**(A) By-Laws:** These by-laws shall take effect when accepted by the town, except as otherwise provided, and approved by the Attorney General and published in accordance with the statutes. All town by-laws heretofore existing are repealed upon the taking effect of these by-laws, and all votes of the town inconsistent with these by-laws are hereby rendered null and void.

**(B) Effect:** These by-laws shall remain in full force and effect until duly repealed, amended or altered by a vote of the town, or until other by-laws in substitution thereof shall take effect.

**(C) Provisions:** To accept the provisions of Section 21D, of Chapter 40 of The Massachusetts General Laws authorizing the use of a non-criminal method for disposition of violations of town by-laws, rules, and regulations.

**Section 2 - Violations:**

**(A) Fine:** Whoever violates any provisions of the foregoing sections of these articles shall forfeit and pay for each violation a fine not exceeding twenty (20) dollars.

**(B) Criminal Complaint:** Whoever violates any provisions of these by-laws may be penalized by indictment or on complaint brought in the Uxbridge District Court. Except as may otherwise be provided by law and as the district court may see fit to order, the maximum penalty for a violation, or offense, brought in such manner, shall be three hundred (300) dollars.

**(C) Non-criminal:** Whoever violates any provision of these by-laws, the violation of which is subject to a specific penalty, may be penalized by the non-criminal method of disposition as provided in Section 21D of Chapter 40 of the Massachusetts General Laws. The said non-criminal method of disposition may also be used for disposition of the violation of any rule or regulation of any municipal officer, board or department of the town which is subject to a specific penalty.

**(D) Public Ways:** Chapter 2, Article I, Section I, A through N inclusive and Q and R. For the violation of any of these sections the penalty for each violation shall be fifty (50) dollars.

**(E) Earth Removal:** Chapter 4, Section 6-A; 1 through 9 all inclusive. For any violations of these sections the penalty for each violation shall be fifty (50) dollars for the first offense; one hundred (100) dollars for the second offense; and two hundred (200) dollars for the third and each subsequent offense. Each day on which a violation exists shall be deemed a separate offense.

**(F) Hazardous Waste Cost Recovery:**

**Section I.** Any person, firm, organization that releases or causes to be released any Hazardous material or waste within the boundaries of the Town of Millville on public or Private property shall be held liable and responsible for the following:

- a. The cost of complete cleanup and disposal of the material released or contaminated by the release, including all cost incurred or authorized by an officer of the Town that has jurisdiction in such matters and any state or federal agency that has jurisdiction.
- b. Replacement or cost of replacement of any reusable equipment and/or material damaged due to the incident.
- c. Replacement or cost of replacement of any disposable equipment and/or material damaged due to the incident.
- d. Reimbursement of any funds expended by the Town for food and/or shelter due to the incident.
- e. Reimbursement of any funds expended by the Town for evacuation and/or Relocation due to the incident.
- f. Reimbursement of any funds expended by the Town for overtime pay due to the incident.
- g. Reimbursement of any funds expended by the Town to mitigate the incident.

**Section 2.** Failure to comply with any of the foregoing within thirty (30) days of demand shall entitle the Town to bring an action in contract in the appropriate court to recover the same.

## **Article II - Town Meetings**

### **Section 1 - Annual Town Elections:**

**(A) Town Elections:** The Annual Town Election shall be held on the First Monday in the Month of April of each year.

**(B) Polls:** The polls shall be open and close as stated in the Warrant as provided by the Board of Selectmen.

### **Section 2 - Warrants for Town Meetings:**

**(A) Warrants for Town Meetings:** The voters shall be notified of all Town Meetings both Annual and Special by posting attested copies of the Warrants in the Post Office of the Town, and at not less than two other public sites or places open to the public. Said posting shall occur at least fourteen (14) days before the day of both Special Town Meetings and Annual Town Meetings and further notice may be given in such manner as the Selectmen may determine.

### **Section 3 - Procedures at Town Meetings:**

**(A) Town Meetings:** At all town meetings, forty legal voters of the town shall be necessary to constitute a quorum for the transaction of official business.

**(B) Articles:** All Articles in the Warrant shall be taken up in the order of their arrangement unless otherwise decided by a two-thirds vote of those voters present and voting.

**(C) Business:** All business, except the election of officers and the determination of such matters as are by law required to be determined by ballot, shall be considered at the annual Town Meeting the second Monday in May at seven o'clock in the evening at a location within the Town of Millville as specified by the Board of Selectmen.

**(D) Motions:** No motion, the effect of which would be to dissolve a town meeting shall be in order until every article in the warrant has been duly considered and acted upon, but this shall not preclude the postponement of action on, or the consideration of, any article to an adjournment of the meeting to a stated time.

**(E) Debate:** When a question is under debate, no motion shall be received except a motion to adjourn, to lie on the table, the previous question to commit or to amend, to refer or to postpone to a day certain, or to postpone indefinitely, which several motions shall have precedence in the order in which they are presented.

**(F) Amendments:** In case of motions to amend, or to fill in blanks, the one expressing the largest sum or the longest time, shall be put first, and an affirmative vote thereon shall be a negative vote on any smaller sum or shorter time.

**(G) Reconsideration:** No vote shall be reconsidered at the same meeting or at any adjournment thereof except within one hour of the adoption of such vote and then only upon a two-thirds vote of the voters present and voting.

**(H) Action:** If before action is taken on any article calling for an appropriation of money, seven voters request that the vote be by written ballot, the same shall be ordered, and the moderator may direct that a checklist be used.

**(I) Non-Voters:** Nonvoters shall be directed by the Moderator to locate in a separate area from the voters at any Town Meeting.

**(J) Conduct:** The conduct of all Town Meetings, not especially provided by statute, bylaw, special act or any other authority appertaining, shall be determined by the Moderator in accordance with Town Meeting Time.

**(K) Real Property Valuation:** The selectmen shall cause to be printed as part of the town report, the assessors' real property valuation lists once every seven years, the last report being printed in 1996.

#### **Section 4 - Joint Meetings of Boards**

**(A) Joint Meetings of Boards:** The Planning Board, The Conservation Commission, The Board of Health and the Master Plan Committee shall meet jointly no less than twice yearly with the Board of Selectmen at their meeting.

### **Article III - Town Officers**

#### **Section 1 - Board of Selectmen:**

**(A) Board of Selectmen:** The Board of Selectmen are authorized from time to time to adopt personnel rules and regulations which, subject to the review by Town Counsel, to be used as employment guidelines for all employees of the Town except the School Department.

**(B) Suits and Claims:** The Selectmen shall have full authority, as agents of the town to prosecute, defend, or compromise all

litigation to which the town is a party unless it is otherwise specifically ordered by a vote of the Town at a meeting called for that purpose, however settlement shall not be made by a payment of more than ten thousand (\$10,000.00) in any case without a vote of the town.

**(C) Executing Deeds:** Whenever it shall be necessary to execute any deed conveying land or to execute any other instrument effectuating any vote of the Town, the same shall be executed by the Selectmen, or a majority of the Board of Selectmen, in the name of the Town, unless the town shall otherwise vote in any special case.

#### **Section 2 - Animal Control Officer:**

**(A) Appointment, Term of Office:** The Board of Selectmen shall annually appoint an Animal Control Officer.

#### **Section 3 - Town Moderator:**

**(A) Moderator Duties:** The duties of the Moderator, not prescribed by statutes, or these By-Laws, shall be determined by the general rules of parliamentary law, so far as they may **be** adopted to town meetings.

#### **Section 4 - Town Treasurer:**

**(A) Office of Town Treasurer:** The office of Town Treasurer shall be combined with the office of Town Tax Collector and that there be one office, that of Treasurer-Collector and that this office be filled by an annual appointment by the Board of Selectmen.

#### **Section 5 - Indemnification:**

**(A) Elected or Appointed Officers, or Employees:** The Town shall indemnify elected or appointed officers or employees either serving full or part time, temporary or permanent, compensated or uncompensated, from personal financial loss and expenses, including legal fees and costs, if any, in an amount not to exceed one million dollars arising out of any claim, action, award, compromise, settlement or judgment by reason of an intentional tort, or by reason of any act or omission which constitutes a violation of the civil rights of any person under and Federal or State law, if such employee or official at the time of such intentional act or such act or omission was acting within the scope of his official duties or employment. No such

employee or official shall be indemnified under this by-law for violation of any civil rights if he acted in a grossly negligent, willful or malicious manner.

## **Article IV - Committees, Boards, Counsels**

### **Section I - Budgets:**

**(A) Budgets Estimates:** All Boards, Committees, Heads of Departments, and other Town Officials authorized by law to spend money, shall furnish to the Finance Committee, not later than the second Monday in March, detailed estimates of the amounts necessary for the proper maintenance of the department under their jurisdiction for any income likely to be received by the Town during the ensuing year in connection with the Town's business or property entrusted in their care.

### **Section 2 - Finance Committee:**

**(A) Members:** There shall be a Finance Committee which shall consist of five members appointed by the Town Moderator for terms of three years, each such that as nearly an equal a number of such terms as is possible shall expire each year. No person serving as a member of the Finance Committee shall hold any other office or position in the Town having involvement with the management, control or expenditure of Town funds, with the exception of one member who shall be appointed by and from the Finance Committee to serve for one (1) year as a full voting member of the Capital Program Committee. The terms of members shall begin on the first day of July. At the first annual town meeting following the approval of this by-law the moderator shall appoint two persons to serve for a term of one year. Thereafter as the terms of members expire successors shall be appointed for the term of three years each. The Town Moderator may rescind an appointment to the committee if the appointee has failed to attend one-half of its regular meetings and may fill the vacancy for the unexpired term.

**(B) Vacancy:** In the event of a vacancy in the said Finance Committee caused by death, resignation, removal from Town, or otherwise, such vacancy shall be filled by the Moderator.

**(C) Warrant:** The Selectmen shall send to the Chairman of said Finance Committee a copy of the warrant for any town meeting as soon, as it is prepared by them. The Finance Committee shall consider and report in writing upon all articles in any warrant calling for the expenditure of Town funds.

**(D) Term:** Said Finance Committee shall serve for the year next ensuing after the final adjournment of the Annual Town Meeting at

which they were appointed, and until the appointment of their successors.

**(E) Election of Officers:** The Finance Committee shall meet and shall organize by the election of Officers.

**(F) Appropriation or Expenditure:** To the Finance Committee shall be referred all questions pertaining to the appropriation or expenditure of Town funds, for the purpose of making recommendations, but this shall not be construed to prohibit the appointment of special committees to investigate matters pertaining to the Town or to execute work authorized by it. The Finance Committee shall have the power to consult with departments, boards, committees, officers, or employees as may have information concerning any matter under consideration, and it shall be the duty of all departments, officers, employees or committees to furnish such information as they may possess that may be required by said committee. The Finance Committee shall also have the power to examine in connection with any subject under investigation or consideration, all books, vouchers, papers and all other instruments in the custody or possession of any officer, employee, or agent of the town.

**(G) Considerations:** When the warrant for a town meeting contains any article or articles calling for the appropriation or expenditure of Town funds, the Finance Committee shall consider such articles by giving one or more public hearings and shall report recommendations at said meetings. It shall issue a printed report of its recommendations relative to appropriations at the annual meeting on or before the last Monday in March. Said reports may consist of a publication in a newspaper of local circulation at least three days prior to the adjournment of the annual town meeting.

### **Section 3 - Capital Program Committee:**

**(A) Members:** A committee known as the Capital Program Committee shall be established, composed of one (1) member of the Finance Committee appointed by and from it; one (1) member of the Planning Board appointed by and from it; the Executive Secretary of this Town during his/her term of office and by virtue of that office; and three (3) additional members to be appointed by the Moderator, none of whom shall be a Town Office holder or Employee. The Finance Committee and Planning Board Members shall serve for Terms of one (1) year, the Moderator Appointees shall serve for overlapping terms of four(4) years in such manner that one term shall expire each year. A member who ceases to reside in the Town or accepts another office or employment from the Town shall resign. Any vacancy shall be filled for the un-expired term in the manner of the original appointment. The Committee shall elect its own Officers.

**(B) Authorities and Responsibilities:** For the purpose of this By-Law, a "Capital Expenditure" shall be defined as any expenditure, financed in whole or in part by Town funds, for a capital improvement. Such expenditure shall consist of any of the following:

(a) Any acquisition, disposition, lease or transfer of land;  
or

(b) Any acquisition, disposition, lease or transfer of motor vehicles; or

(c) Any acquisition or lease of any single item of equipment with a total cost of five thousand (\$5,000) dollars or more, and a substantial useful life of five (5) years or more as determined by the "Committee" or;

(d) Any construction, reconstruction, replacement, extension or other improvement of public buildings, highways, sidewalks, storm drains, sewerage installations, playgrounds, parks or substantially similar public works, or for a facility, structure or a utility appurtenant to any of the same, with a total cost of five thousand (\$5,000) dollars or more.

The Committee shall ascertain annually what Capital Expenditures will be required by the Town during the subsequent five (5) fiscal years. Department Heads and Chairpersons of all Boards, Commissions and Committees of the Town, whether elected or appointed, shall submit to the Committee, not later than the annual date which is set for the submission of their annual budget requests, recommendations and statements of needs and/or proposed plans involving Capital Expenditures for the subsequent five (5) fiscal years. All such information shall be submitted on forms that are provided by the Committee.

**(C) Annual Report:** The Committee shall prepare an Annual Report in conjunction with the Finance Committee of the Town and it shall include in such a report its recommendations for the scheduling of capital expenditures and for the financing of such expenditures as in its judgment cannot or should not be paid for from current revenues. The Committee shall outline in its report it; recommendations regarding the priorities of projects, financing costs, impacts of recommended projects on the operating budget and other related matters. No Capital Expenditure shall be voted on at any Town Meeting until it has been presented in writing to the Committee on forms that have been approved by the Committee.

**(D) Stabilization Fund:** All requests for transfers or expenditures from the Stabilization Fund must be presented to the Capital Planning Committee prior to the Town Meeting at which

such transfer or expenditure is to be voted on and the Capital Planning Committee shall make its recommendation to the Town Meeting regarding such transfer or expenditure.

#### **Section 4 - Council on Aging: Constitution and By-Laws**

**(A) NAME:** The name of this Town Department shall be the Millville Council on Aging, hereinafter referred to as the COA.

Location - The principal office is located in the Longfellow Municipal Center at 8 Central Street, Millville, MA 01529, or other location if necessary.

Mailing Address: Millville Council on Aging and or Senior Center, PO Box 703, Millville, MA 01529.

**(B) Purpose:** The COA shall assess the needs of Millville elders, develop programs and services to meet those needs, set policy for the operation of the senior center, and enhance the quality of life for seniors and the community by providing social, educational, recreational, and cultural programs. The COA shall identify all people sixty years of age and older in the town and act as a unified body for advocacy and service to the aging.

The Council and Director shall cooperate with the Executive Office of Elder Affairs and shall be cognizant of all legislation concerning funding, information exchange, and program planning relating to the welfare of the aging. The COA shall coordinate with any and all charitable, religious, civic, municipal or other agencies in order to improve services for the elderly.

#### **(C) Membership:**

MEMBERS - Members must be duly appointed by the Board of Selectmen. Prospective COA members shall be nominated by the Nominating Committee of the COA or by a letter of intention from the candidate, requesting appointment to become a member of the Council, and sworn in by an appropriate town official. Approximately one third of the COA shall be appointed each year on a rotating basis for a three-year term. Regular membership of the Council on Aging shall not be less than seven (7) nor more than nine (9).

ALTERNATE MEMBERS - The Council on Aging shall also include alternate members recommended by the COA and appointed by the Board of Selectmen for up to a three-year renewable term. The length of the term to be at the discretion of the COA and may expire earlier if the Alternate member attains regular membership. Alternate members may speak on any issue that comes before the Council. Alternate members are encouraged to contribute ideas and other assistance to the work of the COA.

Alternate members shall not vote except as set forth in Article I, Section-Voting, of these By-laws.

VOTING - Each individual regular member of the COA shall be entitled to one vote with respect to any question or matter that comes before a meeting of the COA members. There will be no voting by proxy. If requested by a majority of members present at a meeting, a vote may be taken by secret ballot. In the absence of regular members, voting power will be assigned to alternate members (according to longevity) to constitute a quorum by the COA Chair.

ATTENDANCE - Good attendance of a Council member will be determined by a minimum attendance of six (6) meetings per year.

If a member, unless otherwise excused, does not attend six (6) meetings the remaining members shall request the person's resignation. Any excused absence must be reported to the Director or COA Chairperson. If said member does not resign within ten (10) days, the remaining members, by vote at a duly called meeting, will decide whether or not to recommend that the Board of Selectmen dismiss such a member from the COA. Members should be available to attend inter-agency meetings as needed for representation of the Council on Aging.

**(D) Officers and elections:**

ELECTIONS - Officers shall be elected for a one-year term at the annual Council on Aging meeting, effective July 1<sup>st</sup> of the new fiscal year, and may serve consecutive terms.

OFFICERS - Officers of the COA shall be Chair, Vice-Chair, Secretary, and Treasurer and those officers shall be active members of the community.

VACANCIES - Vacancies in an office shall be replaced by a majority vote of the COA for the duration of the term, pending approval by the Board of Selectmen.

**(E) Duties:**

CHAIR - It shall be the duty of the Chair to preside at all meetings of the Millville COA, to have general supervision over all COA activities, to prepare an agenda in conjunction with the director, to be an ex-officio member of all committees, and to submit an Annual Report to the Town and to the State Office of Elder Affairs.

VICE-CHAIR - It shall be the duty of the Vice-Chair to assume and discharge such duties as called upon to perform by the Chair, in the absence of the Chair. In the event the office of the Chairperson becomes vacant, he/she shall complete the unexpired term of the Chair.

SECRETARY - It shall be the duty of the Secretary to keep accurate minutes of the monthly meetings of the Millville COA and to submit an accurate copy of COA meetings to the Board of Selectmen and Town Clerk. The Secretary will communicate on behalf of the COA through correspondence as needed.

