

Amended at: STM October 13, 2022
Approved by Attorney General:
Posted:
Effective:

BY-LAWS OF THE TOWN OF MONTAGUE

ARTICLE 1

WARRANTS

Section 1: All warrants for Town Meeting shall be served by posting attested copies thereof in some conspicuous place in each of the post offices of the Town and in each of the public libraries of the Town, and the Town office building, and on the Town's website at least seven days before said meeting. (Amended at ATM 5-2-15)

ANNUAL AND SPECIAL MEETINGS

Section 2: The annual meeting for the election of Town officers required by law to be elected by ballot shall be held on the first Monday in March of each year. *(This section was rescinded at a Special Town Meeting on 11/15/1973, by the following act passed by the General Court on February 22, 1974.)

Chapter 9, Acts of 1974, "An act relative to the dates of the Annual Town Election and Town Meeting held in the Town of Montague". Be it enacted as follows: Notwithstanding the provisions of any general or special law or by-law of the Town of Montague to the contrary, said Town shall hold the Annual Town Meeting for the election of Town officers and the determination of such matters as by law or vote of the Town are required to be elected or determined by official ballot on the third Tuesday in May of each year. All other business shall be considered at a meeting to be held on the first Saturday of May of each year. Separate warrants may be posted for said election and business meetings. (Amended at STM 10-13-2020/General Court May 12, 2022)

ARTICLE II

FINANCES, TAXES, AND APPROPRIATIONS

Section 1: The financial year shall end on the 31st day of January in each year. *(Chapter 44, Section 56 M.G.L. states fiscal years shall begin on July 1, and end on June 30th each year.)

Section 2: The Moderator of the Annual Meeting of the Town shall appoint an appropriation committee consisting of not less than 5 but not more than 7 residents who have reached the age of majority, who hold no paid Town office, which shall meet and investigate the cost of maintenance and expenditures of the different departments of the Town and recommend in detail the amounts to be appropriated for each department for the ensuing year. They shall also consider articles in Town warrants requiring the appropriation of money and shall make a written report to the meetings considering such articles. The committee members shall be initially appointed as follows: 3 for three years, 3 for two years, 3 for one year, and for a three-year period thereafter, and shall have the power to fill vacancies which occur in their number during their term of office. (Amended at STM 2-28-13)

Section 3: Orders upon the Town Treasurer for the disbursement of the appropriations made by the Town, shall be signed by a majority of the Selectboard. No such order shall be drawn in payment or satisfaction of any claim upon the Town, until such claim has been approved by a majority of the Selectboard in writing.

Section 4: No order or draft, except such sums as he may be required to pay under the laws of the Commonwealth, shall be paid by the Treasurer unless drawn as provided in the preceding section: nor shall any such order or draft be paid unless it specifies out of what fund or appropriation it is to be paid, and when so drawn he shall not pay thereon more than the balance remaining to the credit of such fund or appropriation, and whenever any such fund or appropriation is exhausted, he shall give immediate notice thereof to the Selectboard.

Section 5: Every officer or agent, who receives any money belonging to the Town shall at the end of each month, pay over to the Treasurer all such money in his hands, with an itemized statement of the source from which he received the same, unless otherwise provided by law.

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Section 6: Capital Improvements Committee: There shall be a Capital Improvements Committee consisting of five members to be appointed by the Moderator, with powers and duties to include (a) to conduct an annual review of the capital improvements program of the Town as well as proposals for the construction of municipal buildings and acquisition of property, (b) to make recommendations to the Town Meeting regarding the above, and (c) to prepare an annual report. The terms of the existing members of the Capital Improvements Committee shall terminate on June 30, 2023 and the Moderator shall appoint five individuals to fill those positions for staggered terms beginning on July 1, 2023 as follows: two members for initial three year terms, two members for initial two year terms, and one member for an initial one year term; with all subsequent terms to be three years in length. (Amended STM 10-13-2022)

Section 7: Revolving Funds

- (a) There are hereby established in the Town of Montague pursuant to the provisions of Massachusetts General Laws Chapter 44, Section 53E½, the following revolving funds:

| <u>Revolving Fund</u> | <u>Spending Authority</u> | <u>Revenue Source</u> | <u>Allowed Expenses</u> |
|-----------------------------------------------------------------------------------|---------------------------|------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|
| Hazardous Materials Response Planning Committee (a.k.a. SARA Title III Committee) | SARA Title III Committee | Fees collected from individuals responsible for oil and hazardous material spills. | For the purpose of cleaning up oil and hazardous material spills. |
| Airport Fuel | Airport Manager | Fees from sale of aviation fuel | Purchase of aviation fuel, system maintenance, parts, and inspections |
| Montague Tree Fund | Tree Warden | Fees received under the Public Tree Protection Bylaw | Tree planting and maintenance consistent with the Public Tree Protection Bylaw |

- (b) Expenditures from each revolving fund shall be subject to the limitations established by Town Meeting, and to any additional limitations as otherwise set forth in Massachusetts General Laws Chapter 44, Section 53E½. (Amended at ATM 5-22-2021 and again at ATM 5-7-2022)

ARTICLE III

TOWN OFFICERS AND REPORTS

Section 1: All Town officers shall turn over to their successors in office, at the expiration of their term of office all books, papers, documents, or other property in their custody belonging to the Town, and all departments shall turn over to the Town Clerk all books, papers, and documents belonging to the Town, and not necessary for the immediate use of their respective departments; and these shall be deposited in the Town Clerk's vault, unless otherwise provided by law.

Section 2: It shall be the duty of the Selectboard to publish the annual report of the Town officers, committees, and appointees, and the report shall be issued and distributed at least seven days previous to the first Monday of March of each year.

Section 3: The annual reports of all the Town officers, and committees shall be issued in one book and in addition to the department report for the municipal year it shall contain:

- (a) A complete list of the elected Town officers, showing the organization of the different boards, and the expiration of the term of office of each member.

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- (b) A complete list of the appointees for the year, including the School and Police Departments.
- (c) A copy of the warrant for the Annual and Special Town Meetings held during the year, and the minutes of such meetings.
- (d) A statement in detail of the votes cast in the Town at the last preceding Town and State elections.
- (e) A list of jurors as selected by the Selectboard for approval by the Town.
- (f) The reports of the Library Trustees and librarians for the public libraries.

SELECTBOARD

Section 4: There shall be a Selectboard of three members elected for three-year overlapping terms. Such Selectboard shall have all the powers and duties of a Board of Selectmen for purposes of any and all federal, state and local laws referring to Board of Selectmen or Selectmen, including but not limited to the Massachusetts General Laws, Code of Massachusetts Regulations and any bylaws and special acts applicable to the Town of Montague. *The Selectboard shall have the general direction and management of the property and affairs of the Town in all matters not otherwise provided for. They shall have authority to prosecute, defend, or in a case not involving an expenditure exceeding \$2,000.00, to compromise all litigation to which the Town is a party unless otherwise provided by law, and to employ special counsel to assist the Town Solicitor, whenever, in their judgment, necessity therefor arises. They shall make, from time to time, such rules and regulations, for the government, management and disposition of the Police as they may deem expedient.*

Section 5: Their annual report shall contain:

- (a) A statement of their expenditure of appropriation in detail, showing amounts paid to each person and the purpose of the payment.
- (b) A concise and clear account of their doings during the year.

OVERSEERS OF THE POOR

Section 6: The overseers of the poor may annually appoint a person not of their own number as Town Almoner. His duties shall be such as they from time to time prescribe. He may be removed by them at any time. He shall be the Clerk of the Board and his salary shall be determined by them.

*Section 7: Their annual report shall contain:

- (a) A detailed statement of the expenses for the support of the poor during the year, including poor of the Town supported in the Town or elsewhere, those at hospitals and other institutions, poor of other places who are supported here, poor chargeable to the State, and expenditures on account of tramps.
- (b) A statement of the amounts received from other places and from the State, and from other sources, on account of reimbursement of money spent by the Town for the poor, and of monies due for such reimbursement and unpaid.
- (c) The number of poor at the Town farm, giving their ages and the number of days they were cared for.
- (d) An inventory and statement of the value of the real and personal property at the Town farm.

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- (e) A report upon the Town farm, its condition and management and the care which is there taken of the poor, a statement of its receipts, expenditures and productions, together with the latest reports which are accessible of inspections made of the Town farm by the State Board of Lunacy and Charity.

*(This section is now obsolete).

TOWN CLERK

Section 8: The Town Clerk shall have custody of the Town Seal, shall keep and cause to be permanently bound one or more files of the Town Report, and shall keep and file all original documents of the Town. He shall notify or cause to be notified all persons chosen or elected by the Town or appointed on committees of their election, choice or appointment. He shall furnish all boards and committees with a copy of all votes affecting them. He shall not allow original papers or documents of the Town to be taken from his office, except as they remain in his custody or authority of law.