TREASURER - It shall be the duty of the Treasurer to maintain the financial oversight and supervision of the COA. The Treasurer shall submit a monthly report to the Council of the financial condition of the COA, assist with the preparation of an annual budget (for submission by the Council for approval of the Board of Selectmen and Finance Committee).

**(F) Committees:**

The Millville Council on Aging may appoint persons to committee and/or advisory boards for the purpose of expediting the work of the Council. Those committees and advisory boards shall be chaired by a member of the Millville COA, shall act purely in an advisory capacity or carry out tasks as assigned, and shall have no power to vote.

NOMINATING COMMITTEE - The Nominating Committee of three (3) members appointed by the Chair to prepare and present a slate of officers at the April monthly meeting.

ADHOC COMMITTEES - The AdHoc Committees shall be appointed by the Millville COA as needed. Each member of the COA shall serve on at least one committee per year.

**(G) Meetings:**

MONTHLY - The regular monthly meeting of the Millville Council on Aging shall be held once a month, on the last Monday of the month at 7:00 P.M., in the Longfellow Municipal Center in the Council on Aging Office, unless otherwise designated.

EXCEPTION - When the last Monday of the month is a legal holiday, the meeting will be held at a time and place to be determined by the Millville Council on Aging with proper notice.

ANNUAL MEETING - The Annual Meeting shall be held each May at the regular meeting time for the purpose of election of officers.

MEETING NOTICE - Notice of all regular meetings must be posted at the Longfellow Municipal Center forty-eight hours prior to the meeting time. In the event of a change in the regular meeting time or place, all Millville COA members will be notified verbally at least forty-eight (48) hours prior to the meeting.

SPECIAL MEETING - A Special Meeting may be called at any time by the Chair or a majority of the Council. Written or verbal notice

must be sent to each member of the Council at least three (3) days prior to the scheduled special meeting time.

QUORUM - At any meeting a quorum shall be one member more than half the total of the Members of the COA.

**(H) Addendum to the Constitution and By-Laws of the Millville Council on Aging:**

HIRING PROCEDURE/DIRECTOR - The COA will place an ad in a local paper for the position of Director as well as post the vacancy at the Longfellow Municipal Center and on the community cable access channel. Applicants will be interviewed at a Special Meeting of the Millville COA. The name of the applicant chosen by the Council will be forwarded to the Board of Selectmen for final approval. The Director will work under the authorization of the Millville COA. The Director and other staff shall keep confidential records for the purpose of providing services. The duties and hours worked by the Director shall be regulated by the COA in conjunction with the Town of Millville Board of Selectmen or their designee. The applicant chosen for the job need not be a Millville resident but preference shall be given to a resident of the Town.

DISMISSAL PROCEDURE:

FIRST OFFENSE - Verbal Warning, with reason.

SECOND OFFENSE - Written Warning, with reason.

THIRD OFFENSE - Resignation Request of Dismissal.

**Article V - Finance Regulations**

**Section 1 - Records:**

**(A) Town Treasurer:** The town treasurer shall keep in a book provided for that purpose, an accurate itemized statement of all money received by him/her, and shall take and safely keep receipts and vouchers for all disbursements made by him/her, and make an itemized report of same to the Board of Selectmen.

**Section 2 - Excess and Deficiency Accounts:**

**(A) Purpose:** No money voted for a general or specific purpose shall be applied to any other use unless by a vote of the Town, and all unexpended balances of such grants in treasury December 31st shall be transferred to the General Fund.

**Section 3 - Payment of Receipts into the Treasury:**

**(A) Receipts:** Any department collecting funds on behalf of the Town shall transfer those funds directly to the Town Treasurer on forms provided by the Town Accountant on a weekly basis. Any department collecting more than One Thousand Dollars (\$1,000.00) in any period less than one week shall, upon reaching that amount, transfer those funds to the Treasurer on a daily basis"

**Section 4 - Payment of Town Obligations:**

**(A) Bills:** All bills of the town, wages and salaries shall be paid at least twice a month.

**Section 5 - Approval of Bills:**

**(A) Procedures:** All bills, accounts, and vouchers presented to the selectmen for payment shall bear the signature of approval, in their own handwriting, of every member of each department contracting the same, excepting in cases of emergency, when a majority thereof shall be deemed sufficient and the reason or the same shall be placed in the records of the selectmen.

**Section 6 - Payment of Fees and Commissions:**

**(A) Compensation:** No town officer and no salaried employee of the town or any agent of such officer or employee shall receive any compensation or commission for work done by him in his own department, except his official salary and fees allowed by law, without the permission of the board of selectmen expressed in a vote which shall appear on their records with the reason therefor.

**Section 7 - Sales to Town:**

**(A) Procedures:** No town officer and no salaried employee of the town or any agent of such officer or employee, nor any employer of such officer, shall sell directly or indirectly, materials, or merchandise of whatever sort or nature, to his own department, or to those receiving relief from his department, without the permission of the Board of Selectmen expressed in a vote which shall appear on their records, with the reason therefor.

**Section 8 - Contracts to Town Departments:**

**(A) Contract Expenditures:** No contract calling for the expenditure of more than ten thousand (\$10,000.00) shall be entered into by any board or officer on behalf of the Town, without first advertising for bids at least seven days in advance of the awarding of the contract. Such advertising shall be by publishing the same in a newspaper circulated in the town, and by such further advertising as shall be deemed necessary. Such advertising may be general in character, but if so, shall state further and detailed specifications may be obtained. All bids shall be publicly opened at a time and place stated in the notice, but the town officials may reserve the right to reject any and all bids. Nothing herein contained shall prevent the awarding of contracts without such advertising in cases requiring immediate attention, or in the purchase of supplies, merchandise or material of a special make and manufacture for replacement or repair purposes. A copy of all such contracts, made in conformity with the requirements of this section are to be filed with the town clerk.

**Article VI - Fees of Town Officers and Licenses**

**Section 1 - Town Fees:**

**(A) Collections:** The fees to be collected by the Town Clerk shall be as provided in Section 34 of Chapter 262 of the Massachusetts General Laws except as is otherwise provided in this section.

**(B) Clause Description and Proposed Fee:**

(12)	For correcting errors in a record of birth	\$10.00
(13)	For furnishing a certificate of birth	\$ 5.00
(13A)	For furnishing an abstract copy of a record of birth	\$4.00
(14)	For entering delayed record of birth	\$10.00
(20)	For filing certificate of a person conducting business under any title other than his real name	\$25.00
(29)	For correcting errors in a record of death	\$10.00

(30)	For furnishing a certificate of death	\$10.00
(30A)	For furnishing an abstract copy of a record of death	\$ 4.00
(42)	For entering notice of intention of marriage and issuing certificates thereof	\$15.00
(43)	For entering certificate of marriage filed by persons married out of the Commonwealth	\$ 5.00
(44)	For issuing a certificate of marriage	\$ 5.00
(44A)	For furnishing an abstract copy of a record of marriage	\$ 4.00
(45)	For correcting errors in a record of marriage	\$10.00
(62)	For recording orders granting locations of poles, piers, abutments, or conduits, alterations or transfers thereof, and increase in number of wires and cable flat rate or;	\$40.00
	attachments under the provisions of Section 22, Chapter 166 additional streets.	\$10.00
(66)	For examining records or papers relating to birth, marriage, or deaths upon the application of any person, the actual expense thereof, but not less than	\$ 5.00
(67)	For copying any manuscript or record pertaining to a birth, marriage, or death per page	\$ 5.00
(79)	Recording and other document - first page	\$10.00
	each additional page	\$ 2.00
	Voter's Certificate	\$ 5.00

## **Section 2 - Licenses:**

**(A) Requirements:** All licenses required by law are to be granted by the Board of Selectmen and issued by the Town Clerk who shall record the same.

### **(B) Licenses of Delinquent Taxpayers:**

**(1) Listing of Delinquent Taxpayers:** The Tax Collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereafter referred to as the Tax Collector, shall annually furnish to each department, board, commission or

division, hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation or enterprise, hereafter referred to as the party, that has neglected or refused to pay local taxes, fees, assessments, betterment's 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.

**(2) Effect of Delinquency:** The licensing authority may deny, revoke or suspend any license or permit, including renewals or 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 finding made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purpose of such proceeding and shall not be relevant to or introduced in any other proceedings of 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 all local taxes fees, assessments, betterment's or other municipal charges, payable to the municipality as of the date of issuance of said certificate.

**(3) Payment Agreements:** Any party shall be given the opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.

**(4) Waiver of Restriction by Selectmen:** The Board of Selectmen may waive such denial, suspension or revocation if it finds there is not direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in section one of chapter two hundred and sixty-eight of the Massachusetts

General Laws in the business or

**(5) Exclusions:** This section shall not apply to the following licenses or permits under Massachusetts General Laws:

- (a) Open Burning Chapter 48, section 13
- (b) Bicycle permits Chapter 85, section 11A
- (b) Charitable sales Chapter 101, section 33
- (c) Sporting licenses Chapter 131, section 12
- (d) Clubs/associates Chapter 140, section 21E
- (e) Dog licenses Chapter 140, section 137
- (f) Theatrical/exhibits Chapter 140, section 181
- (g) Child work permit Chapter 149, section 69
- (h) Marriage licenses Chapter 207, section 28

**(C) Regulation of Class I, II, and III Motor Vehicle Licenses.**

(1) In accordance with MGL c140, applications for Class 1, 2 or 3 motor vehicle licenses shall be on forms approved by the Registrar of Motor Vehicles. Any person filing an application for a license or amending an existing license shall file a certified plot plan of all the premises on which this license will be exercised. Such plan shall be drawn to scale, showing the north arrow as well as the actual dimensions, radii, and all angles of all the premises, showing the specific area to be used for the car lot, display areas, and all permanent buildings. The plot plan shall also include buffer areas, signs, driveways, and all abutters to the property, and other such information as the licensing authority deems necessary to determine the merits of the application. The licensing authority shall refer the plan to the Building Inspector, who shall review it and make a report to the licensing authority, in writing, concerning compliance of the plan with the requirements of this paragraph.

(2) Every licensee shall provide a suitable place to conduct his business which shall include a plan to provide services and storage for not less than one motor vehicle. A storage area shall be exclusive of any office space. Each licensee shall be required to provide an area of display for vehicles containing not less than 1,500 square feet.

(3) The issuance of any license shall be allowed for not less than five (5) cars and does not allow auto repairs or auto body repairs for the general public, but is restricted to repairs only on cars offered for sale by the dealer. All major repairs must be done indoors.

(4) After a license is issued under this section, the licensee must obtain dealer license plates from the Registry of Motor Vehicles and shall not use repair plates for the vehicles held for sale. The licensee must obtain the above plates within

ninety (90) days of the issuance of the license and retain these plates as a condition of holding this license. All license plate numbers must be recorded in the Office of the Town Clerk upon receipt from the Registry of Motor Vehicles.

(5) No person shall be licensed to buy and sell second hand motor Vehicles unless he has filed with his application a statement certifying that such business will be the applicant's principal business and that it will be conducted on the licensed premises.

(6) No car for sale shall be parked within the buffer area which shall be a minimum of five (5) feet from a public way or sidewalk. Bumper guards shall be placed along any street line used as a display area. The licensing authority may require additional buffers that it deems necessary for the safety of each individual area.

(7) No temporary office space of any kind will be allowed without proper sanitary facilities, nor will trailers on wheels or blocks be allowed.

(8) Failure of a licensee to conform with any section of this By-Law or with the Zoning By-Laws shall be deemed to represent sufficient cause to suspend, revoke or not to reissue the license.

(9) Effective upon the date of the adoption of this By-Law, all present licensees who remain in the same location and under the same ownership shall be exempt from the provisions of subparagraphs 1, 2, 3 and 6 of this Subsection, provided, however, that all conditions in effect upon the original issuance of any license shall remain as a condition for those license holders.

(10) All signs shall conform to the Zoning By-Laws.

(11) The hours of operation of any licensed business are to be restricted to between 8 A.M. and 9 P. M. No sales or promotional activities are to occur on Sundays or holidays with the exception of President's Day.

(12) The licensing authority may also restrict the hours of operation or outdoor lighting on the licensed premises, depending upon its impact upon abutters and the surrounding community.

(13) The license shall be subject to any other reasonable safety precautions that are deemed necessary by the licensing authority.

(14) The licensing authority may approve an application for a Class 1 and 2 Dealers License with the stipulation that all of the above regulations must be met prior to the issuance of that license.

(15) The licensing authority is empowered to suspend, revoke or take any other action provided for by this Subsection or by the General Laws of the Commonwealth, against any license issued hereunder, after a hearing, if it finds that there has been a violation of law, By-Law, rules or regulations.

(16) If the licensing authority finds, after a hearing, that the licensee as violated or permitted a violation of this By-Law or any other applicable law, rule, or regulation, it may revoke, suspend, or fine the licensee. Fines shall be established as follows:

- a) First offense for each day of violation, \$50.00.
- b) Second offense or subsequent offense for each day of violation, \$100.00.

Nothing herein shall prevent the licensing authority from imposing any of the above penalties in any combination.

(17) The total number of Class II dealer's issued under MGL Chapter 140, sections 58 and 59 at any one time shall be no more than ten (10).

(18) The application fee for a Class 1 and 2 license is \$100.00. The annual renewal fee of a Class 1 and 2 license is \$100.00.

(19) The investigation of violations under this Subsection shall be delegated to the Police Department and to the Building Inspector, each of which may enter licensed premises at reasonable times to inspect and investigate the conditions in order to ensure compliance with Subsection \_\_\_\_\_

(20) The provisions of all of the above paragraphs save those of paragraph 17 shall apply to all Class 3 licensees. The total number of Class 3 dealer licenses issued under MGL Chapter 140, Sections 58 and 59 at any one time shall be no more than two (2). The application fee for Class 3 licenses shall be \$100.00. The annual renewal fee shall be \$100.00.

(21) If any individual provision of this By-law is determined to be unconstitutional or otherwise unlawful, the remaining provisions will remain in full force and effect.

## **Article VII - Unregistered Motor Vehicles**

**(A) Owner Responsibilities:** No person as owner or as one in control of a premise shall keep in the open more than one (1) motor vehicle, assembled or disassembled, unless such motor vehicle(s) is/are properly registered with the Registry of Motor Vehicles. The provisions of this section shall not apply to a person duly licensed under Massachusetts General Laws, Chapter 140, Section 59, or as provided in Section (B) of this by-law. This section may be enforced pursuant to the provisions of Chapter 40, Section 21D.

**(B) Permits:** The Board of Selectmen may issue a permit to keep, store or allow two or more of such vehicles to remain on a parcel of land after said Board has held a public hearing thereon, first causing notice of the time, place and subject matter of such hearing to be given, at the expense of the applicant, by publication at least once a week for three consecutive weeks in that newspaper having the largest circulation in town, the last publication being at least ten days before the date of said hearing. Said Board shall not issue such a permit unless it finds that the presence of such vehicles, on such parcel (1) will not nullify or substantially derogate from the intent or purpose of this by-law, (2) will not constitute a nuisance and (3) will not adversely affect the neighborhood in which such parcel is situated.

**(C) Permit Specifications:** Each such permit shall (1) specify the maximum number of such vehicles that may be kept, stored or allowed to remain on such parcel, (2) be limited to a reasonable period of time and (3) be a personal privilege of the applicant and not a grant attached to and running with the land.

**(D) Non-Applicable:** This by-law shall not apply to vehicles which are (1) stored within an enclosed building, or (2) designed and used for farming, agriculture, or construction purposes.

**(E) Violation:** Any person who continues to violate the provisions of this by-law after thirty days following receipt by him of written notice of such violation from the Board of Selectmen shall be liable to a penalty not exceeding fifty dollars for each offense. Each day that any violation is allowed to continue after said thirty-day period shall constitute a separate offense.

## **Article VIII - Acquisition of Property**

**(A) Requirements:** Before the Town shall acquire any real property whether by lease, gift, or by the exercise of the power of

eminent domain it shall require that a site assessment be made by qualified environmental consultants or engineers to determine the presence, or absence, of any hazardous material on the site in violation of Massachusetts General Laws, Chapter 21E or of any other law, rule or regulation which might impose a future liability upon the Town for removal of any such materials.

## CHAPTER 2 - PUBLIC SAFETY

### Article I - Public Ways

#### Section 1 - Use Of Public Ways:

**(A) Street Opening:** Prior to opening any public street in the Town of Millville, the contractor or person shall secure from the Highway Surveyor a Road Opening Permit and shall post with the Town Treasurer/Collector a Bond in the amount required by the Highway Surveyor.

**(B) Sledding:** No person shall coast upon any sled or sleds upon any sidewalk or upon any street or public place except upon those streets or public places as the selectmen may by public notice designate for such purpose.

**(C) Animals/Vehicles:** No person shall drive any animal or vehicle under his care, control, or custody on or over any sidewalk, except at a permanent or temporary driveway, or permit any animal or vehicle under his care to obstruct the safe and convenient passage of persons lawfully using said sidewalks; or drive any animal or vehicle over any sidewalk in such a manner as to damage the concrete, cement or other material of said sidewalk.

**(D) Wood/Coal:** No person shall permit any wood or coal to lie on the ground in any public way or permit any wagon, truck, or any vehicle, to remain at rest within the limits of a street or upon any sidewalk or crosswalk, so as in any manner to obstruct travel thereon or to endanger life, limb and property.

**(E) Projections:** All awnings, signs, or other projections of buildings shall be at least seven feet above the sidewalk or traveled way, and then only by permission of the Board of Selectmen.

**(F) Abutters:** All abutters of granolithic, and concrete sidewalks within the limits of the Town shall remove snow from such granolithic or concrete sidewalks within twenty-four hours after the termination of each snowstorm.

**(G) Motor or Horse Drawn Vehicles:** All motor or horse drawn vehicles shall be parked with the curbing and within twelve inches or less of the face of the curbing where sidewalks are curbed and parallel with the lines of the road and so far off the traveled ways as can be reasonably done, where there is no curbing. In no case shall cars be allowed to stand diagonally on the streets of the Town.

**(H) Vehicle Operations:** Every operator of a motor vehicle or other conveyance traveling upon any street intersecting any through way above designated shall bring such a vehicle, or other conveyance to a full stop at the place where such street meets the prolongation of the nearest property line of such through street, subject however to the direction of any traffic control sign or police officer at such intersection.

**(I) Signage:** The Selectmen are hereby authorized and required to place and maintain or cause to be placed and maintained, on each and every street intersecting a through way, appropriate signs upon the street and appropriate devices or marks in the roadbed, such signs, devices or markers to bear the word "Stop" at or near the property line of a through way, and to be located in such a position and to be provided with letters of a size to be clearly legible from a distance of one hundred feet along the street intersecting a through way. All such signs shall either be illuminated at night or so placed as to be illuminated by street lights or by the headlights of approaching motor vehicles.

**(J) Traffic Rules:** The Selectmen are hereby authorized to make and establish such traffic rules and orders regulating upon the streets and highways, the direction and control of the speed of vehicular traffic, parking of vehicles, closing of streets temporary, zones of quiet, identification and regulation of funeral processions and reports to local police of accidents provided such traffic rules and orders are in conformity with the statutes, and provided further that such traffic rules and orders are approved by the Massachusetts Department of Public Works under authority of Chapter 8b, Section M.

**(K) Games:** No person shall throw stones in any street or public way or on any sidewalk in the town.

**(L) Town Common:** The Town Common shall be closed to all persons from 10:00 P.M., in the evening to 6:00 A.M. in the morning. The police department shall enforce this By-Law.

**(M) Discharge of Water onto Public Ways:** No person, owner or property, or person controlling property shall discharge or permit to be discharged into or upon any street, court, lane, public roadway, or roadway which the public has the right to use, any water which creates a public hazard by freezing or flooding in the roadway. In addition, said person, owner of property, or person controlling property, must hold and conform to a laid driveway entrance permit issued by the Highway Surveyor. Whoever violates this section shall be punished by a fine of Two Hundred Fifty Dollars (\$250.00) for each day the public hazard exists.

## **Section 2 - Alcoholic Beverages:**

**(A) Massachusetts General Laws:** As defined by Massachusetts General Laws, Chapter 138, Section 1 -"No person shall drink any alcoholic beverages while on, in or upon any public way or ways to which the public has access; any public park, playground or conservation area; or upon any private land or place without the consent of the owner or person in control thereof. A violation of this by-law shall be deemed to be a breach of the peace."

## **Section 3 - Parking Regulations:**

### **(A) Handicapped Spaces:**

**(1) Parking Signs:** In parking areas which the public has a right of access, parking spaces reserved for handicap use shall be clearly marked with handicap parking signs (blue background, white lettering). No person shall park a motor vehicle in a designated handicap parking space, unless said vehicle bears the distinctive license plates or placards authorized by Massachusetts General Laws, Chapter 90, Section 2, or for any vehicle bearing the official identification of a handicapped person issued by any other state.

### **(B) Regulation of Unauthorized Vehicles in Handicapped Spaces:**

**(1) Penalties:** The penalty for parking in violation of this section shall be as follows: for the first offense, fifteen dollars; for the second offense, twenty-five dollars; and for each subsequent offense, the vehicle may be removed according to the provisions of Massachusetts General Laws Chapter 266, Section 120D. This provision shall be enforced by the Police Department.

## **Article II - Fire Department**

### **Section 1 - Key Box System:**

**(A) Key Box:** All industrial buildings or properties in which access is made difficult due to physical barriers, or any building in which local or supervised fire alarm systems are installed, or any building or property deemed necessary by the Millville Fire Department, shall provide the Town of Millville with the proper key box system with the proper keys to gain access into the building or any other applicable portion of the building.

**(B) Applications:** The approved key box system for the Town of

Millville shall be that system approved by the Millville Fire Department. Applications can be obtained from the Millville Fire Department. The location of the Key box system shall be so located at or near the primary fire department access to the building or property as approved by the Millville Fire Department.

**(C) Construction/Certificate of Occupancy:** All new construction which is applicable under this by-law shall install the key box system prior to the issuance of a Certificate of Occupancy and any building or property which is converted, altered, or otherwise changed so as to become applicable under this by-law, shall comply with this by-law at the time of conversion, alteration, or change.

**(D) Written Rules and Regulations:** Written rules and regulations governing the provisions of this section shall be promulgated by the Millville Fire Department and a copy of said rules and regulations shall be maintained in the Millville Fire Department and made available for review by the general public.

**(E) Violation of Key Box By-Laws:** Penalty for violation of Key Box by-law: Any person, firm, corporation, or other business entity, whether as principle, agent, employee or otherwise, who does not comply with the provisions of this by-law as contained herein, shall be fined a sum of fifteen dollars (\$15.00) for each violation. Each day in which any such violation shall continue to exist shall be deemed a separate offense.

**(F) Violations:** Violators may be penalized by the non-criminal method of disposition as provided in Section 21D of Chapter 40 of the Massachusetts General Laws, or if the Millville Fire Chief so determines, violators may be penalized by a criminal indictment or criminal complaint brought in the Uxbridge District Court.

**(G) Fines:** All fines collected under this by-law shall be remitted to the Town of Millville and a copy of the receipt thereof shall be given to the Millville Fire Department.

**(H) Enforcement:** The enforcing person for this Section shall be the Millville Fire Chief or any member of the Millville Fire Department authorized by the Millville Fire Chief.

### **Article III - Animal Control**

#### **Section 1 - Rules and Regulations:**

**(A) Definitions:** The following words and phrases as used in this By-Law, unless the context requires otherwise, shall have the following meanings:

"Hunting or Sporting Dog" shall mean an animal under the control and direction of its owner or keeper while used in training or actual hunting. It also includes animals used in events or trials participating under sanctioned competitions.

"Keeper" shall mean person, other than the owner, harboring in his possession any animal. The keeper shall be held liable for the action of the animal.

"Kennel" shall mean one pack or collection of dogs on a single premise, whether maintained for breeding, boarding, sale, training, hunting or other purposes and including any shop, where dogs are on sale, who are not covered by MGL c.129, s.39A. This also includes every pack or collection of more than three (3) dogs six (6) months old or over owned or kept by a person on a single premise irrespective of the purpose for which they are maintained. Any and all kennels registered in the Town of Millville shall be subject to State and Local business regulations.

"Owner" shall include corporations, societies, associations, partnerships, and individuals, provided they show ownership of an animal by possession of a current and valid license or other satisfactory proof of ownership.

"Working Dog" refers to an animal used in the performance of a particular set of tasks. The animals must be engaged in such tasks to be exempt from Subsection A. Examples include guard dogs, seeing eye dogs, and dogs used to control a farmer's flock or herd.

**(B) Dogs to be Restrained by Leash; Exceptions:** No person shall permit a dog owned or kept by him beyond the confines of the property of the owner or keeper unless the dog is held firmly on a leash. The length of the leash shall not exceed six (6) feet when off the property of the owner or keeper. An owner or keeper may use a leash of greater length to restrain a dog on the property of the owner or keeper, provided the dog is securely confined to the premises of the owner or keeper.

Exceptions: Animals which are classified as hunting or sporting dogs, as well as working dogs, while used in such capacity, are excepted.

**(C) Evidence of Violation:** The unauthorized presence of any animal on public lands or on the land of any person other than the owner or keeper of such animal when such animal is not restrained as above mentioned, shall be prima facie evidence of a violation of the provisions of these bylaws.

**(D) Violations and Penalties:** A violation of this chapter shall be punishable by a twenty-five dollar (\$25) fine per offense,

with the exception of: Failure to License a Dog which shall be punishable by a fine of Fifty dollars (\$50.00); Failure to Leash a Dog, which is punishable by a fine of Thirty five dollars (\$35.00); of Failure to Vaccinate against Rabies, which shall be punishable by a fine of fifty dollars (\$50.00) in accordance with Massachusetts General Laws, Chapter 140, Section 145B.

**(E) Licensing; Fees:**

a) Any owner or keeper of a dog six (6) months of age or older in the Town of Millville shall cause that dog to be licensed as required by MGL c.140 within the stipulated time.

b) The annual fee for every dog license, except as otherwise provided for by law, shall be fifteen dollars (\$15), unless a certificate is presented to the Town Clerk, from the registered veterinarian who performed the operation, stating that such dog has been altered and has thereby been deprived of the power of breeding or producing offspring, in which case the fee shall be ten dollars (\$10). If the Town Clerk is satisfied that the certification by the veterinarian who altered the dog cannot be obtained, he may accept, in lieu thereof, a statement, under the penalties of perjury, by a registered veterinarian describing the dog and stating that he has examined the dog and in his opinion the dog is not capable of breeding or producing offspring by reason of spaying or neutering. Until the veterinarian has examined the dog in question, the licensing period shall be at a rate of ten dollars (\$10). When applying for a license, the applicant must also show proof by a veterinarian's certificate, that the dog is currently vaccinated against rabies, if the dog is six (6) months of age or over, as required by MGL c.140, s.145B. No fee shall be charged for a license for a dog specifically trained to lead or serve a blind person or a deaf person, provided that the Division of the Blind or Deaf certifies that such dog is so trained and actually in the services of a blind or deaf person. Kennel fees shall be as follows: Four (4) dogs or fewer, fifty dollars (\$50); ten dogs or less, seventy-five dollars (\$75); and twenty-five (25) dogs or less, one hundred dollars (\$100). No license fee or part thereof shall be refunded because of subsequent death, loss, spaying, neutering or removal from the Commonwealth or other disposition of the dog.

c) The licensing period will be April 1 - March 31. Should any owner or keeper of a dog fail to license that dog before May 30, that owner or keeper shall pay a late fee of five dollars (\$5) plus an additional fee of one dollar (\$1) per month beginning May 30, before obtaining said license, excepting a dog brought into the Town as provided in MGL c.140, s.138. This late fee shall be applicable from the 61st day after the arrival of such dog.

d) Any person maintaining a kennel in the Town of Millville who fails to license as prescribed by this section and the laws of the Commonwealth shall pay a late fee.

e) Such fees as collected by the Animal Control Officer shall be accounted for and paid over to the Town Treasurer to be incorporated into the General Fund.

**(F) Impoundment for Certain Offenses:** The Animal Control Officer can impound a dog for the following offenses:

- 1) Unlicensed dog.
- 2) Found at large when owner or keeper is not present.
- 3) Injuring or menacing a person.
- 4) Injuring a domestic animal or fowl.
- 5) Chasing vehicles (autos, motorcycles, trucks).
- 6) Chasing bicycles.
- 7) Causing any disturbance (barking, howling, disturbing peace, etc.).
- 8) Being unmuzzled while a muzzling order is in effect.
- 9) Being found in a schoolyard or posted recreational area.
- 10) Violation of a quarantine.

**(G) Muzzling for certain offenses; exceptions:**

a) Any officer of the Animal Control Department can order a dog to be muzzled or made to wear an electronic collar for the following:

- 1) Biting or menacing a person while off the property of the Owner.
- 2) Injuring or menacing a domestic animal or fowl.
- 3) Excessive barking.

b) Exceptions: Only the Animal Control Department has the power to remove a muzzle order if he/she so desires, i.e, an exception is feeding time.

c)

**(H) Biting; violations of quarantine orders:** For biting a person, the animal must be quarantined subject to MGL c.129, s.21. Any and all violations of a quarantine order will be subject to general penalties under MGL c.129, s.30.

**(1) Storage fee; impoundment of unlicensed and licensed dogs:**

a) A storage fee for the boarding of impounded animals shall be levied at a rate of not less than ten dollars (\$10) per day.

b) Impounded unlicensed dogs will be kept for ten (10) days. During such time, a description of the dog will be posted at

the Municipal Center. To obtain the release of an unlicensed dog, the owner or keeper must license the dog and pay all fines and storage fees. If the dog must be released for the purpose of obtaining a rabies inoculation, the owner or keeper shall leave a fifty dollar (\$50) deposit with the Town Clerk.

This deposit will be refunded at the time of licensing, providing the rabies inoculation and license is obtained within seven (7) days, after which the deposit becomes nonrefundable. If the dog is not claimed within ten (10) days it shall become available for adoption or destroyed in a humane manner.

c) The owner of an impounded licensed dog will be notified by registered mail of the animal's confinement. The animal will be kept until the owner pays all fines and storage. If not claimed within thirty (30) days, it will be destroyed in a humane manner.

**(J) Dogs in estrous cycle; violations and penalties:**

a) A fine of twenty-five dollars (\$25) shall be levied against the owner or keeper of a female dog in heat, running at large.

**(K) Animal Control Officer:** The Board of Selectmen shall appoint an Animal Control Officer or Officers as are deemed necessary to administer and enforce this Chapter and the Sections of Massachusetts General Laws Chapter 140, as amended, relating to dogs.

**(L) Kennels:**

a) No person shall house more than three (3) dogs, age six (6) months or older, on a single premises without first applying for a kennel license the Town Clerk. Upon review of the application, the Animal control Officer and/or his his assistant(s), along with the Health Agent, shall inspect the facility prior to the issuance of any kennel license. The Animal Control Officer (and/or his assistants) and/or the Health Agent may deny the application if the facility is not in compliance with any or all sections of this by-law.

b) It shall be a condition of the issuance of any kennel license that the Animal Control Officer shall be permitted to inspect all animals and the premises where animals are kept at any time. If permission for inspection is refused, the Animal Control Officer shall revoke the license of the refusing owner or keeper with no part of the fee refunded.

c) Any person who receives a kennel license shall erect a

kennel in accordance with the following specifications.

- 1) A minimum of four by eight (4' X 8') feet for each dog shall be provided.
- 2) Locks on gates to prevent the escape of dogs and the entry of children shall be provided.
- 3) Kennels shall be sixty (60') feet from the street and forty (40') feet from lot lines.
- 4) The Zoning Board of Appeals may waive any provision of subsection c.
- 5) Existing licensed kennels will not be subject to (1) and (3) of sub-section c.
- d) No person convicted of cruelty to animals shall be issued a license to operate a kennel.
- e) Any person or persons who hold a kennel license shall make available to the Animal Control Officer and the Police Department an emergency number where they can be reached.
- f) Kennel licenses shall be given only to people who apply under the conditions of operating a breeding and/or boarding and/or grooming facility and/or sporting facility by means of making moneys or hobby.
- g) Kennel licenses shall not be given to any person who is not a resident of the Town of Millville unless they are operating a commercial business.
- h) Pet stores shall not be required to carry a kennel license as long as they are in accordance with MGL c.29, s.39A.
- i) All complaints received of a kennel will be handled in accordance with MGL c.140, s.157, as amended.

**(M) Vaccination against rabies:** All dog owners will be in compliance of MGL c.140, subsection 145B.

**(N) Defecating on Town or private property:**

- a) Each person who owns keeps or controls a dog within the Town shall remove and dispose of any feces left by such dog on any sidewalk, street, park, or other public area, or on any private property which is not owned or occupied by such

person.

b) No person who owns, keeps or controls a dog within the Town shall permit such dog to be on any sidewalk, street, park or other public area unless such dog is accompanied by a person carrying a suitable device for picking up and containing feces. Such device shall contain the feces so as not to expose it to such person and to the general public.

c) For the purposes of this subsection, feces may only be disposed of at a place suitable and regularly reserved for the disposal of human feces or otherwise designated as appropriate by the Board of Health.

d) Section N, subsections a, b, and c shall not apply to a dog accompanying any handicapped person who, by reason of a handicap, is physically unable to comply with the requirements of such sections.

e) A violation of this Section will be punishable by a twenty-five dollar (\$25) fine.

## **Section 2 - Cat By-Laws**

**(A) Purpose:** The purpose of this Chapter is to provide reasonable regulations for the control, care, and maintenance of cats in the Town of Millville. It is recognized by the Board of Selectmen, as well as the Animal Control Department, that cats are generally excellent pets but they can become a nuisance without proper care. This Chapter is not intended to impair, restrict, or otherwise interfere with the relationship that exists between owners and their pets. Cat owners are strongly advised to insure the safety of their pets. It is quite easy for a cat to be designated "FERAL".

### **(B) Definitions:**

**"Cats"** shall mean any animal of the feline species.

**"Stray Cat"** shall mean any cat having no known owner or keeper.

**"Feral Cat"** shall mean any cat existing in an untamed state, afraid, wild, and unable to restrain.

**"Untamed State"** shall mean afraid, timid, wild, not domesticated, uncontrollable, or unable to be restrained.

**"Owner/Keeper"** shall mean any person who has taken charge in the care of any cat.

**(C) Vaccination against rabies:** All cat owners shall be in compliance with MGL c.140, s.145B.

**(D) Violations (Fines):**

a) Anyone found in violation of MGL c.140, s.145B, shall pay a fine of not more than fifty dollars (\$50.00).

b) Anyone found in violation of Section 2(C) of this By-Law shall be fined fifty dollars (\$50.00).

**(E) Complaints:** Any person filing a complaint with the Animal Control Department regarding feral cats will be advised to procure from the property owner a written statement that there exists a feral cat problem on the property and that the owner gives permission to the Town to enter upon said property to trap and remove said cats.

**(F) Posting of Notices:** If the Animal Control Department intends to trap feral cats, officers shall post intent to trap notices for period of (5) days which shall include a location, date and time of trapping. Said notices shall be posted at the following locations:

- 1) Municipal Center
- 2) Post Office
- 3) Local Cable Channel or Newspaper
- 4) Owners Property

The Animal Control Department shall erect upon the owner's property a sign clearly visible to the public to read as follows:

NOTICE  
TOWN OF MILLVILLE ANIMAL CONTROL DEPARTMENT  
TRAPPING ON THIS PROPERTY IS IN EFFECT

**(G) Trapping:** After the Animal Control Department has received the written authorization of the property owner and in accordance with MGL Chapter131, Sections 79 and 80, trapping will begin. At this time, owners are strongly advised to take every precaution to protect their pets, including their household cats, from being trapped. In accordance with Section C subsection (b), owners are advised to keep a collar or harness on their cats to insure their pet will not be mistaken as a feral cat and trapped. Any feral cat trapped will be destroyed in a humane manner immediately. Any cat trapped that is not defined as a feral shall be released.