Section 9: He shall furnish blanks with appropriate headings, upon which petitions, reports and other papers in the ordinary course of Town proceedings may be prepared. He shall fold uniformly all papers and documents within his department and shall endorse them in a manner to indicate the contents of each paper, and shall file and arrange them in a manner convenient for reference and examination. He shall index all such papers and documents and all future records of the Town.

Section 10: His annual report shall contain:

- (c) Records of the Town Meeting held during the year. *(Subsections (a) and (b) were rescinded at the Town Meeting held on 3/7/1942.)

TOWN TREASURER

Section 11: The Town Treasurer shall not borrow money for the Town on any note unless it is countersigned by a majority of the Selectboard. Each Town note shall be upon a regular printed blank, in a form prescribed by the Selectboard; shall have printed upon it that it must be countersigned by a majority of the Selectboard to be valid, and shall state plainly upon its face for what purpose and under what vote of the Town it is given.

Section 12: He shall notify each Town board, quarterly, of the balance in his hands of any appropriation to their credit.

Section 13: His annual report shall contain:

- (a) A tabulated statement showing the object of each appropriation for the year; the amount appropriated; the money expended; the balance unexpended; the balance on hand at the end of the preceding year; the amount received outside of the appropriation from transfer from another appropriation or otherwise; and a separate statement of transfers from one appropriation to another.
- (b) A classified statement showing the items of the Town debt, date when each was contracted; its amount, rate of interest, date on which it will be due and purpose for which the borrowing was made.
- (c) A classified statement of all expenditures and receipts of the Town, so as to give a fair and full exhibit of the objects and methods of all expenditures.
- (d) A statement of all money borrowed by the Town during the year and for what purposes, the amount of increase or decrease in the Town debt and the objects for which it was increased.
- (e) The total valuation of real and personal estate of the Town and the relation of the Town debt to the three percent limit of indebtedness.
- (f) Any monies due to the Town and unpaid.

COLLECTOR OR TAXES

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Section 14: The annual report of the Collector or Taxes shall contain a statement of the amount committed to him for collection, amount of interest collected, amount paid over to the Treasurer, amount of abatements and discounts, amount of uncollected taxes, sewer and sidewalk assessments in detail for each year, and cash on hand.

Section 14A:

- (a) The Tax Collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter 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 or transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve month period, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the Appellate Tax Board.
- (b) The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfer of any party whose name appears on said list furnished to the licensing authority from the Tax Collector; provided, however, that written notice is given to the party and the Tax Collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The Tax Collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the Tax Collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the municipality as the date of issuance of said certificate.
- (c) Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.
- (d) The Selectboard may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in Section 1 of Chapter 268 in the business or activity conducted in or on said property. This section shall not apply to the following licenses and permits: open burning, Section 13 of Chapter 48; bicycle permits, Section 11A of Chapter 85; sales of articles for charitable purposes, Section 33 of Chapter 101; children work permits, Section 69 of Chapter 149; clubs, associations dispensing food or beverage licenses, Section 21E of Chapter 140; dog licenses, Section 137 of Chapter 140; fishing, hunting, trapping license, Section 12 of Chapter 131; marriage licenses, Section 28 of Chapter 207; and theatrical events, public exhibition permits, Section 181 of Chapter 140.

ASSESSORS OF TAXES

Section 15: The annual report of the Assessors of Taxes shall contain:

- (a) A complete list of all abatements of taxes, the names of the parties whose taxes have been abated during the year, the amounts of such abatements and the reasons for such abatements except as to those that are made directly by them to the Collector.
- (b) A statement showing the number of assessed polls, value of real estate and personal property for the year, income and receipts and figures showing how the rate of taxation was fixed.

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- (c) The amount of money received as taxes from all other sources than taxation by the Town.

SUPERINTENDENT OF STREETS

Section 16: The Superintendent of Streets shall keep a record of monies expended and work done in his department; a daily record of the names and number of men and number of teams employed; and the time and purpose for which they are employed; a record of the amount of money expended and time devoted to each street and way; of materials used; of persons furnishing materials; of the rate of wages paid; prices paid for materials and cost of teams.

Section 17: His annual report shall contain:

- (a) A detailed statement of monies expended during the year in his department, properly classified under the different divisions of work.
- (b) A statement of what streets and ways have been laid out, constructed or repaired, what bridges have been built or repaired, what sewers have been laid, and what sidewalks and crosswalks have been constructed or repaired during the year.