## CHAPTER 3 - ELECTED OFFICIALS

### Article I - Recall of Elected Officials

**(A) Recall:** Any holder of an elective town office may be recalled therefrom by the voters as herein provided.

**(B) Statement of the Grounds for Recall:** Any two hundred (200) voters may file with the Town Clerk an affidavit 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 said voters making the affidavit copies of the petition blanks demanding such recall, printed forms of which he or she shall make available. The blanks shall be issued by the Town Clerk with his or her signature and official seal attached thereto. They shall be dated, shall be addressed to the selectmen and shall contain the names of all persons to whom they are issued, the names of the person whose recall is sought, the grounds for recall as stated in the affidavit and shall demand the election of a successor in the said 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 thirty (30) days after the filing of the affidavit and shall have been signed by at least twenty (20) percent of the voters who shall add their signatures, the street and number, if any, of their residences.

**(C) Petitions:** If the petition shall be found and certified by the Town Clerk to be sufficient, he/she shall submit the same with his/her certificate to the selectmen without delay, and the selectmen shall forthwith give written notice of the certificate to the officer sought to be recalled and shall, if the officer does not resign within five (5) days thereafter, order an election to be held on a date fixed by them not less than sixty-five (65) days nor more than seventy-five (75) days after the date of the Town Clerk's certificate that a sufficient petition be filed, provided, however, that if any other town election is to occur within sixty (60) days after the date of the certificate, the selectmen shall postpone the holding of the recall election to the date of such other election. If a vacancy occurs in said office after a recall election has been ordered the election shall nevertheless proceed as provided in this section.

**(D) Officer Removal:** Any officer sought to be removed may be a candidate to succeed them self, and unless he/she requests otherwise in writing, the Town Clerk shall place his/her 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 all be in accordance

with the provisions of law relating to elections, unless otherwise provided in this section.

**(E) Performance Under Recall:** The incumbent shall continue to perform the duties of his/her office until the recall election. If then re-elected, he/she shall continue in office for the remainder of his/her unexpired term, subject to recall as before, except provided in this section. If not re-elected in the recall election, he/she shall be deemed removed upon the qualification of his/her successor, who shall hold office during the unexpired term. If the successor fails to qualify within five (5) days after receiving notification of his/her election, the incumbent shall thereupon be deemed removed and the office vacant.

**(F) Ballots:** Ballots used in a recall election shall submit the following propositions in the order indicated;

For the recall of (Name of Officer)

Against the recall of (Name of Officer)

Immediately at the right of each proposition, there shall be a square in which the voter, by making a cross mark (X), may vote for either of the said propositions. Under the propositions shall appear the word "Candidate", the directions to voters required by Section 42 of Chapter 54 of the Massachusetts General Laws, and beneath this the names of candidates nominated as hereinbefore provided. If a majority of the voters cast upon the question of recall is in the affirmative, the candidate receiving the highest number of votes shall be declared elected. If a majority of votes on the question is in the negative, the ballots for candidates need not be counted.

**(G) Filing:** No recall petition shall be filed against an officer within three (3) months after he/she takes office, nor, in the case of an officer subject to a recall election and not recalled thereby, until at least six (6) months after the election at which his/her recall was submitted to the voters.

**(H) Subsequent Appointments:** No person who has been recalled from office, or who has resigned from office while recall proceedings were pending against him/her, shall be appointed to any Town Office within two (2) years after such recall or such resignation.

**(I) Action on a Home Rule Charter:** In action on a home rule charter on any date subsequent of the passage of this legislation, the town meeting may (a) include A through H as part of the charter, or (b) amend Sections A through H in any way it chooses and include amended Sections A through H as part of the charter, or (c) exclude Section A through H from the charter.

## CHAPTER 4 - EARTH REMOVAL BY-LAW

### Article I - Earth Removal

#### Section 1 - Definitions:

**(A) Interpretation:** In Construing this By-Law, the following words shall have meaning herein given, unless a contrary intention clearly appears:

**(1) Abutter:** The owner of land abutting a lot including land on the direct opposite side of an abutting way or abutting an abutter within 300 feet of the lot property line.

**(2) Board:** Earth Removal Board.

**(3) Earth:** All forms of soil including, without limitations, sod, loam, sand, gravel, clay, peat, hardpan, rock, quarried stone, or mineral products.

**(4) Earth Removal:** Removing any form of soil, including, without limitation, sod, loam, sand, gravel, clay, peat, hardpan, rock, quarried stone, or mineral products.

**(5) Earth Removal, General:** An earth removal not defined as subdivision or miscellaneous.

**(6) Earth Removal, Miscellaneous:** That which is entirely incidental to construction for which a building permit has been issued or that which is less than 300 cubic yards.

**(7) Earth Removal, Subdivision:** That which is entirely incidental to road construction for approved subdivisions.

**(8) Lot:** The area described in an application for an earth removal permit as the area from which earth is sought to be removed.

**(9) Owner:** The owner of a lot with respect to which earth is sought to be removed or the person lawfully standing in the stead of such owner, as, for example, a lessee to tenant, or person with written authorization for such removal from the owner.

**(10) Person:** "Person" shall include but not be limited to an individual, corporation, society, association, and partnership.

**(11) Removal:** Stripping, digging excavating or blasting of

earth and carrying it away from the lot.

**Section 2 - Scope:**

**(A) Earth Removal Operations:** This By-Law shall apply to all earth removal operations in the Town of Millville except as otherwise provided in this By-Law. It shall apply to all areas regardless of zoning district.

**(B) Purpose:** Nothing in this By-Law, however, shall be deemed to amend, repeal, or supersede the Zoning By-Laws of the Town of Millville now or hereafter in effect. Nothing in this By-Law shall derogate from the intent and purpose of such Zoning By-Laws.

**(C) Dual Application:** In cases of dual application, the provisions of this By-Law and the Zoning By-Laws must both be met and satisfied.

**Section 3 - Earth Removal Board:**

**(A) Members:** There shall be established an Earth Removal Board to administer the provisions of the Earth Removal By-Law. The members of the Earth Removal Board shall be the members of the Board of Selectmen and one member of the Conservation Commission, recommended by and from it, and one member of the Planning Board, recommended by and from it. No person employed by or having a direct or indirect beneficial interest in a commercial earth removal business in the Town of Millville shall be eligible for appointment to the Earth Removal Board.

**(B) Meeting Minutes:** The Earth Removal Board shall file copies of its meeting minutes and copies of all permits issued and renewed with the Town Clerk and Board of Selectmen. The Earth Removal Board shall file an Annual Report with the Board of Selectmen summarizing its activities for the year including a complete listing of all permits granted. Such reports will be published in the Millville Annual Report.

**(C) Budget:** A budget shall be established for the Earth Removal Board to include funds for part-time clerical services, advertising expenses, recording of permits, and consulting engineering. Said budget shall be administered by the Board of Selectmen.

**Section 4 - Permit Application and Site Plan Requirements:**

**(A) Permit:** Except as otherwise provided in Section 8 of this By-Law, no earth shall be removed from any lot in the Town of

Millville unless a permit shall first have been obtained by the owner of such lot from the Board.

**(B) Applications:** Applications for Earth Removal Permits shall be made to the Board by filing an application with the Board on a form to be provided by the Board.

**(C) Documentation:** Each Application shall include and be accompanied by the following and supporting documentation.

**(1) Filing and Renewal Fee:** A filing and renewal fee in an amount established by the Board and contained in its Rules and Regulations.

**(2) Description:** A description in metes and bounds of the lot proposed for excavation.

**(3) Legal Name and Address - Owner:** Legal name and address on the owner of the property involved.

**(4) Legal Name and Address - Petitioner:** Legal name and address of the petitioner, which address shall be used by the Board for all correspondence hereunder.

**(5) Names and Address - Abutters:** Names and address of all abutters as appearing on the most recent tax list and certified by the assessors.

**(6) Land Plan:** A topological map/plan of the land showing zoning classification and topography of surrounding areas within 100 feet of the property line.

**(7) Quality of Excavation of Fill:** A certified statement of the quality of excavation of fill involved made by a registered engineer or land surveyor.

**(8) Proposed Contours:** The plan of the land showing proposed contours of the site at the completion of the excavation project.

**(9) Bond:** The form of the Bond proposed to be submitted in accordance with Section 6, A; 1-9.

**(10) Review Fee:** The applicant shall also pay a Review Fee as set by the Earth Removal Board to cover the costs of the engineering expense incurred by the Town as part of the application review process of the earth removal work and of determining permit compliance at the termination of the permit period shall be borne by the permit holder.

## **Section 5: Granting or Denying Permits:**

**(A) Issuing Permits:** The Board shall not issue a permit if it appears that such will:

**(1) Endangerment:** Endanger the public health or safety, or existing or potential water supplies.

**(2) Nuisance:** Constitute a nuisance.

**(3) Use of Adjacent Property:** Result in the detriment to the normal use of adjacent property by reason of noise, dust or vibration, or undermining the property.

**(4) Operations:** Result in operations within 200 feet of a way open to the public use, whether public or private, or within 200 feet of a building or other structure unless the Board is reasonably satisfied that such operations will not undermine such way or building or structure.

**(B) Permit Expiration:** Any permit issued hereunder shall automatically expire upon the completion of the earth removal project for which it was used or at such other time as may be specified in said permit, provided, however, that no such permit shall be valid for more than one year from the date of issuance.

**(C) Applications:** Application for permits may be granted, denied or granted in part and denied in part.

## **Section 6 - Operating Standards:**

**(A) Permits:** Each permit issued by the Board shall be subject to the following conditions which shall be set forth on the permit:

**(1) Removal:** No removal below the natural grade shall be permitted within 200 feet of a residential zoned property line unless safety and protection from nuisance factors is assured through additional measures such as fencing or sloping as determined by the Board. In no case shall excavation take place within 50 feet of a residentially zoned property line unless the abutting land is subject to an earth removal permit granted under this By-Law and the owner of such land has granted written approval of such removal.

**(2) Slopes:** No slope created by earth removal operations shall be finished at a grade in excess of 2 (horizontal) to 1 (vertical) unless specifically authorized in the permit.

**(3) Operations:** Upon the conclusion of earth removal operations, all areas upon which such operations have been conducted shall be covered with not less than four inches of topsoil capable of supporting vegetation brought to the finished grades and seeded with a suitable cover crop except where ledge rock is exposed and all large stones and boulders which protrude above finished grade shall be buried or removed. The Board shall require the applicant to guarantee growth for the crop covering such areas within two years of seeding.

**(4) Excavation Point:** The lowest excavated point shall not be less than five (5) feet above the existing groundwater table unless a greater distance is recommended by the engineer who reviews this plan. To ensure the minimum depth, the property owner shall, at his/her expense, install observation wells in accordance with the requirements of the Board's agent.

**(5) Excavation - Free Standing Water:** No area shall be excavated so as to allow the accumulation of free standing water.

**(6) Routes Approved for Truck Traffic:** The routes approved for truck traffic shall be reviewed by the Police/ Highway Departments to determine safety and road conditions.

**(7) New Permits:** New permits shall be limited on size and phased to a certain percentage of the site such that each phase can be completed within two years as determined by the five acres. Permits for subsequent phases shall be issued only upon evidence of compliance to the By-Law of the previous phases determined by the Board.

**(8) Other Reasonable Requirements:** Such other reasonable requirements consistent with the provisions of this By-Law and such rules and regulations as the Board may adopt hereunder including, but not limited to, grading, constant sloping, seeding, and planting, fencing or screening necessary for public safety and/or visual aesthetics, methods of removal, location and use of buildings and other structures, hours of operation, routes of transportation of earth removal, control of drainage and disposition of waste incidental to the removal operations.

**(9) Commencing Earth Removal Operations:** Prior to commencing earth removal operations, the applicant shall post with the Treasurer of the Town of Millville proper bond in such amount

and such sureties as determined by the Board to be sufficient to guarantee compliance with the terms and conditions of the permit. The purpose of the bond is to assure that funds available assure compliance with this By-Law and to complete restoration as approved.

#### **Section 7 - Hearing:**

**(A) Public Hearing:** Before issuing a permit, the Board shall hold a public hearing after giving at least fourteen days notice of time and place thereof, such notice to be by advertisement in a newspaper of general circulation in the Town and by certified mail, postage prepaid to all abutters as they appear upon the most recent tax list and to the Conservation Commission of the Town of Millville. This hearing shall be held within ninety days following that date the application is filed with the Board.

**(B) Review Agent:** The Earth Removal Board shall submit the application and the supporting documents to its review agent and shall not act on the application until review by the agent is completed.

**(C) Town Boards:** The Conservation Commission or any other Town Board or Commission shall have the right to question the petitioner. Within fourteen days of the receipt of the Earth Removal Application, the Conservation Commission shall file with the Board a report containing its recommendations. If no report is filed within fourteen days, it shall be deemed that the Conservation Commission has no objections to the application.

**(D) Application for Renewal of a Permit:** Upon application for renewal of a permit, the Board may, in its discretion, grant renewals for periods of up to one (1) additional year without a public hearing. The Board shall give such notice of such application by advertisement in a newspaper of general circulation in the Town and by certified mail, postage prepaid, to all abutters as they appear upon the most recent tax list as certified by the assessors. If written notice of objection to such notice, the Board shall take such objection into renewal has been filed with the Board within twenty-one (21) days of giving of such consideration before taking action on the renewal application. Any renewal application shall meet the requirements set forth in Section 4-(A), (B), (C) 1-10.

#### **Section 8 - Exemptions:**

**(A) Earth Removal Operation Provisions:** The Earth Removal Board may exempt the following earth removal operations from the provisions of this By-Law after the applicant has filed a statement with the Board that the removal falls into one of the following categories and giving the amount to be removed. The

Board shall decide on such requests for exemption within thirty days.

**(1) Earth Removal Operations for Municipal Purpose:** Earth removal operations for any municipal purpose by or on behalf of the Town of Millville or any department or agency thereof.

**(2) Incidental Earth Operations:** Earth removal operations which are customarily incidental to farming, agriculture, gardening or nursery operations.

**(3) Earth Removal - Construction:** Earth removal incidental to the construction of a building or other structure and associated facilities for which a building permit has been duly issued and to the installation of walks, driveways, landscaping and similar appurtenances to said building or structure.

**(4) Earth Removal - Private Way:** Earth removal operations in connection with the construction or improvement of a private way.

**(5) Earth Removal:** Earth removal operations involving less than 300 cubic yards.

#### **Section 9 - Rules and Regulations:**

**(A) Adoption and Amendments:** The Board may adopt and amend reasonable rules and regulations to carry out the purpose of this By-Law. Said rule making authority includes, but is not limited to, regulations regarding applications, site plan detail, engineering detail, criteria to be met to protect aquifers or wetlands, criteria for site restoration notices and enforcement. Said rules and regulations shall not be effective until reviewed and authorized by the Board of Selectmen and filed in the office of the Town Clerk.

#### **Section 10 - Enforcement:**

**(A) Violations:** If the Board determines that any person is violating any provision of this By-Law, the Board may order such person to cease and desist from such violation. The Board shall cause notice of the order to be served on such person by mailing a copy thereof by certified mail, return receipt requested, or by delivery in hand. If a permit for earth removal has been issued for the parcel of land on which that violation is occurring, delivery shall be to the address listed on the permit, and to the person named on the permit. If no permit has been issued for the parcel of land on which the violation is occurring delivery shall be to the address to which the property tax bill is sent and to the person named as owner according to the records of file in the

office of the board of assessors.

**(B) Receipt of Notice:** If, after receipt of such notice, such person continues such violation the Board may seek to enforce its order by any of the following procedures.

**(1) Penalties:** Where in its judgment the situation so requires, it may cause a criminal complaint to issue from the Oxbridge District Court, subject to the penalties provided in Massachusetts General Laws, Chapter 40, Section 21, cl.(17). Each day for which any such violation continues after receipt of such notice shall be deemed to be a separate offense, or,

**(2) Proceedings:** Where in its judgment the situation so requires, it may institute proceedings in the Superior Court of Worcester County, or in the Land Court if applicable, to enjoin the use of any premises in any way which would be in violation of this by-law; or,

**(3) Disposition:** Where in its judgment the situation so requires, it may pursue a violation of any of the provisions of this by-law by the non-criminal method of disposition as provided in Section 21D of Chapter 40 of the Massachusetts General Laws. In any case where a disposition is so sought, the penalty shall be fifty dollars (\$50.00) for the first offense, one hundred dollars (\$100.00) for the second offense, and two hundred dollars (\$200.00) for the third and each subsequent offense. Each day on which a violation exists shall be deemed to be a separate offense.

**(C) Appointment of an Agent:** For the purpose of ensuring compliance with this By-law, the Earth Removal Board shall appoint an agent who shall have such authority as is specifically delegated to him by vote of the Board. Said authority will not exceed that authority granted to the Earth Removal Board under this By-law. The appointment of said agent shall not take effect until notice thereof is filed with the Town Clerk and the Board of Selectmen.

#### **Section 11 - Existing Operations:**

**(A) Provisions:** All existing earth removal operations in the Town of Millville shall be subject to the provisions of this by-law. A permit pursuant to the provisions of this by-law shall be required for all earth removal operations, or under a permit issued by the Board of Selectmen pursuant to the provisions of Section 6 (A) 1-9 as appearing before the approval of this section replacing it, or otherwise, for any operation to continue on or after July 1, 1990.

**(1) Applications:** Applications for renewal of permits for existing operations shall meet all the plan requirements set forth in the By-law and the application shall include information on all contiguous open areas owned by the applicant.

**(2) Excavation:** Any excavation shall be at least 5 feet above the water table as set forth in Section 6.5. If excavation is already below that level, the area shall be filled to a level sufficient to protect the water supply as determined by the Earth Removal Board.

**(3) Exemptions:** Existing operations shall be exempt from the limitation on the number of acres open at one time as set forth in Section 6.7. The owner shall submit a reclamation plan acceptable to the Board on the recommendation of its engineering agent. This plan shall include the location and number of acres to be reclaimed within one year. A long-range plan may also be required at the discretion of the Board.

**(4) Buffers:** Any area of existing excavation which is already within the required buffer as set forth in Section 6.1 shall be fenced and screened from abutting residences unless the Board determines that no nuisance or safety problem exists.

**(5) New Excavations:** New excavations constituting an expansion of existing operations into areas of land not presently being mined, will require permits in accordance with the terms of this By-law.

## **Section 12: Validity/Severability:**

**(A) Provisions:** The invalidity of any section or provision of this By-law shall not invalidate any other section or provisions thereof.

## **CHAPTER 5 - BUILDINGS:**

### **Article I - Residential**

#### **Section 1 - Numbering of Buildings:**

**(A) Owner Responsibility:** The owner of every residential, industrial, or commercial building shall maintain on the front of the building, in the area of the main entrance, the street number in Arabic numerals not less than three (3) inches high. The Board of Assessors shall be in charge of assigning new street numbers and resolving any disputes as to existing numbers. The owner of any building presently numbered shall be deemed to comply with this by-law by displaying of the present number. This By-Law shall not apply to accessory structures.

**(B) Violations:** Whoever violates any provision of this Article of the By-Laws shall be liable to a penalty of one dollar (\$1.00) per day for each date during or on which failure to so number continues, commencing ten days following date of receipt of written notice from the Town Clerk.

## **CHAPTER 6 - MILLVILLE FREE LIBRARY**

### **Article I - By-Laws, Rules and Regulations Respecting**

#### **Millville Free Library**

##### **Section 1 - PREAMBLE**

**WHEREAS**, it is in public interest, welfare and purpose to provide for the establishment of a public library in the Town of Millville; and

**WHEREAS**, it is in the interest of the Town to provide for the orderly implementation of the Library Trust Fund to receive, manage, invest and expend gifts, bequests and other transfers to further the establishment of a public library; and

**WHEREAS**, it is in the interest of the Town to define and constitute certain rules, regulations and procedures for the organization, management, maintenance and functioning of a public library.

**THEREFORE**, the following By-Laws and Rules and Regulations are established, ordained and adopted by the legislative authority of the Town of Millville to accomplish the foregoing purposes:

### **Article II - Government of the Library**

#### **Section 1 - Board of Trustees:**

**(A) Control:** Full and absolute control of the library, including both real property and all other property shall be vested in a Board of Trustees consisting of six (6) members residing in the Town of Millville at the time of their election or appointment to the Board. Three (3) members shall be permanent trustees serving until death, resignation, or removal from the Town of Millville.

The Town deems it expedient and convenient to provide for the appointment of permanent trustees in addition to elected trustees in order to comply with certain terms of a donation made to the Town for the purpose of the library.

Within sixty (60) days from the effective date of these By-Laws, the Selectmen with the advice of Town Counsel appoint the initial

three (3) permanent trustees. Thereafter, the vacancy in the position of a permanent trustee shall be filled by majority vote of the remaining permanent and elected trustees.

Three (3) members of the Board of Trustees shall be elected by the Town at an annual town election, one (1) member to serve for the term of one (1) year, one (1) member to serve for the term of two (2) years, and one (1) member to serve for the term of three (3) years.

## **Section 2 - Trust Fund:**

**(A) Establishment:** The Trustees shall establish a trust fund for the receipt and management of all monies given to the Trustees for library purposes and shall invest and expend said monies in a manner to further the public purpose of the Library. Expenditure of trust funds shall be at the discretion of the Trustees and shall, insofar as practical, be made in a manner to accomplish the purposes of any gift or bequest. The trust corpus shall be separate and distinct from the general revenues of the Town of Millville.

In dealing with the trust fund, the Trustees shall have all powers and rights given to trustees under the common law as well as the powers and rights expressed in the General Laws of the Commonwealth of Massachusetts.

The Trustees in addition to these powers shall have the further enumerated powers:

- 1) The power to expend both principal and interest;
- 2) The power to invest and reinvest income;
- 3) The right to apportion between principal and income payments made for the benefit of the Library;
- 4) The power to engage investment counsel;
- 5) The power to authorize an agent to act on behalf of the trust for purposes of financial convenience.

The Trustees may designate a name for the trust fund established herein.

## **Section 3 - Town Appropriations:**

**(A) Annual or Special Town Meetings:** The Town may at any annual or special town meeting appropriate monies to defray the operating expenses of the Library and may further

appropriate monies for the acquisition of land, buildings, books, equipment and other property for library purposes.

**Section 4 - Title to Library Property:**

**(A) Title:** The title to all property of the Library, excepting said trust funds, shall be in the name of the Town of Millville.

**Section 5 - Use of Building:**

**(A) Use:** Any building acquired for library purposes shall be used solely for the purpose of a public library, public reading rooms, public lectures, and literary or artistic entertainment.

**Section 6 - Status of Trustees:**

**(A) Officers:** The Trustees herein, both elected and appointed permanent trustees, shall be officers of the Town of Millville and shall have the rights, immunities and privileges of a public official in the Town of Millville.

**Section 7 - Interim Functioning of the Board of Trustees:**

**(A) Business Conducted:** Following the appointment of three (3) permanent trustees but before the election of any elected trustees at an annual election, the three (3) permanent trustees may conduct all business and duties herein described.

**Article III - Rules and Regulations of the Library**

**Section 1 - Rules and Regulations:** The following rules and regulations of the Library are established for the Millville Free Public Library:

**(A) Officers:** The Officers of the Board of Trustees shall consist of a President, Vice President, Secretary, and Treasurer, to be chosen annually at the regular meeting of the Board for the month of April.

**(B) President:** The President shall preside at all regular and

special meetings of the Board, appoint all committees, and may call special meetings whenever it may seem advisable to him, and generally perform the duties of a presiding officer. At the end of the year he shall prepare a report of the Board of Trustees for inclusion in the Town Report.

**(C) Vice President:** The Vice President shall fill the office of President at any meeting when the latter is not present and perform such other duties as the nature of the office may indicate.

**(D) Secretary:** The Secretary shall keep a true and accurate record of all proceedings at the Board meetings; shall issue notices of all regular meetings, and on the authorization of the President, of all special meetings; shall conduct the correspondence of the Board; shall have custody of the minutes and other records of the Board and perform such other duties as the Board or President may direct.

**(E) Treasurer:** The Treasurer shall have charge of all funds belonging to the Library and shall receive all interest or dividends that accrue on all deposits or investments and shall see that said interest or dividends are properly apportioned and spent for the purposes specified by the donors, and shall sign checks in payment of bills which may rightfully be charged against the above-mentioned monies.

**(F) Withdrawal:** The Treasurer shall not withdraw any part of the principal sum of any fund except by unanimous vote of the Finance Committee.

**(G) Budget:** The Treasurer shall, in co-operation with the Librarian, prepare the annual budget or town funds to meet the library expenses for the ensuing year, and shall keep a detailed account of all expenditures and receipts of both Town and Library funds and provide the Librarian with a monthly report of the total expenditures and balance on hand for each budget item. At the end of each year the Treasurer shall prepare a report of all receipts and expenditures for publication in the Town Report.

**(H) Bonded:** The Treasurer shall be bonded by the Town in the sum of Forty Thousand (\$40,000.00) Dollars and shall keep all bank books, bonds, stocks, insurance policies and other valuable documents in a safe deposit box, to which the President shall also have access in case of emergency or when the Treasurer is not available.

**(I) Finance Committee:** The Finance Committee shall consist of three (3) members, of which the Treasurer is one, and shall be elected for a term of one year at each annual meeting of the Board of Trustees. They shall have oversight and management of all Funds of the Trustees, and shall invest them as, in their

judgment, is best.

**(J) Special Committees:** Special Committees for the study and investigation of special problems shall be appointed by the President, such committees to serve until the completion of the work for which they were appointed.

**(J) Librarian:** The Librarian shall have sole charge of the administration of the library, under the direction and review of the Board of Trustees, and shall be held responsible for the care of the building, grounds, and equipment; for the direction of the staff and for the efficiency of the Library's service to the public.

**(L) Librarian - Responsibility:** The Librarian shall have the over-all responsibility of selecting and purchasing all books, periodicals, and supplies, being guided in such selections and purchases by community needs and interests and in book evaluation by reliable and approved professional aids.

**(M) Librarian - Procedures:** The Librarian shall decide upon methods of cataloging; classification and lending procedures and providing satisfactory work schedules and working conditions for other staff members.

**(N) Librarian - Operation:** The Librarian shall be responsible for the operation of the library under the financial conditions set forth in the annual budget and adhere as closely as possible to the item divisions of said budget in both Town and Library funds, using as a guide for such control the Treasurer's monthly budget report giving total expenditures and balance of each budget item. In case of any unusual or unexpected financial problem the Librarian shall consult with the Treasurer regarding the action to be taken.

**(O) Librarian - Meetings:** The Librarian shall attend all regular meetings of the Board of Trustees and report the library use and service for the current month, and present bills payable for approval of the Board. At the end of each year, the Librarian shall prepare a complete report of all library activities and accomplishments for publication in the Town Report. In addition to the above-specified duties the librarian shall perform such additional duties as the Board may require.

**(P) Librarian - Elected:** The Librarian shall be elected annually, by ballot, at the annual meeting and may be removed from office, for cause, at any time by vote of not less than six members of

the Board.

**(Q) Assistant Librarian:** The Assistant Librarian shall be under the direction of the Librarian and in charge of circulation but shall be familiar with all phases of the Librarian's duties and assist in any branch of library work as required.

In case of sickness or other absence of the Librarian, the Assistant Librarian shall temporarily assume the duties and responsibilities of the Librarian.

The Assistant Librarian shall be elected annually, by ballot, at the annual meeting of the Board of Trustees and may be removed from office, for cause, at any time by vote of not less than four (4) members of the Board.

**(R) Part Time Assistants:** Part Time Assistants shall be obtained by the Librarian at such times as the volume of work becomes too great for efficient handling by the full time staff. The cost of such assistants shall be provided for in the annual budget.

**(S) Custodian:** The Janitor shall be under the direction of the Librarian and shall be paid on an hourly basis. The custodian shall care for the building and grounds, make minor repairs and perform such other work, within his/her capability, as the Librarian may direct.

**(T) Regular Meetings:** The Regular Meetings of the Board of Trustees shall be held in the library on the first Wednesday of each month, except August, at six o'clock P.M. When this falls on a holiday, said meeting shall be held on the next business day following.

**(U) Annual Meetings:** The Annual Meeting of the Board shall be held on the same day, date, and hour as the regular meeting in April of each year.

**(V) Special Meetings:** Special Meetings may be called, whenever desired, by the President or at anytime upon written request to the President signed by three (3) members of the Board.

**(W) Quorum:** Three (3) members of the Board shall constitute a quorum for the transaction of routine business and the approval of bills but any action regarding procedure, organization, or regulation shall require a quorum of six (6) members. Any change in the staff personnel shall require a quorum of two-thirds of the Board members.

## **Chapter 7 - Wetlands Protection By-Law**

**12-1. Introduction.** The purpose of this bylaw is to protect the wetlands, water resources, and adjoining land areas in the Town of Millville by controlling activities deemed by the Conservation Commission likely to have a significant or cumulative effect upon resource area values, and wetland interests including but not limited to the following: public or private water supply, groundwater, flood control, erosion and sedimentation control, aesthetics, storm damage prevention including, water quality, water pollution control, erosion and sedimentation control, protection of fisheries, protection of wildlife, protection of wildlife habitat, protection of rare species habitat including rare plant species, agriculture, aquaculture, and recreation values, deemed important to the Town (collectively, the "resource area values protected by this bylaw"). This bylaw is intended to utilize the Home Rule authority of the Town to protect additional resource areas, for additional values, with additional standards and procedures stricter than those of the Massachusetts Wetland Protection Act (G.L. Ch. 131, S40) and Regulations there under (310 CMR 10.00).

**12-2. Jurisdiction.** Except as permitted by the Conservation Commission or as provided in this bylaw, no person shall commence to remove, fill, dredge, build upon, degrade, or discharge into, or otherwise alter the following resource areas: any freshwater or; wet meadows; bogs; swamps; vernal pools; banks; reservoirs; lakes; ponds; rivers; streams; creeks; tributaries; lands under water bodies; lands subject to flooding or inundation by groundwater or surface water; the one-hundred (100) foot Buffer Zone to any of the aforementioned resource areas of lands abutting any of the aforesaid resource areas; and the two-hundred (200) foot Buffer Zone of rivers, ponds and lakes, (collectively the "resource areas protected by this bylaw"). Said resource areas shall be protected whether or not they border surface waters.

### **12-3. Conditional Exceptions.**

**12-3-1. Public Utility Facilities.** The application and permit required by this bylaw shall not be required for maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, telephone, telegraph, or other telecommunication services, provided that written notice has been given to the Commission prior to commencement of work, and provided that the work conforms to performance

standards and design specifications in regulations adopted by the Commission.

**12-3-2. Agricultural Uses.** The application and permit required by this bylaw shall not be required for work performed for normal maintenance or improvement of land which is lawfully in agricultural use.

**12-3-3. Emergency Project.** The application and permit required by this bylaw shall not be required for emergency projects necessary for the protection of the health and safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof; provided that advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement; provided that the Commission or its agent certifies the work as an emergency project; provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency; and provided that within 21 days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided by this bylaw. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

**12-3-4. Exceptions Contained in the Act.** Other than stated in this section, the exceptions provided in the Wetlands Protection Act (G.L. Ch. 131 S40) and Regulations (310 CMR 10.00) shall not apply under this bylaw.

#### **12-4. Applications for Permits and Requests for Determination.**

**12-4-1. Application.** Written application shall be filed with the Commission to perform activities affecting resource areas protected by this bylaw. The permit application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the resource areas protected by this bylaw. No activities shall commence without receiving and complying with a permit issued pursuant to this bylaw. The Commission in an appropriate case may accept as the permit application and plans under this bylaw the Notice of Intent and plans filed under the Wetlands Protection Act (G.L. Ch. 131 S40) and Regulations (310 CMR 10.00).

**12-4-2. Request for Determination.** Any person desiring to know whether or not a proposed activity or an area is subject to this bylaw may in writing request a determination from the Commission. Such a Request for Determination (RFD) shall include information and plans as are deemed necessary by the Commission.

**12-4-3. Filing Fee.** At the time of a permit application or RFD, or application for Certificate of Compliance, the applicant shall pay a filing fee specified in Regulations of the Commission. The fee is in addition to that required by the Wetlands Protection Act (G.L. Ch. 131 S40) and Regulations (310 CMR 10.00). The fees shall be deposited in a dedicated account, for use only for wetland protection activities, from which the Commission may withdraw funds without further appropriation.

**12-4-4. Consultant Fee.** Upon receipt of a permit application or RFD, or at any point during the hearing process, the Commission is authorized to require an applicant to pay a fee for the reasonable costs and expenses borne by the Commission for specific expert engineering and other consultant services deemed necessary by the Commission to come to a final decision on the application. This fee is called the "consultant fee." The specific consultant services may include, but are not limited to, performing or verifying the accuracy of resource area survey and delineation; analyzing resource area functions and values, including wildlife habitat evaluations, hydro geologic and drainage analysis; and researching environmental or land use law. The exercise of discretion by the Commission in making its determination to require the payment of a consultant fee shall be based upon its reasonable finding that additional information acquirable only through outside consultants would be necessary for the making of an objective decision.

**12-4-5. Method of Payment.** The Commission may require the payment of the consultant fee at any point in its deliberations prior to a final decision. If a consultant fee account is authorized by a special act, the applicant's fee shall be put into such account, and the Commission may draw upon that account for specific consultant services approved by the Commission at one of its public meetings. Any unused portion of the consultant fee shall be returned to the applicant unless the Commission decides at a public meeting that additional services will be required.

## **12-5. Notice and Hearings.**

**12-5-1. Notice.** Any person filing a permit application or a RFD with the Commission at the same time shall give written notice thereof, by certified mail (return receipt requested) or hand delivered, to all abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 200 feet of the property line of the applicant, including any in another municipality or across a body of water. The notice to abutters shall have enclosed a copy of the permit application or request, with plans, or shall state where copies may be examined and obtained by abutters. An affidavit of the person providing

such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. When a person requesting a determination is other than the owner, their request, the notice of the hearing and their determination itself shall be sent by the Commission to the owner as well as to the person making the request.

**12-5-2. Public Hearing.** The Commission shall conduct a public hearing on any permit application or RFD, with written notice given at the expense of the applicant, not less than five business days prior to the hearing, in a newspaper of general circulation in the municipality. The Commission shall commence the public hearing within 21 days from receipt of a completed permit application or RFD unless an extension is authorized in writing by the applicant. The Commission shall issue its permit or determination in writing within 21 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant. The Commission in an appropriate case may combine its hearing under this bylaw with the hearing conducted under the Wetlands Protection Act (G.L. Ch. 131 S40) and Regulations (310 CMR 10.00).

**12-5-3. Continuation of Hearing.** The Commission shall have authority to continue the hearing to a certain date announced at the hearing, for reasons stated at the hearing, which may include receipt of additional information from the applicant or others deemed necessary by the Commission in its discretion, or comments and recommendations of the boards and officials listed in Section 12-6-1.

**12-6. Coordination with Other Boards.** Any person filing a permit application or RFD with the Commission shall provide a copy thereof at the same time, by certified mail (return receipt requested) or hand delivery, to the board of selectmen, planning board, board of appeals, board of health, and building inspector. A copy shall be provided in the same manner to the Conservation Commission of the adjoining municipality, if the application or RFD pertains to property within 200 feet of that municipality. An affidavit of the person providing notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. The Commission shall not take final action until the boards and officials have had 14 days from receipt of notice to file written comments and recommendations with the Commission, which the Commission shall take into account but which shall not be binding on the Commission. The applicant shall have the right to receive any comments and recommendations, and to respond to them at a hearing of the Commission, prior to final action.

#### **12-7. Permits and Conditions.**

**12-7-1. Issuance of Permit.** If the Commission, after a public hearing, determines that the activities which are subject to the

permit application or the land and water uses which will result there from are likely to have a significant individual or cumulative effect upon the resource area values protected by this bylaw, the Commission, within 21 days of the close of the hearing, shall issue or deny a permit for the activities requested. If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions. The Commission shall take into account the cumulative adverse effects of loss, degradation, isolation, and replication of protected resource areas throughout the community and the watershed, resulting from past activities, permitted and exempt, and foreseeable future activities.