AUDITORS

*(Sections 18, 19, 20, 21, and 22, pertaining to Auditors was repealed by vote of Town Meeting action on 3/11/1929, Article 8.

BOARD OF HEALTH

Section 23: The Board of Health shall keep records showing:

- (a) Complaints made to them.
- (b) Nuisances abated and how abated.
- (c) Number of persons who have entered the sewer.
- (d) Number of persons who should and have not entered the sewer.
- (e) Unusual sickness in the Town.
- (f) Deaths and causes thereof.

Section 24: It shall be their duty to look after the sanitary condition of the Town. They shall make such regulations as they judge necessary for the public health and safety respecting nuisances, sources of filth, and causes of sickness within the Town, and respecting articles that are capable of containing infection and contagion that might be brought into or conveyed from the Town; and to enter complaint against all persons offending against the laws of this Commonwealth regarding health, or their regulations, and to prosecute the same to final judgment.

Section 25: Their annual report shall contain:

- (a) A statement of their doings during the year.
- (b) A record of contagious or infectious diseases during the year.
- (c) Causes of deaths during the year.

TOWN SOLICITOR

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Section 26: The Selectboard may annually appoint some member of the bar, as Town Solicitor. He shall draft all legal instruments and do every professional act which may be required of him by vote of the Town or any board of Town officers, also when required by said board or any committee of the Town, he shall furnish a written opinion on any legal question which may be submitted to him, and he shall at all times furnish legal advice to any officer of the Town, who may require his opinion upon any subject concerning the office of such person. He shall prosecute all suits by the Town, and shall defend all action or suits brought against the Town or its officers in their official capacity. He shall try and argue any and all causes in which the Town shall be a party, before any tribunal, or before any board of referees or commissioners. He shall receive for his services such salary or compensation as may be fixed by the Selectboard, and shall be subject at any time to removal by them.

SCHOOL COMMITTEE

Section 27: The annual report of the School Committee shall contain:

- (a) A statement showing the value of school property held by the Town in buildings, grounds, furniture, text books and supplies.
- (b) A statement of the cost of instruction and text books for each pupil, and the rank of the Town in this respect as returned by the State Board of Education.
- (c) A statement of the rank of the Town in its appropriations for schools as returned by the State Board of Education.
- (d) A report of the year's work in the schools with such recommendations and suggestions regarding educational work as they deem fitting.
- (e) The school calendar for the year.
- (f) A tabulated statement of membership, attendance and truancy in each school.
- (g) A detailed statement of the expenditures during the year.
- (h) A list of teachers and their salaries.

ARTICLE IV

REGULATIONS RELATING TO STREETS, SEWERS, ETC.

Section 1: The streets and public ways shall continue to be called and known by the name by which they are now called and known, unless the Town shall, at a meeting called for that purpose, vote to change such name. The Town shall from time to time establish the names of streets that may be hereafter laid out within the limits of the Town. The names of all existing streets, and those hereafter established, shall be recorded on the records of the Town.

Section 2: No person shall break or dig up the ground in any street or public way in the Town, or erect any staging thereon, or place thereon any wood, coal, brick, lumber, or other material, in such a manner as to obstruct or impede the free use of said street or way for public travel, or place any rubbish in such street or way, without a written license from the Selectboard.

Section 3: Any person, business or corporation desiring to place any structure or object on or in any public way must first obtain a permit from the Selectboard. The term public way as used in this article shall include sidewalks.

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Section 4: Every such license shall specify the time it shall continue in force, and shall impose such conditions and restrictions regarding the extent of said obstructions, and in reference to erecting barricades, maintaining lights, and taking other precautions for the safety of travelers and other persons, as may seem needful to the Selectboard.

Section 5: Every person receiving such license, shall at the expiration of the time limited therein, leave such streets or ways in a condition acceptable to the Selectboard, and all work done under such license shall be under the general supervision of the Superintendent of Streets.

Section 6: The Selectboard before granting such license, shall require the applicant to execute a sufficient written agreement, with or without sureties, to indemnify and save harmless the Town from all loss, damage, or cost, to which it may become liable, on account of any act they may be committed by the licensee or his agents, or by reason of such obstruction.

Section 7: No person shall tie or fasten any horse, ox, mule, cow or donkey to any such tree or to any fence or other structure erected for the protection of said tree, nor allow any such animal to remain where it can reach such tree with its mouth.