**12-7-2. Denial of Permit.** The 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 Commission; for failure to meet the design specifications, performance standards, and other requirements in regulations of the Commission; for failure to avoid or prevent unacceptable significant or cumulative effects upon the resource area values protected by this bylaw; and where no conditions are adequate to protect those values.

**12-7-3-1. Presumed Importance of Buffer Zone.** Lands within 200 feet of rivers, ponds and lakes, and lands within 100 feet of other resource areas, are presumed important to the protection of these resources because activities undertaken in close proximity to resource areas have a high likelihood of adverse impact upon the wetland of other resource, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use can include, without limitation, erosion, siltation, loss of groundwater recharge, poor water quality, and loss of wildlife habitat. The Commission therefore may require that the applicant maintain a strip of continuous, undisturbed vegetative cover within the 200 foot (or 100 Foot) area, unless the applicant convinces the Commission that the area or part of it may be disturbed without harm to the values protected by the bylaw.

**12-7-3-2. Presumption of 50-Foot Undisturbed Buffer.**

(1) The Conservation Commission presumes that an undisturbed forest or naturally vegetated buffer at least 50 feet wide between the edge of the resource area and the area the applicant proposes to disturb during a project is necessary to protect the interests of the Bylaw, the Act, and the DEP wetlands regulation.

(2) An applicant proposing to disturb any area within such 50-foot buffer shall have the burden of showing that the work proposed in the application will not harm the interests protected by the Bylaw, the ACT and the DEP wetland regulations. Failure to provide adequate evidence satisfactory to the Conservation

Commission supporting a determination that the proposed work within such 50-foot buffer will not harm the interests protected by the Bylaw, the Act, and the DEP wetland regulations shall be sufficient cause for the Conservation Commission to deny a permit or grant a permit with conditions, including without limitation, such buffer as the Conservation Commission deems appropriate, or, in the Conservation Commission's discretion, to continue the hearing to another date to enable the applicant or others to present additional evidence.

(3) Nothing in this regulation shall prevent the Conservation Commission from prohibiting activity anywhere within the 100-foot buffer defined by the Bylaw, these regulations, the Act and the DEP wetlands regulations, including, without limitation, the area between the edge of the 50-foot buffer presumed necessary by this regulation and the 100-foot buffer.

**12-7-4. Practicable Alternatives.** In the review of areas within 200 feet of rivers and streams, no permit issued hereunder shall permit any activities unless the applicant, in addition to meeting the otherwise applicable requirements of this bylaw, has proved by a preponderance of the evidence that (1) there is no practicable alternative to the proposed project with less adverse effects, and that (2) such activities, including proposed mitigation measures, will have no significant adverse impact on the areas or values protected by this bylaw. The Commission shall regard as practicable an alternative which is reasonable available and capable of being done after taking into consideration the proposed property use, overall project purpose (e.g., residential, institutional, commercial, or industrial purpose), logistics, existing technology, costs of the alternatives, and overall project costs.

**12-7-5. Avoidance of Wetlands Loss or Alteration.** To prevent wetlands loss, the Commission shall require applicants to avoid wetlands alteration wherever feasible; shall minimize wetlands alteration; and, where alteration is unavoidable, shall require full mitigation. The Commission may authorize or require replication of wetlands as a form of mitigation, but only with adequate security, professional design, and monitoring to assure success, because of the high likelihood of failure of replication.

**12-7-6. Expiration of Permit.** A permit shall expire three years from the date of issuance. Notwithstanding the above, the Commission in its discretion may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. Any permit may be renewed once for an additional one-year period, provided that a request for a renewal is received in writing by the Commission prior to expiration. Notwithstanding the above, a permit may contain requirements which shall be enforceable for a stated

number of years, indefinitely, or until permanent protection is in place, and shall apply to all owners of the land.

**12-7-7. Revocation of Permit.** For good cause the Commission may revoke or modify a permit or determination issued under this bylaw after notice to the holder of the permit or determination, notice to the public, abutters, and town boards, pursuant to S12-5 and S12-6, and a public hearing.

**12-7-8. Coordination of Permit with Order of Conditions.** The Commission in an appropriate case may combine the permit or determination issued under this bylaw with the Order of Conditions or Determination of Applicability issued under the Wetlands Protection Act (G.L. Ch. 131 S40) and Regulations (310 CMR 10.00).

**12-7-9. Recording of Permit.** No work proposed in any permit application shall be undertaken until the permit issued by the Commission with respect to such work has been recorded in the registry of deeds or, if the land affected is registered land, in the registry section of the land court for the district wherein the land lies, and until the holder of the permit certifies in writing to the Commission that the permit has been recorded, or provides the Commission with a copy of the recording information or other evidence of recordation with the appropriate Registry.

**12-8. Regulations.** After public notice and public hearing, the Commission shall promulgate additional rules and regulations to effectuate the purposes of this bylaw effective when voted and filed with the town clerk. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw. At a minimum these regulations shall define key terms in this bylaw not inconsistent with the bylaw and procedures governing the amount and filing fees.

#### **12-9. Definitions.**

**Defined Terms.** The following definitions shall apply in the interpretation and implementation of this bylaw.

**12-9-1-1. Abutter** shall mean any person-possessing whole or partial ownership of property directly adjacent to the property for which work is proposed. This shall include owners of land directly opposite of any private or public street or way, and abutters to the abutters within 300 feet of the property line of the Applicant, including any in another municipality or across a body of water.

**12-9-1-2. Activity** means any form of draining, dumping,

dredging, damming, discharging, excavating, filling, or grading; the erection, reconstruction, or expansion of any buildings or structures; the driving of pilings; the construction or improvement of roads and other ways; the changing of runoff characteristics; the intercepting or diverting of ground or surface water; the installation of drainage, sewage, and water systems; the discharging of pollutants; the destruction of plant life; and any other changing of the physical characteristics of land or of the physical, biological, or chemical characteristics of water.

**12-9-1-3. Aesthetics** means the visual and sensory character of natural conditions including but not limited to natural lighting, sounds, odors, and significant trees and views or vistas as at the time are experienced by the public from public ways, including waterways.

**12-9-1-4. Alter** means to change the condition of any Area Subject to Protection. Examples of alteration include, but are not limited to, the following:

1. Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind.
2. Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics.
3. Drainage or other disturbance of water levels or water table.
4. Dumping, discharging, or filling with any material which may degrade water quality.
5. Placing of fill, or removal of material, which would alter elevation.
6. Driving of piles, erection, or repair of buildings, or structures of any kind.
7. Placing of obstructions or objects in water.
8. Destruction of plant life including cutting of trees.
9. Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters.
10. Any activities, changes, or work which may cause or tend to contribute to pollution of any body of water or groundwater.
11. Incremental activities which have, or may have, a cumulative adverse impact on the resource areas protected by this bylaw.
- 12.

**12-9-1-5. Area Subject to Protection under the Act** means any area specified in Section 12-2 of the Bylaw. It is used synonymously with Resource Area.

**12-9-1-6. Bank.** "Bank" shall include the land area which normally abuts and confines a water body; the lower boundary

being the mean annual low flow level, and the upper boundary being the first observable break in the slope or the mean annual flood level, whichever is higher.

**12-9-1-7. Bog** means any area where standing or slowly running water is near or at the surface during a normal growing season and where a vegetational community has a significant portion of the groundwater or surface covered with sphagnum moss (Sphagnum) and where the vegetational community is made up of a significant portion of one or more of, but not limited to nor necessarily all of, the following plants or groups of plants: aster (Aster nemoralis), azaleas (Rhododendrum canadense and R. viscosum), black spruce (Picea mariano), bog cotton (Eriophorum), cranberry (Vaccinium macrocarpon), high-bush blueberry (Vaccinium Corymbosum), larch (Lariz laricina), laurels (Kalmia angustifolia and K. polifolia), leatherleaf (Chamaedaphne calyculata), orchids (Arethuse, Calopogon, Pogonia), pitcher plants (Sarracenia purpurea), sedges (Cyperaceae), sundews (Droseraceae), sweet gale (Myrica Gale), and white cedar (Charnaecyparis thyoides).

**12-9-1-8. Buffer Zone** means an area of land extending within 200 feet of rivers, ponds and lakes, and lands within 100 feet of other resource areas as specified in section 12-2 of these Bylaws. The buffer zones are resources afforded protection under the Bylaw.

**12-9-1-9. Certificate of Compliance** means a written determination by the Conservation Commission that the proposed work or a portion thereof has been completed in accordance with a pertinent Order of Conditions.

**12-9-1-10. Commission** means the Millville Conservation Commission.

**12-9-1-11. Conditions** means those requirements set forth in an Order of Conditions issued by the Conservation Commission for the purpose of permitting, regulating, or prohibiting any activity that removes, fills, dredges, builds upon, or alters an Area Subject to Protection under the Bylaw.

**12-9-1-12. Date of Issuance** means the date an Order of Conditions, a determination, or a certificate of compliance is mailed, as evidenced by a postmark, or the date it is hand-delivered.

**12-9-1-13. Date of Receipt** means the date of delivery to an office, home, or usual place of business by mail or hand delivery.

**12-9-1-14. Department** means the Massachusetts Department

of Environmental Protection (DEP).

**12-9-1-15. Determination of Applicability** means a written finding by the Commission as to whether a site or the activity proposed thereon is subject to the jurisdiction of the Bylaw.

**12-9-1-16. Determination of Significance** means a written finding by the Commission, after a public hearing, that the area on which the proposed work is to be done, or which the proposed work will alter, is significant to one or more of the values and interests identified in Section 12-2 of these regulations.

**12-9-1-17. Driveway** means any means of vehicle access to a parcel of land. Driveways can occur as gravel, crushed stone, dirt, impervious materials such as cement or bituminous concrete, or any other suitable material.

**12-9-1-18. Erosion Control** means the prevention or reduction of the detachment or movement of soil or rock fragments by water, wind, ice, and/or gravity or by the action of a person or machine.

**12-9-1-19. Interests** means the wetland values (collectively, the "interests protected by this Bylaw") specified in Section 12-1 of the Bylaw.

**12-9-1-20. Isolated Land Subject to Flooding** is an isolated depression or closed basin without an inlet or outlet. It is an area which at least once a year confines standing water to a volume of at least 1/8 acre-feet and to an average depth of at least six (6) inches.

**12-9-1-21. Notice of Intent** means the written application filed by any person intending to remove, fill, dredge, or alter an Area Subject to Protection under the Massachusetts Wetland Protection Act, M.G.L. c. 131, Section 40, and the Town of Millville Wetlands Bylaw.

**12-9-1-22. Notification of Non-Significance** means a written finding by the Commission, after a public hearing, that the area on which the proposed work is to be done, or which the proposed work will alter, is not significant to any of the interests identified in Section 12-1 and 12-2 of these regulations.

**12-9-1-23. Order** means an Order of Conditions, Superseding Order or Final Order, whichever is applicable, issued pursuant to M.G.L. c. 131, Section 40 and/or the Town of Millville Wetland Protection Bylaw.

**12-9-1-24. Order of Conditions** means the document issued by a conservation commission containing conditions which regulate or prohibit an activity under M.G.L. c. 131, Section 40 and/or the Town of Millville Wetland Protection Bylaw.

**12-9-1-25. Person.** "Person" shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to town bylaws, administrative agency, public or quasi-public corporation or body, this municipality, and any other legal entity, its legal representatives, agents, or assigns.

**12-9-1-26. Plans** means such data, maps, engineering drawings, calculations, specifications, schedules and other materials, if any, deemed necessary by the Conservation Commission to describe the site and the activity, to determine the applicability of the Bylaw or to determine the impact of the proposal upon the interests identified in the Bylaw.

**12-9-1-27. Pond** means any open body of fresh water with a surface area observed or recorded within the last ten years of at least 5,000 square feet. Ponds may be either naturally occurring or man-made by impoundment, excavation, or otherwise. Ponds shall contain standing water except for periods of extended drought. For purposes of this definition, extended drought shall mean any period of four or more months during which the average rainfall for each month is 50% or less of the ten-year average for that same month. Notwithstanding the above, the following man-made bodies of open water shall not be considered ponds: (a) basins or lagoons which are part of wastewater treatment plants; (b) swimming pools or other impervious man-made basins; and (c) individual gravel pits or quarries excavated from upland areas unless inactive for five or more consecutive years.

**12-9-1-28. Protection of Wildlife** includes the protection of the ability of any resource area to provide food, wildlife corridors, breeding habitat, over-wintering, or escape cover for wildlife.

**12-9-1-29. Rare Species.** "Rare species" shall include, without limitation, all vertebrate and invertebrate animal and plant species listed as endangered, threatened, or of special concern by the Massachusetts Division of Fisheries and Wildlife, regardless of whether the site in which they occur has been previously identified by the Division.

**12-9-1-30. Remove** means to take away any type of material,

thereby changing an elevation, either temporarily or permanently. Remove also means the removal of vegetation, either alive or dead.

**12-9-1-31. Request for Determination of Applicability** means a written request made by any person to the Commission for a determination as to whether a site or the proposed activity thereon is subject to the Bylaw.

**12-9-1-32. Resource Area** is synonymous with Area Subject to Protection under the Bylaw, each one of which is listed in Section 12-2 of these regulations.

**12-9-1-33. Sedimentation Control** means the prevention or reduction of the collection or concentrations of sand, soil, or rock fragments by the action of water, wind, ice, gravity, person or machine.

**12-9-1-34. Stream** means a body of running water, including brooks and creeks, which moves in a definite channel in or under the ground due to hydraulic gradient. A portion of a stream may flow through a culvert or beneath a bridge. A stream may be intermittent (i.e., does not flow throughout the year) or perennial. The classification of a stream may be made based upon reference to UASGS topographical maps, USGS STREAMSTATS, or any other reliable evidence available to the Commission. A stream may also be man-made.

**12-9-1-35. Structure** means any building, shed, deck, driveway, road, septic component, dock, pier, bulkhead, revetment, groin, float, pipeline, fence, guardrail, pool, tennis court or other playing surface, drainage component, storage tank, etc.

**12-9-1-36. Vernal Pool.** "Vernal Pool" shall include a confined basin depression which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, and which is free of adult fish populations, as well as the area within 100 feet of the mean annual boundary of such a depression, regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife. Vernal pools shall include those mapped and certified by the Massachusetts Natural Heritage and Endangered Species Program as well as those areas identified in the field as eligible for certification by a professional wetland biologist or other expert.

**12-9-1-37. Wildlife Habitat** means areas having plant community composition and structure, hydrologic regime, or other characteristics sufficient to provide shelter,

nutrients, growing conditions, or nesting or breeding sites conducive to the propagation and preservation of wildlife. Migratory and over-wintering areas shall also be included as wildlife habitat.

**12-9-1-38. Quorum** means the majority of the duly-appointed members of the Conservation Commission that when duly assembled is legally empowered to transact business.

**12-9-2. Consistency with Wetlands Protection Act.** Except as otherwise more stringently provided in this bylaw or in regulations of the Commission, the definitions of terms in this bylaw shall be as set forth in the Wetlands Protection Act (G.L. Ch. 131 S. 40) and Regulations (310 CMR 10.00).

## **12-10. Security.**

**12-10-1. Performance and Observation of Conditions.** 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 Commission may require that the performance and observance of the conditions imposed there under (including conditions requiring mitigation work) be secured wholly or in part by one or more of the methods described below:

1. By a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Commission, to be released in whole or in part upon issuance of a Certificate of Compliance for work performed pursuant to the permit.
2. By accepting a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of the Town 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.

## **12-11. Enforcement.**

**12-11-1. Prohibition.** No person shall remove, fill, dredge, build upon, degrade, or otherwise alter resource areas protected by this bylaw, or cause, suffer, or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order issued pursuant to this bylaw.

**12-11-2. Entry on Property.** The Commission, its agents, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this bylaw and may make or cause to be made

such examinations, surveys, or sampling as the Commission deems necessary, subject to the constitutions and laws of the United States and the Commonwealth.

**12-11-3. Enforcement Alternatives.** The Commission shall have authority to enforce this bylaw, its regulations, and permits issued there under by violation notices, enforcement orders, under the Town's non-criminal disposition section of its general bylaws, pursuant to G.L. c. 40, S21D), and civil and criminal court actions.

Any police officer or the Conservation Agent shall have authority to enforce this bylaw. Any person who violates provisions of this bylaw may be ordered to restore the property to its original conditions and take other action deemed necessary to remedy such violations, or may be fined, or both.

**12-11-4. Fine.** Any person who violates any provision of this bylaw, or regulations, permits, or administrative orders issued there under, shall be punished by a fine of \$300. Each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offence, and each provision of the bylaw, regulations, permits, or administrative orders violated shall constitute a separate offense.

## **12-12. Burden of Proof.**

**12-12-1. Preponderance of Evidence.** The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the permit application will not have unacceptable significant or cumulative effect upon the resource area values protected by this bylaw. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

## **12-13.**

**12-13-1. Certiorari Appeal.** A decision of the Commission shall be reviewable in the Superior Court in accordance with G.L. Ch. 249 S.4.

## **12-14. Relation to the Wetlands Protection Act.**

**12-14-1. Home Rule Authority.** This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act (G.L. Ch. 131 S. 40) and Regulations (310 CMR 10.00) there under.

**12-5. Severability.**

**12-15-1. Invalidity.** The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof.

**Chapter 8**  
**STORMWATER MANAGEMENT BYLAW**

**SECTION I: PURPOSES**

The purposes of this Bylaw are to:

1. Protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of construction site/alteration runoff, post-development storm water runoff and non-point source pollution associated with new development and re-development;
2. Protect, maintain, and enhance public health, safety, environment, and general welfare by establishing minimum standards and procedures to control runoff and prevent soils erosion and sedimentation resulting from construction/alteration and development.