Section 8: No person shall leave any horse or mule in any street or public way in either of the villages of Montague Center, Turners Falls, or Millers Falls, unless the same is securely hitched or fastened to some post or other suitable object, unless the person in charge thereof is sufficiently near to have full control hereof.

Section 9: No person shall stop with any horse, mule, donkey, ox, cow, carriage or vehicle across any street or public way in Town; nor at the side of any other vehicle in such way as to obstruct public travel. But this shall not apply to such temporary obstructions as may reasonably be necessary for delivering or receiving goods to or from residences of business.

Section 10: No person shall stop any horse, mule, ox, cow, or other animal, or any carriage or vehicle of any kind, across any crosswalk in any street or public way at Montague Center, Turners Falls, or Millers Falls, except for the purpose of getting into or out of such carriage or other vehicle, and no such animal, carriage or vehicle shall be allowed to stand on such crosswalk longer than is necessary for persons to dismount from or enter such carriage or vehicle.

Section 11: No person shall be allowed to coast on any street or public way at Montague Center, Turners Falls, or Millers Falls, unless the Selectboard shall in writing set apart certain streets for that purpose.

Section 12: No person shall throw, or propel any stone, ball, or other missile, in, upon, along or across any street or public way in either of the Villages of Montague Center, Turners Falls, or Millers Falls.

Section 13: Three or more persons shall not stand or be near each other, in any street or public way in Montague Center, Turners Falls, or Millers Falls, so as to obstruct such street or way, or interfere with the free and uninterrupted use of the same for travel.

Section 14: No person shall discharge any firearm, or shoot any missile or weapon in any street or public way in either of the Villages of Montague Center, Turners Falls, or Millers Falls, unless in the exercise of a duty required or justified by law.

Section 15: No person shall drive any horse, mule, or other animal, on any street or public way in either of the Villages of Montague Center, Turners Falls, or Millers Falls, at a rate of speed greater than 8 miles an hour, but this provision shall not apply to the Fire Department in case of alarm of fire.

Section 16: No owner of, or person having the control of, any horse, goat, mule, sheep, swine or neat cattle, shall suffer the same to go at large in any street, or public way in Town or to remain on such street or way unless in charge of a suitable person or persons, and no person shall pasture any animal in a public street or way except adjacent to his own premises.

Section 17a: The Selectboard shall cause snow and ice to be removed from the sidewalks abutting all Town property. Such sidewalks shall be sanded for reasonable safe passage by pedestrians.

Section 17b: The owner of any estate abutting upon any way within the Town where there is a sidewalk shall within twenty-four hours after ceasing to fall or form, or the accumulation of any other cause, of any snow, ice or sleet upon said sidewalk, cause the

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same to be removed therefrom, and if the same cannot be wholly removed shall sprinkle thereon sand or other substance so that such sidewalk shall be safe for travel.

Section 17c: No person shall remove or cause to be removed snow or ice from any privately owned premises and deposit it on any way, sidewalk or public parking place.

Section 17d: Whenever any way, sidewalk, or public parking place shall be encumbered with snow or ice contrary to the provisions of this section, the Chief of Police, or his designee shall notify the owner or person having the care of the land abutting thereon, to cause such way, sidewalk or public parking place to be made safe and convenient for travel by removing the snow, and as far as practicable the ice therefrom, within six hours from the time of receiving such notice.

Section 18: Any owner who violates Section 17 shall have a complaint filed against the owner in the District Court of Greenfield and, if found guilty, shall be punished by a fine not exceeding twenty dollars for the first offense, thirty-five dollars for the second offense, and fifty dollars for each subsequent offense. Each twenty-four hour period a violation of Section 17 exists shall be considered to constitute a separate offense.

Section 19: No person shall distribute or cause to be distributed any handbill, circular, program or advertising slip in or upon any street of the town, excepting that such handbill, circular, program or advertising slip may be placed within the doors of stores, offices and business houses and at the doors of residences. No person shall ring the door bell, or knock at or open the door of any dwelling house of which he is not the owner or occupant for the purpose of depositing therein any show bill, handbill, circular, program or other advertisement, or so distribute them or any of them as to cause a disturbance or litter.

Section 20: No person shall place or cause to be placed in any street, any garbage, shavings, paper, filth, oyster shells, cleanings, or any kind of rubbish, or any decaying animal or vegetable matter, or shall place or cause to be placed in any street, any ashes except in such place and manner as shall be directed by the Selectboard or Superintendent of Streets, provided, however, ashes, sand or other proper material may be placed upon a sidewalk to prevent its being slippery.