This Bylaw seeks to meet these purposes through the following objectives:

1. Establish decision-making processes surrounding land development activities that protect the integrity of the watershed and preserve the health of water resources;
2. Require that new development, re-development and all land conversion activities maintain the after-development runoff characteristics as equal to or less than the pre-development runoff characteristics;
3. Establish minimum construction site/alteration and post-development stormwater management standards and design criteria for the regulation and control of storm water runoff quantity and quality; Establish minimum design criteria for measures to minimize nonpoint source pollution from storm water runoff;
4. Establish design and application criteria for the construction and use of structural storm water control facilities that can be used to meet the minimum construction/alteration and post-development storm water management standards;
5. Encourage the use of Best Management Practices (BMPs) as recommended by the State Department of Environmental Protection;
6. Establish provisions for the long-term responsibility for and maintenance of structural storm water control facilities and non-structural storm water management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety;
7. Establish provisions to ensure there is an adequate funding mechanism, including surety, for the proper review, inspection, and long-term maintenance of storm water facilities;
8. Establish administrative procedures and fees for the submission, review, approval, or disapproval of storm water

management plans, and for the inspection of approved active projects, and long-term follow-up.

Nothing in this bylaw is intended to replace the requirements of either the Town of Millville's Flood Plain Zoning Bylaw, the Town of Millville's Wetlands Protection Bylaw, or any other Bylaw that may be adopted in the future by the Town of Millville.

## **SECTION II: DEFINITIONS**

The following definitions shall apply in the interpretation and implementation of this Bylaw.

**ALTER:** Any activity which will measurably change the ability of a ground surface area to absorb water or will change existing surface patterns.

**BEST MANAGEMENT PRACTICE (BMP):** Structural, non-structural and managerial techniques that are recognized to be the most effective and practical means to prevent and/or reduce increases in storm water volumes and flows, reduce point source and nonpoint source pollution, and promote stormwater quality and protection of the environment.

**LARGER COMMON PLAN OF DEVELOPMENT OR SALE:** A contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan.

**MASSACHUSETTS STORM WATER MANAGEMENT POLICY:** The policy issued by the Department of Environmental Protection, as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act, and the Massachusetts Clean Waters Act. The Policy addresses storm water impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.

**NEW DEVELOPMENT:** Any construction or land disturbance of a parcel of land that is currently in a natural vegetated state and does not contain alteration by man-made activities.

**NONPOINT SOURCE POLLUTION:** Pollution from any 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.

**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.

**PRE-DEVELOPMENT:** The conditions that exist at the time that plans for the land development of a tract of land are submitted to the Planning Board. Where phased development or plan approval occurs, the existing conditions at the time prior to the first plan submission shall establish pre-development conditions.

**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. Post-development refers to the phase of a new development or redevelopment project after completion, and does not refer to the construction phase of a project.

**RECHARGE:** The replenishment of underground water resources.

**REDEVELOPMENT:** Any construction, alteration, or improvement project that disturbs the ground surface or increases the impervious area on a previously developed site.

**STORM WATER AUTHORITY:** The Millville Planning Board or its authorized agent(s) are responsible for coordinating the review, approval and permit process as defined in this Bylaw. Other Boards and/or Commissions of the Town may participate in the process as defined in the Stormwater Regulations adopted by the Planning Board.

**STORMWATER MANAGEMENT PERMIT (SMP):** A permit issued by the Planning Board, after review of an application, plans, and other supporting documents, which are designed to protect the environment of the Town of Millville.

### **SECTION III: AUTHORITY**

This Bylaw 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, and as authorized by the residents of the Town of Millville at Town Meeting.

### **SECTION IV: ADMINISTRATION**

1. The Planning Board shall administer, implement, and enforce this Bylaw. Any powers granted or duties imposed upon the Planning Board may be delegated in writing by the Planning Board to its employees or agents.
2. The Planning Board may promulgate rules and regulations to effectuate the purposes of this Bylaw. The Planning Board may adopt, and periodically amend, rules and regulations relating to the terms, conditions, definitions,

enforcement, fees, procedures, and administration of this Stormwater Management Bylaw by a majority vote of the Planning Board, after conducting a public hearing to receive comments on any proposed rules and regulations, or revisions thereto.

3. The Planning Board will utilize the policy, criteria, and information including specifications and standards of the latest edition of the Massachusetts Storm Water Management Policy, as a guideline for execution of the provisions of this Bylaw.
4. The Planning Board may take the following actions as a result of an application for a Stormwater Management Permit: Approval, Approval with Conditions, Disapproval, or Disapproval without Prejudice,
5. Decision and orders of the Planning Board shall be final. Further relief shall be appealed to a court of competent jurisdiction.

#### **SECTION V: APPLICABILITY**

1. This Bylaw shall be applicable to all new development and re-development, including clearing, grading and excavation that result in a disturbance of one or more acres of land, or will disturb less than one acre of land but is part of a larger common plan of development or sale that will ultimately disturb one acre or more of land in the Town. No person shall perform any activity that results in disturbance of land that exceeds such threshold except as authorized by the Planning Board in a Stormwater Management Permit or as otherwise provided in this Bylaw.
2. Exemptions:
  - i. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.14 and MGL Chapter 40A, Section 3;
  - ii. Maintenance of existing landscaping, gardens or lawn areas associated with a single family dwelling; construction of patios, walkways, driveways, swimming pools, or replacement wells or septic systems on lots having an existing dwelling.
  - iii. Repair or replacement of an existing roof on a single family or multiple-family dwelling.
  - iv. The construction of any fence that will not alter existing terrain or drainage patterns.
  - v. Construction of utilities (gas, water, electric, telephone, etc.) other than drainage, which will not alter terrain, ground cover, or drainage patterns.
  - vi. Emergency repairs to any utilities, stormwater management facility, or practice that poses a threat to public health or safety, or as deemed necessary by the Planning Board.
  - vii. As authorized in the Phase II Small MS4 General Permit for Massachusetts, storm water discharges resulting

from the activities identified in Section 4 that are wholly subject to jurisdiction under the Wetlands Protection Act and demonstrate compliance with the Massachusetts Storm Water Management Policy as reflected in an Order of Conditions issued by the Conservation Commission are exempt from compliance with this bylaw.

- viii. Any work or projects for which all necessary approvals and permits have been issued before the effective date of this Bylaw.

#### **SECTION VI: PROCEDURES**

Permit procedures and requirements shall be defined and included as part of any rules and regulations promulgated by the Planning Board as permitted under this Bylaw.

#### **SECTION VII: ENFORCEMENT**

1. The Planning Board or its authorized agent shall enforce this bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations. Enforcement shall be further defined and included as part of any stormwater regulations promulgated under this Bylaw.
2. Criminal Penalty. Any person who violates any provision of this bylaw, regulation, order or permit issued there under, shall be punished by a fine of not more than one hundred dollars (\$100). Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
3. Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the Town may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, § 21D, in which case the Millville Highway Superintendent shall be the enforcing person. The penalty for the 1st violation shall be twenty-five (\$25). The penalty for the 2nd violation shall be fifty dollars (\$50). The penalty for the 3rd and subsequent violations shall be one hundred dollars (\$100). Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

#### **SECTION VIII: SEVERABILITY**

The invalidity of any section, provision, paragraph, sentence, or clause of this Bylaw shall not invalidate any section, provision, paragraph, sentence, or clause thereof, nor shall it invalidate any permit or determination that previously has been issued or take any other action in relation thereto.

**Attachment I - Zoning By-Laws  
of the Town of  
Millville, Massachusetts**

**Article I - General:**

**Section 1 - Authority:**

**(A) Massachusetts General Laws, Chapter 40A:** This Zoning By-Law is adopted in accordance with the provisions of Massachusetts General Laws, Chapter 40A; and all amendments therein.

**Section 2 - Purpose:**

**(A) Purpose:** The purpose of this Zoning By-Law is to promote the health, safety, convenience, morals or welfare of the inhabitants of Millville to lessen congestion in the streets; to conserve health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; to conserve the value of land and buildings; to encourage the most appropriate use of land throughout the town; and to preserve and increase its amenities. For this purpose, the use, construction, repair, alteration, freight, area, and location of buildings and structures, use of premises in the Town of Millville are regulated as hereinafter provided.

**Section 3 - Basic Requirements:**

**(A) Provisions:** All buildings or structures hereinafter erected, reconstructed, altered, enlarged or moved, or use of premises in the Town of Millville, shall be in conformity with the provisions of this by-law. Any building, structure or land shall not be used for, any purpose or in any manner other than is permitted within the district in which such building, structure or land is located. Any use not specifically enumerated in a district herein shall be deemed prohibited.

In accordance with Massachusetts General Laws Chapter 140A, and notwithstanding any provisions to the contrary, this by-law shall not prohibit or limit the use of land for any church or other religious purpose or for any educational purpose which is

religious sectarian denominational or public.

#### **Section 4 - Definitions:**

**(A) Terms:** For the purpose of this by-law, the following terms shall have the meaning hereby assigned to them:

**(1) Accessory Building or Use:** A use or detached building, which is subordinate to the main use or building, and located on the same lot with the main building or use, the use of which is customarily incidental to that of the main building or to the use of the land. Where a substantial part of the wall of an accessory building is part of the wall of a main building or where an accessory building is attached to the main building in a substantial manner, it shall be considered as a part of the main building.

**(2) Dwelling:** A building, a modular unit, or portion there of designed exclusively for residential occupancy, including single family, two family, and multiple family dwellings, but not including motels, hotels, boarding houses, trailers, or structures solely for the use of transient or overnight occupants.

**(3) Family:** A "family" is any number of individuals living together as a single housekeeping unit.

**(4) Farm:** Any parcel or land which is used primarily for the raising of agricultural products, livestock, poultry, and dairy products. It includes necessary farm structures within the prescribed limits, and the storage of equipment used.

**(5) Lot:** A single area of land in one ownership defined by metes and bounds or boundary lines in a deed or in a plan recorded in the Worcester County Registry of Deeds.

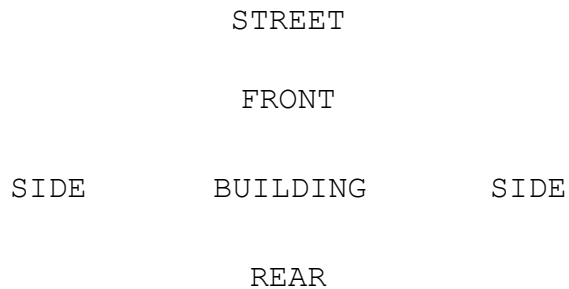
**(6) Non-Conforming Use:** A building, structure, or use of land existing at the time of the effective date of this By-Law which does not conform to the regulations as to use in the district in which it is situated.

**(7) Use:** The purpose for which land or buildings is occupied, or maintained, arranged, designed or intended.

**(8) Street:** A public way or a way having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the proposed use of the land abutting thereon or served thereby.

**(9) Yard:** Front, Side, Rear - An unoccupied space open to the

sky on the same lot with a building or structure. The drawing below illustrates the positions of the front, sides and rear yards:



**(10) Home Occupation:** A use which is conducted within a residential dwelling unit which is clearly incidental and secondary to residential occupancy. A Special Permit must be obtained from the Planning Board, provided that:

**(a) Non-Resident:** No Non-Resident employees are involved;

**(b) Floor Area:** Not more than twenty-five (25%) percent of the dwelling unit floor area shall be used to conduct the home occupation;

**(c) Outside Appearance:** There shall be no change in the outside appearance of the dwelling unit, or other viable evidence of the conduct of such home occupation other than one (1) sign, not exceeding one (1) square foot in area, non-illuminated;

**(d) Accessory Building:** No home occupation shall be conducted in any accessory building;

**(e) Traffic/Parking:** No traffic or parking shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood;

**(f) Disruption:** No equipment, process, or activity shall be used in such home occupation which creates noise, vibration, glare, noxious odors, and electrical interference or otherwise disrupts the neighborhood's integrity.

**(g) Bed and Breakfast Inn:** A dwelling in which overnight accommodations of not more than five (5) rooms are provided to tourists for compensation. The only meal to be provided shall be breakfast, and it shall only be served to guests

taking lodging in the facility.

**Section 5 - Nonconformity:**

**(A) Continuation and Change:**

**(1) Requirements:** Any structure or the use of any building or land which does not conform to the requirements of Article III, Use Regulations, Article IV, Dimensional Requirements, included herein, and which was existing at the time of enactment of the By-Law. However, once changed to conform with such provisions, in whole or in part, it shall not subsequently revert to nonconformity.

**(B) Nonconforming Structures:** A nonconforming structure shall be defined as a structure which does not conform to Article IV, Dimensional Requirements of this by-law. The following regulations shall apply to nonconforming structure:

**(1) Altered/Enlarged:** A nonconforming structure may be altered or enlarged provided that such alteration or enlargement does not increase the extent of the nonconformity of such structure.

**(2) Damaged/Destroyed:** A nonconforming structure which has been damaged or destroyed by fire or other catastrophe, provided that the reconstruction in no way increases the extent of nonconformity of such structure.

**(C) Nonconforming Use of Buildings or Land:**

**(1) Extension of Nonconforming Use of Land:** The nonconforming use of land shall not be extended beyond the boundaries of the property so used at the time of enactment of this By-Law, or of applicable subsequent amendment therein.

**(2) Enlargement of a Building Housing a Nonconforming Use:** A building which houses a nonconforming use may be enlarged upon issuance of a Special Permit by the Board of Appeals, provided that:

**(a) Detrimental/Injurious Effect:** Such enlargement shall not increase any existing detrimental or injurious effect of said use upon the neighborhood.

**(b) Boundaries:** Such enlargement shall not be extended beyond the boundaries of the property on which the building is situated at the time of enactment of this By-Law.

**(c) Dimensional Requirements:** Such enlargement shall conform in Article IV, Dimensional Requirements, of this By-Law which apply in the district wherein the building is

located.

**(3) Alteration of a Building Housing A Nonconforming Use:** A building which houses a nonconforming use may be structurally altered provided that:

**(a) Floor Area:** Such alteration does not increase the total floor area of the building or the extent of building coverage on the property.

**(b) Dimensional Requirements:** Such alteration does not increase the extent of any nonconformity in Section 4, Dimensional Requirements, of this By-Law which apply in the district wherein the building is located.

#### **Section 6 - Off-Street Parking:**

**(A) Parking Spaces:** Two off-street parking spaces shall be provided for each dwelling.

### **Article II - Establishment of Districts**

#### **Section 1 - Classes of Districts:**

**(A) Purpose:** For the purpose of this By-Law the Town of Millville is divided into the following districts:

- (1) **OR** - Outlying Residential
- (2) **VR** - Village Residential
- (3) **VC** - Village Center District

#### **Section 2 - Incorporation of Zoning Map:**

**(A) Districts:** The districts listed in Section 1 (A) above are located and bounded as shown on a map entitled "ZONING MAP OF MILLVILLE, MASSACHUSETTS", dated September 23, 1977 and on file in the office of the Town Clerk.

#### **Section 3 - Lots in Two Districts:**

**(A) Boundary Lines:** When a district boundary line divides any lot in one ownership of record at the time such line is adopted, a use that is permitted on one portion of the lot may be extended thirty (30) feet into the other portion provided the first

portion includes the required frontage.

### **Article III - Use Regulations**

#### **Section 1 - Basic Requirements:**

**(A) Use:** No building, structure, or land shall be used for any purpose or in any manner other than is permitted and set forth in Article III, Section 2, Schedule of Use Regulations, of this By-Law and in accordance with the following notation:

- (1) **Y** - Use Permitted.
- (2) **SP** - Use allowed upon issuance of a Special Permit by the Planning Board as provided in Article V, Section 5, hereafter.
- (3) **N** - Use Prohibited.

**(B) Permitted Uses:** Permitted uses and uses allowed by the Planning Board shall be in conformity with all dimensional requirements and all other applicable requirements of this By-Law.

**Section 2 - Schedule of Use Regulations:**

<b>(A) Agriculture:</b>	<b>DISTRICT</b>		
	<b>OR</b>	<b>VR</b>	<b>VC</b>
(1) Farm-agricultural, orchid, plant or tree nursery, including one single family dwelling, for the resident proprietor.	Y	Y	SP
(2) Farm-livestock and poultry, including one single-family dwelling for the resident proprietor.	Y	Y	SP
(3) Sales room or stand for the display or sales of agricultural or horticultural products on a seasonal basis.	Y	Y	Y
<b>(B) Residential:</b>			
(1) Single family detached dwelling.	Y	Y	Y
(2) Conversion of a single family dwelling existing prior to the adoption of the By-Law to accommodate not more than two families.	Y	Y	Y
(3) Cellar hole or basement area used as a dwelling.	SP	SP	Y
(4) Two family dwelling.	N	N	SP
(5) Multi-Family, apartment, or condominium.	N	SP	SP
(6) Trailer, coach, or mobile home.	N	N	N
(7) Trailer, coach, or mobile home to be occupied, (a) for a period not exceeding six months upon a lot defined in Article I, Section 4 and 5 during the construction of a permanent residence on such lot or by (b) by one or more persons on temporary visits to Millville not exceeding thirty days in any successive twelve (12) months.	Y	Y	Y
(8) Trailer, coach, or mobile home park.	N	N	N
(9) Renting of one or two rooms and tile furnishing of board by a resident family to not more than three non-transient person.	N	Y	Y
(10) Customary home occupation conducted by a resident of the premises provided that not more than one other person is regularly employed therein in connection with such use and that there is not exterior storage of material or equipment, and that no display o			

products is visible from the street. Y Y Y

**(C) Commercial:**

- (1) Retail store, distributing merchandise to the general public. Y Y Y
- (2) Craft, consumer, professional or commercial service establishment dealing directly with the general public. N SP SP
- (3) Restaurant or other establishment serving food and beverage to be consumed within the building. N SP SP
- (4) Undertaking establishment or funeral home. N SP SP
- (5) Hotel, Motel. N SP SP
- (6) Professional offices or agencies. N SP SP
- (7) Bank or other financial institution. N SP SP
- (8) Insurance or Real Estate office. N SP SP
- (9) Commercial indoor amusement or recreation place, or place of assembly. N SP SP
- (10) Contracting business and equipment storage yard. SP SP SP
- (11) Bed and Breakfast Inn SP SP SP

**(D) Automotive Sales and Service:**

- (1) Automotive "filling" or service station. N SP SP
- (2) Repair garage for motor vehicles, not including auto body, welding or soldering shop. N SP SP
- (3) Auto body, welding or soldering shop. N SP SP
- (4) Sale of Motor Vehicles incidental to the above. N SP SP

**(E) Industrial:**

- (1) Wholesale, warehouse and storage facilities. N SP SP
- (2) Any manufacturing or industrial use, including processing, fabrication, and assembly, provided that no such use shall be permitted which would be detrimental or offensive or tend to reduce property values by reason of dirt, odor, fumes smoke, gas, sewerage, refuse, noise, excessive

vibration or danger of explosion or fire.	N	SP	SP
(3) Newspaper printing or job printing.	N	SP	SP

**(F) Public, Semi-Public and Institutional:**

(1) Church or other place of worship, parish house, rectory, convent, and other religious institutions.	Y	Y	Y
(2) Schools, public, religious, sectarian, or denominational.	Y	Y	Y
(3) Public Buildings and premises for government use.	SP	SP	SP
(4) Public utility buildings and structures.	SP	SP	SP
(5) Public recreational and water supply use.	Y	Y	Y
(6) Nursing Home.	N	SP	SP

**(G) Bed and Breakfast Inn:**

**(1) Accessory Use:** Bed and breakfast inns are permitted as an accessory use to a single-family dwelling. The dwelling shall be the primary residence of the owner or manager.

**(2) Exterior Alterations:** No exterior alterations shall be made to the building other than those required to ensure the safety of the structure or to provide improved accessibility for the handicapped.

**(3) Parking:** Parking shall be provided at the rate of one space per guest room in addition to that required for the principal residential use.

**(4) Proposed Plans:** The applicant shall submit a plan showing the location, wording, dimensions, and construction materials of any proposed signs. If the building is located in a local, state, or national inventory of historic structures, this plan shall be forwarded to the Historical Commission, which shall have thirty-five (35) days to submit their comments to the Planning Board. The Board may waive other applicable sign provisions of this By-Law if necessary to provide adequate notice to tourists of the use and location of the facility.

**Article IV - Dimensional Requirements:**

**Section 1 - Basic Requirements:**

**(A) Building/Structure:** No building or structure in any district shall be built, or enlarged which does not conform to the Dimensional Requirements as set forth in Article IV, Section 2 and Section 3 of this By-Law.

**Section 2 - Schedule of Dimensional Requirements:**

(A) Schedule:

	Minimum Lot Size (In sq.ft.)	Minimum Frontage (In sq.ft.)	Minimum Yards (in feet) FRONT-SIDE-REAR	Minimum Height STORIES
(1) Outlying Residential	60,000	200	50 30 30	2 1/2
(2) Village Residential	40,000	200	40 30 30	2 1/2
(3) Village Center	20,000	150	30 20 20	3-4

**Section 3 - Modifications to Dimensional Requirements:**

**(A) Corner Lots:** A corner lot shall maintain front yard requirements for each street frontage; at least one of the remaining yards shall be a rear yard.

**(B) Projections:** Nothing herein shall prevent the projections of steps, stoops (not exceeding thirty (30) square feet in area), caves, cornices, window sills or belt courses into any required yard.

**(C) Location of Accessory Buildings:** No accessory building shall be closer to any principal building or any lot line than a distance equal to the height of such accessory building and in no event in a front yard, except in the case of a garage attached to the principal building via a breezeway with a continuous roof line.

**Article V - Administration**

**Section 1 - Enforcement:**

**(A) Enforced:** This By-Law shall be enforced by the Board Of Selectmen or through their agent, the Zoning Enforcement Officer.

**Section 2 - Building Permits:**

**(A) Construction/Alteration:** No permit shall be issued until the construction or alteration of a building or structure, as proposed, shall comply in all respects with the provisions of this By-Law or with a decision rendered by the Board of Appeals. No alteration of a parcel of land shall proceed without obtaining a building permit.

**Section 3 - Certification of Occupancy:**

**(A) Certificate of Occupancy:** No land shall be occupied or used, and no building, or structure hereinafter erected or structurally altered shall be occupied or used unless a certificate of occupancy has been issued by the Board of Selectmen or their designated agent. Such certificate shall state that the structure and use of structure and land comply in every respect with the provisions of this by-law in effect at the time of issuance or with a decision of the Board of Appeals.

**(B) Conditional:** A certificate of occupancy shall be conditional on the maintenance of full compliance with the provisions of this By-Law in effect at the time of issuance or with restrictions imposed in a decision of the Board of Appeals, and shall lapse if such compliance fails.

**Section 4 - Board of Appeals:**

**(A) Appointments:** The Board of Selectmen shall make appointments to a Board of Appeals, established pursuant in Chapter 40A of the Massachusetts General Laws and all amendments thereto, which shall consist of three members and two associate members, one associate to be designated by the Chairman of the Board to act in the place of any member, incapacitated by personal interest or absence. The first appointments shall be made for one, two, and three year terms respectively, and thereafter one appointment for a three year term shall be made on or before the first day of March in each year. Associate members shall be appointed for two year terms, the first appointments being for one year and a two year term.

**(B) Appeals:** Any person aggrieved by the refusal of the Board of Selectmen or their designated agent to issue a permit or license on the grounds on non-compliance what these By-Laws may appeal to the Board of Appeals as provided in Chapter 40A of the Massachusetts General Laws and any amendments thereto.

**(1) Public Hearing:** Within 65 days from date of the filing of a claim of appeal as provided herein, the Board of Appeals shall hold a public hearing thereon. The appellant shall file in advance of the hearing such plans and information as the Board or Appeals shall deem necessary, and give notice of the hearing by causing a notice thereof to be posted in a conspicuous location upon the property in respect to which the appeal is claimed.

**(C) Variances:**

**(1) Petitions:** Petitions for variances from the terms of the applicable zoning provision shall be dealt with by the Board of Appeals in accordance with Chapter 40A of the Massachusetts General Laws, as amended. The Board shall grant no variance which would amount to an amendment of this By-Law.

**Section 5 - Special Permits:**

**(A) Written Application:** Where a Special permit may be authorized by the Planning Board under this By-Law, such Board may grant, upon written application, such Special permit if it finds, among other things:

**(1) Proposed Use:** That the premises in question is appropriately located and reasonably adaptable to the proposed use.

**(2) Residence Districts:** That in Residence Districts, the use will be reasonably compatible with other uses permitted as of right in the same district.

**(3) Nuisance/Serious Hazard:** That the use will not be a nuisance, or a serious hazard to vehicles or pedestrians.

**(4) Facilities:** That adequate and appropriate facilities will be provided for the proper operation of the proposed use.

**(B) Review:** The Planning Board may request a review of the Special Permit application by other town departments and agencies and their recommendations thereon.

**(C) Adopt/Amend:** The Planning Board may adopt and amend from time to time rules governing the application procedure for Special

Permits. Copies of said rules shall be filed with the Town Clerk.

**Section 6 - Penalty:**

**(A) Violation:**

Any person, firm or corporation violating any section or provision of this by-law shall be fined not more than twenty (20) dollars for each offense. Each day that willful violation continues shall constitute a separate offense.

**Section 7 - Amendment:**

**(A) Amended:** This By-Law may be amended from time to time in accordance with the provision of Massachusetts General Laws, Chapter 40A, Section 5.

**Section 8 - Repetitive Petitions:**

**(A) Proposed Change:** No proposed change in this By-Law which has been unfavorably acted upon by the Town Meeting within two (2) years after the date of such unfavorable action unless adoption of the proposed change is recommended in the final report of the Planning Board. No application for a Special permit under Article V, Section 5 and no appeal or petition for a variance under Article V, Section 4 which has been unfavorably acted upon by the Board of Appeals shall be considered on its merits by said Board within two (2) years after the vote of unfavorable action except with unanimous consent of the Planning Board.

**Section 9 - Validity:**

**(A) Invalidity:** The invalidity of any section or provision of this by-law shall not invalidate any other section or provision thereof.

**Section 10 - Other Regulations:**

**(A) Interference:** This By-Law shall not interfere with or annul any other Town by-law, rule, regulation, or permit provided that unless specifically excepted, where this By-Law is more stringent, it shall control.

**Section 11 - Effective Date:**

**(A) Effective:** The effective date of this By-Law shall be the date upon which the By-Law becomes in full force or effect in accordance with the provisions of Massachusetts General Laws, Chapter 40, Section 32; and Chapter 40A, Section 5.

**Section 12 - Buffer Requirements:**

**(A) Purpose:** The purpose of this section is to assist in reducing the incompatibility between abutting land uses, to provide barriers and relief from traffic noise, heat, glare and dust and to preserve and enhance the character of the Town of Millville.

**(B) Application:** This section applies to those land uses permitted by Special permit as authorized by Article III, Section 2 (C) Commercial, Section 2 (D) Automotive Sales and Service, and Section 2 (E) Industrial.

**(C) Residential Buffers:** A buffer is required when such uses are proposed adjacent to a residence or vacant land zoned for residential use. This may be achieved by using any of the following:

(1) A vegetative screen with plantings not less than three (3) feet in width and not less than six (6) feet in height at commencement of the use. At least fifty (50) percent of the plantings shall consist of evergreens and they shall be evenly spaced along the full length of the screened section. No screen should be closer than ten (10) feet to a public or private way.

(2) A berm, a minimum of five (5) feet high, with no slope greater than 3:1, planted with trees and shrubs so that the ground is completely covered with vegetation.

(3) A solid wall or fence complemented with suitable plantings. (See section 6.4).

**(D) Utility Areas:** Where utility or service areas, such as dumpsters, fuel storage facilities or exterior materials storage is proposed, they shall be screened from view of the street and near by properties by a row of trees and shrubs at least six (6) feet high at the time of planting, or by a solid wall or fence complemented with suitable plantings.

**(E) Fences and Walls:** Where fences are used, they should be of wood, iron, stone, or plant materials. These should not exceed four (4) feet in height in the front yard and should be between five (5) and six (6) feet in height in side and rear yards. Chain link or metal fences, concrete block, plastic, fiberglass, or

plywood fences are not acceptable. Solid (privacy) wood fences are permitted to screen parking or storage areas. Retaining walls should be of stone masonry. Unfaced concrete or concrete block are not appropriate.

**(F) Lighting:** All lighting should be appropriate to the building and its surroundings in terms of style, scale, and intensity of illumination. Low wattage systems are recommended and site lighting should be shielded. Necessary security lighting will be considered on an individual basis.

## **Article VI - Floodplain District:**

### **ARTICLE I. STATEMENT OF PURPOSE**

The purposes of the Floodplain District are to:

- 1) Ensure public safety through reducing the threats to life and personal injury;
- 2) Eliminate new hazards to emergency response officials;
- 3) Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding;
- 4) Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding;
- 5) Eliminate costs associated with the response and cleanup of flooding conditions;
- 6) Reduce damage to public and private property resulting from flooding waters;
- 7) Establish uses that are compatible with areas prone to flooding.

### **ARTICLE II. FLOODPLAIN DISTRICT BOUNDARIES AND BASE FLOOD ELEVATION AND FLOODWAY DATA**

The floodplain district is herein established as an overlay district to all other districts. The District includes all Special Flood Hazard Areas designated on the Millville Flood Insurance Rate Map ("FIRM") issued by the Federal Emergency Management Agency (FEMA) for the administration of the NFIP dated July 19, 1982 as Zone A11 and the FEMA Flood Boundary and Floodway Map dated July 19, 1982, both maps which indicate the 100-year regulatory floodplain. The exact boundaries of the District may be defined by the 100 year base flood elevations shown on the FIRM, as may be amended, and further defined by the Flood Insurance Study booklet dated January 19, 1982. The FIRM, Floodway Maps and Flood Insurance Study booklet are incorporated

herein by reference and are on file with the Town Clerk, Planning Board, Building Inspector, Board of Health, and Conservation Commission.

### **ARTICLE III. NOTIFICATION OF WATERCOURSE ALTERATION**

In a Riverine situation, the alteration or relocation of a watercourse shall require a special permit in accordance with the terms hereof, in addition to any other permits issued by the Millville Conservation Commission or the Massachusetts Department of Environmental Protection. Upon issuing a Special Permit for any alteration or relocation of a watercourse, the Planning Board shall provide a copy of thereof to the following entities:

- Adjacent Communities of Uxbridge, Mendon, and Blackstone
- The State of Rhode Island
- NFIP State Coordinator  
Massachusetts Department of Conservation and Recreation  
251 Causeway Street, Suite 800  
Boston, MA 02114-2104
- NFIP Program Specialist  
Federal Emergency Management Agency, Region 1  
99 High Street, 6<sup>th</sup> Floor  
Boston, MA 02110

### **ARTICLE IV. USE REGULATIONS**

#### **A. USES PERMITTED BY RIGHT**

The following uses of low flood damage potential and causing no obstructions to flood flows are encouraged and permitted by right in the Floodplain District provided they do not require structures, fill, or storage of materials or equipment:

- 1) Agricultural uses such as farming, grazing, truck farming, horticulture, etc.
- 2) Forestry and nursery uses.
- 3) Outdoor recreational uses, including fishing, boating, play areas, etc.
- 4) Conservation of water, plants, wildlife.
- 5) Wildlife management areas, foot, bicycle, and/or horse paths.
- 6) Temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises.

- 7) Buildings lawfully existing prior to the adoption of these provisions.

#### **SECTION B. USES PERMITTED BY SPECIAL PERMIT**

All other uses and structures permitted in the underlying district as well as all substantial improvements of existing structures shall be permitted by special permit to be issued by the Millville Planning Board. Consideration of special permit applications shall be in accordance with Section 5.5 of the Millville Zoning By-laws as well as the following requirements:

1. No special permit may be issued unless the proposed use or structure is in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:

- Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780CMR 3107, "Flood Resistant Construction"), as may be amended;
- Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00), as may be amended;
- Inland Wetlands Restriction, DEP (currently 310 CMR 13.00), as may be amended;
- Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5), as may be amended;
- The Millville Wetlands Protection By-law and accompanying regulations, as may be amended;
- Any regulations or bylaws adopted by the Millville Board of Health.

Prior to the grant of a special permit hereunder, an Applicant shall demonstrate compliance with the foregoing. Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations. To the extent that such a variance has been granted or is required, an applicant shall provide proof of receipt of the same prior to the issuance of a special permit hereunder.

2. In addition to the foregoing requirements, the Planning Board shall consider the following in determining whether to issue a special permit:

- a. In Zone A11 along watercourses that have a regulatory floodway designated on the Millville Flood Boundary and Floodway Map, encroachments are prohibited in the regulatory floodway which would result in any increase in

flood levels within the community during the occurrence of the base flood discharge.

- b. All development proposals must be designed to ensure that:
1. such proposals minimize flood damage;
  2. all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
  3. adequate drainage is provided to reduce exposure to flood hazards.

3. All applications for special permits shall include a site and development plan. Said plans shall, at a minimum, show existing contour intervals of site and elevations of existing structures.

4. There shall be established a "routing procedure" which will circulate or transmit one copy of the site and development plan to the Conservation Commission, Planning Board, Board of Health, Building Inspector, Town Engineer, Highway Surveyor, Town Clerk, Board of Selectmen and Board of Assessors for comments which will be considered by the Planning Board prior to issuing applicable permits.

#### **ARTICLE V. DEFINITIONS**

**AREA OF SPECIAL FLOOD HAZARD** is an area having special flood related hazards, shown as Zone A11 on the Millville FIRM.

**BASE FLOOD** means the flood having a one percent chance of being equaled or exceeded in any given year.

**DEVELOPMENT** means any manmade change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

**DISTRICT** means floodplain district.

**FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)** administers the National Flood Insurance Program. FEMA provides a nationwide flood hazard area mapping study program for communities as well as regulatory standards for development in the flood hazard areas.

**FLOOD BOUNDARY AND FLOODWAY MAP** means an official map of a community issued by FEMA that depicts, based on detailed analyses, the boundaries of the 100-year and 500 year floods and the 100-year floodway. (For maps done in 1987 and later, the floodway designation is included in the FIRM.)

**FLOOD HAZARD BOUNDARY MAP (FHBM)** means an official map of a community issued by FEMA where the boundaries of the flood and

related erosion areas having special hazards have been designated as Zone A or E.

**FLOOD INSURANCE RATE MAP (FIRM)** means an official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY** means an examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of flood-related erosion hazards.

**FLOODWAY** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation.

**LOWEST FLOOR** means the lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, PROVIDED that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of NFIP Regulations 60.3.

**MANUFACTURED HOME** means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

**MANUFACTURED HOME PARK OR SUBDIVISION** means a parcel, or contiguous parcels, of land divided into two or more manufactured home lots for rent or sale.

**NEW CONSTRUCTION** means, for floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community. For the purpose of determining insurance rates, NEW CONSTRUCTION means structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later.

**ONE -HUNDRED-YEAR FLOOD** - see BASE FLOOD.

**REGULATORY FLOODWAY** - see FLOODWAY.

**RIVERINE** means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**SPECIAL FLOOD HAZARD AREA** means an area having special flood and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, AH, V, V1-30, VE.

**STRUCTURE** means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

STRUCTURE, for insurance coverage purposes, means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on foundation. For the latter purpose, the term includes a building while in the course of construction, alteration, or repair, but does not include building materials or supplies intended for use in such construction, alteration, or repair, unless such materials or supplies are within an enclosed building on the premises.

**SUBSTANTIAL DAMAGE** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT** means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

**ZONE A** means the 100-year floodplain area where the base flood elevation (BFE) has not been determined. To determine the BFE, use the best available federal, state, local or other data.

**ZONE A1-30** and **ZONE AE** (for new and revised maps) means the 100-year floodplain where the base flood elevation has been determined.

**ZONE A11** means an area having special flood hazards, as shown on the Millville FIRM.

**ZONES B, C, AND X** are areas identified in the community Flood Insurance Study as areas of moderate or minimal flood hazard. Zone X replaces Zones B and C on new and revised maps.