Section 21: No person shall revel, quarrel, behave in a boisterous, indecent or disorderly manner, or use any indecent, profane, insulting or abusive language, or sing any lewd, profane or indecent song in any street or near any dwelling house or other building or in any public place.

Section 22: * (Was not approved by the Attorney General)

Section 23: No person shall tie or fasten any horse or other animal, or team of any kind, to any lamp post or hydrant or to any ornamental or shade tree, shrub or vine, or so near a tree, shrub or vine that such animal can injure it.

Section 24: The Selectboard may license suitable persons to be dealers in and keepers of shops for the purchase, sale, or barter of junk, old metals, or second-hand articles, in the Town. They may also license suitable persons as junk collectors, to collect, by purchase or otherwise, junk, old metals, and second-hand articles from place to place in the Town; and they may provide that such collectors shall display badges upon their persons or upon their vehicles, or upon both, when engaged in collecting, transporting, or dealing in junk, old metals, or second-hand articles; and may prescribe the design thereof. They may also provide that such shops and all articles of merchandise therein, and any place, vehicle, or receptacle, used for the collection or keeping of the articles aforesaid, may be examined at all times by the Selectboard or by any person by them authorized thereto.

Section 25: Every keeper of a shop for the purchase, sale, or barter of junk, old metals, or second-hand articles, within the limits of the Town shall keep a book, in which shall be written, at the time of every purchase of any such article, a description thereof, the name, age, and residence of the person from whom, and the day and hour when, such purchase was made; such book at all times be open to the inspection of the Selectboard and of any person by them authorized to make such inspection; every keeper of such shop shall put in a suitable and conspicuous place on his shop a sign having his name and occupation legibly inscribed thereon in large letters; such shop and all articles of merchandise therein, may be at all times examined by the Selectboard or by any person by them authorized to make such examination; and no keeper of such shop and no junk collector shall, directly or indirectly, either purchase or receive by way of barter or exchange any of the articles aforesaid of a minor or apprentice, knowing or having reason to believe him to be such; and no article purchased or received by such shopkeeper shall be sold until at least one week from the date of its purchase or receipt has elapsed. Such shops shall be closed between the hours of 6 p.m. and 7 a.m., and no keeper thereof and no junk collector shall purchase any of the articles aforesaid during such hours.

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Section 26: No person shall in a state of nudity bathe or swim in any of the waters within the Town in places exposed to the public view, or in the immediate sight of the occupant or occupants of any dwelling house, shop or factory.

Section 27: No person under the age of fifteen years shall be or remain in or upon any street or public place in the Town at night after the hour of nine o'clock between the first day of April and the thirtieth day of September, both inclusive, of each year, or at night after the hours of eight o'clock, between the first day of October and the Thirty-first day of March, both inclusive, of each year, unless he is actually employed in some work that makes it necessary, or is accompanied by a person properly having general care and custody of him, or person to who he has been particularly intrusted by someone who properly has general care and custody of him, or is engaged in the performance of some mission or duty directed by a person having his general care and custody.

Section 28: No person shall lay any drain connecting with a common sewer without the permission in writing of the Selectboard. Such work must be under the general supervision of the Superintendent of Streets and in a manner satisfactory to him.

Section 29: No person, except the Superintendent of Streets in the performance of his duties, or in cases of emergency shall break or excavate, or cause to be broken or excavated, the pavement or ground in any public right-of-way, or place or cause to be placed any earthen or paving materials within said right-of-way so as to cause changes in land contours and/or drainage runoff patterns, without first obtaining from the Selectboard or their designee a written license stating the space in the right-of-way that may be excavated and/or regraded, and such other provisions as they deem best. Violation of this by-law shall be punished by a fine of \$250.00 for each offense.

Section 30:

WHEREAS, the Commonwealth of Massachusetts has instituted a regional recycling program pursuant to which a recycling materials processing facility will be constructed and the Town shall receive direct aid in the collection of recyclables and promotion of recycling activities; and

WHEREAS, the landfill capacity, environmental, and financial benefits associated with recycling can only be realized if the residents of the Town participate in a program of curbside collection of recyclables separated from unusable solid waste.

NO THEREFORE BE IT ORDAINED by the Town Meeting of the Town of Montague...and hereby enacted by the authority of the same as follows:

A: PROGRAM ESTABLISHED

There is hereby established a program for the mandatory separation of certain recyclable material from garbage or rubbish by the residents of the Town of Montague and the collection of the recyclables at the residents' curbside. The collection of separated recyclables shall be made periodically under the supervision of the Director of the Public Works.

- (a) Mandatory recycling of newspapers shall start on July 1, 1987.
- (b) Mandatory recycling of cans and bottles will start when the State's recycling facility becomes operational. Date to be announced two weeks before the opening of the facility.

B: DEFINITIONS

Recyclables are the discarded materials described below which may be reclaimed and are considered saleable by the Town of Montague. For the purpose of this ordinance, they are defined in the following categories:

- (a) Aluminum - cans made from aluminum, aluminum foil, aluminum wrappers, and containers or trays used in the packaging, preparation, or cooking of prepared dinners, pies, or cakes, or other foods.

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- (b) Glass - all unbroken jars and bottles, or similar products made from silica or sand, soda ash and limestone, the product being transparent or translucent and being used for packing or bottling of various matter and all other material commonly known as glass excluding:
 - (1) Blue and flat glass and glass commonly known as window glass.
 - (2) Dishes and crockery.
- (c) Ferrous metal cans - all containers, composed in whole of iron or steel and so-called "tin" cans used for the package or storing of various food and nonfood items, except containers which contained paint or petroleum-based solvents and any pressurized aerosol cans.
- (d) Clean and unsoiled newspaper, magazines, including newsprint, all newspaper advertisements, supplements, comics and enclosures.

Newspapers shall be considered clean and uncontaminated if they have not been exposed to substances or conditions rendering them unusable for recycling. Persons may wrap solid waste in used newspapers and discard same with regular solid waste even if such wrapping does not render the newspapers unusable for recycling.
- (e) Corrugated paper - corrugated boxes, cardboard, cardboard cartons, pasteboard and similar corrugated and craft paper materials.

C: SEPARATION OF RECYCLABLES AND PLACEMENT FOR REMOVAL

The resident shall use the recycling receptacle provided to each household for the purpose of collecting the recyclables and placing them for disposal.

- (a) Recycling receptacles shall be placed on and removed from the curbside or tree belt in a manner similar to and at the same time as regular garbage or rubbish on designated days.
- (b) All the metal and glass recyclables, as defined in Section B (a), (c), shall be placed together in the designated recycling receptacle separate from rubbish or garbage. These recyclables need not be washed, flattened, or processed in any way, and labels, lids, corks and neck rings not be removed.
- (c) Recyclable newspapers, magazines and corrugated paper shall be placed on top of or next to the recycling receptacle in a manner to prevent the scattering of paper.
 - (1) Newspapers shall either be packed in standard grocery or paper shopping bags, placed in corrugated boxes, or securely tied in flat bundles, none of which shall weigh more than fifty (50) pounds.
 - (2) If not used for packing paper recyclables, corrugated boxes and cardboard cartons shall be collapsed and tied in bundles not weighing more than fifty (50) pounds and placed on the top of or next to the recycling receptacle.
- (d) Recyclables shall not be placed in plastic garbage bags for collection, removal, or disposal. Recyclables shall not be placed in the same container as, or otherwise mixed, with other forms of solid waste for collection, removal, or disposal.
- (e) Any violation of this section or any part thereof shall be punishable by a fine not to exceed fifty (50) dollars.

D: OWNERSHIP OF RECYCLABLES. OFFENSES.

- (a) Upon collection by the Town of Montague, pursuant to the program established hereby and the rules and regulations issued hereunder, such materials shall become the property of the Town of Montague. It shall be a violation of this

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ordinance for any person other than authorized employees of the Town of Montague acting in the course of their employment to collect or pick up or cause to be collected or picked up any recyclable material. Any and each collection or pick up in violation hereof from one or more locations shall be a separate and distinct offense punishable as hereinafter provided.

- (b) The recyclables collected by the Town shall be transported to and disposed of at the designated Materials Recovery Facility.
- (c) Any violation of this section or any part thereof shall be punishable by a fine not to exceed three hundred (300) dollars and the violator shall make restitution to the Town for the value of any recyclables illegally removed.

E: REPEALER

All ordinances or parts of ordinances, resolutions, regulations or other documents inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

F: SEVERABILITY

- (a) This ordinance and the various parts, sentences, sections, and clauses thereof are hereby declared to be severable. If any part, sentence, section or clause is adjusted invalid, it is hereby provided that the remainder of this ordinance shall not be affected thereby.
- (b) This ordinance shall take effect no later than three weeks after Material Recovery Facility commences commercial operation. Notice of the commencement date shall be published twice, at least 10 days apart in a daily newspaper having circulation in the Town of Montague.

ARTICLE V

MISCELLANEOUS PROVISIONS

Section 1: Whenever any Town officer or board shall call for bids for any work to be done or material to be furnished for the Town, such call shall state that sealed bids or proposals shall be sent to the Town Treasurer and that these bids will be opened by him at a specified time and place, in the presence of the officers or board calling for the same and such bidders as may desire to be present.

ARTICLE VI

Section 1: For the purpose of these by-laws, the Village of Montague Center shall be taken to include all the streets and public ways within a radius of one-half mile from the Town Hall; the Village of Turners Falls shall include the whole of Turners Falls Fire District; the Village of Millers Falls shall include all streets and public ways within a radius of one-half mile from "Amidon Hall", in said Millers Falls.

Section 2: Any violation of Section 21 of Article IV of these by-laws shall be punished by a fine of not more than five dollars.

Section 3: Any violation for Sections 17 and 18 of Article IV of these by-laws shall be punished by a fine of not more than ten dollars.

Section 4: Any violation of Sections 2, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 19, 20, 22, 23, 26, 27, and 28 of Article IV of these by-laws shall be punished by a fine of not more than twenty dollars.

Section 5: All votes and all previous by-laws of the Town inconsistent with the foregoing by-laws are hereby repealed.

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Section 6: These by-laws shall not be altered or amended except at a regular Town Meeting held for that purpose, and the warrant for said meeting shall specify the proposed amendment or alteration.

BUILDING AND USE BY-LAW

NO. 1: No person, firm, or corporation, shall erect a building, house, or other structure more than eight feet in length or breadth, or seven feet in height, or make any addition or alteration more than eight feet in width or breadth or seven feet in height to any existing building, house or other structure in the Town of Montague unless the roofs are of a fire-resistant construction; and a license in writing be granted therefore by the Selectboard for the public good or for necessity. Said license shall be recorded in the Town records. Where any provision of this by-law imposes substantial hardship, any person so aggrieved may appeal to the Board of Appeals for a variance therefrom in accordance with Section 30 of Chapter 40 of the General Laws. *(Section 30 of Chapter 40, Mass. General Laws has been repealed.)

NO. 2: No person, firm or corporation shall erect or make addition to, any building within the business district of the Turners Falls Fire District, the Millers Falls Fire District, the Lake Pleasant Fire District, or the Montague Fire District unless the walls thereof shall be of fire-resistant construction. A license in writing shall be granted therefore by the Selectboard.

NO. 3: No person, firm, or corporation shall erect or maintain any awning which projects over a public way unless a permit be obtained from the Selectboard, and unless said awning shall be safely and securely attached to the building and so located that the lowest part thereof shall be at least seven feet above the sidewalk and no part thereof to extend beyond the outer line of the sidewalk. Liability insurance for damage caused by the falling of such awnings shall be carried to the extent of \$500,000.00 per person/\$500,000.00 per accident. A copy of the permit and of the insurance policy shall be filed with the Building Inspector. Each application for a permit from the Selectboard for the above by-law shall be accompanied by a \$10.00 fee.

NO. 4: No person, firm, or corporation shall erect or maintain any sign which projects over a public way unless a permit be obtained from the Selectboard and unless said sign shall be safely and securely attached to the building and be so located that the lowest part thereof shall be at least ten feet above the sidewalk and no part thereof to extend beyond the outer line of the sidewalk. Liability insurance for damage by falling of such signs shall be carried to the extent of \$500,000.00 per person/\$500,000.00 per accident. A copy of the permit and of the insurance policy shall be filed with the Building Inspector. Each application for a permit from the Selectboard for the above by-law shall be accompanied by a \$10.00 fee. A penalty of \$20.00 shall be imposed for the violation of any of the above by-laws.

NO. 5: FALSE ALARM BYLAW

Any residence, school, municipal building or place of business which has an alarm system connected directly to the Police Department or connected indirectly to said Department through a private alarm company (each of which will be hereinafter referred to as a "monitored system"), shall be charged a fine for all responses by the Department to such buildings when the response is caused by: (1) the activation of the monitored system through mechanical failure, malfunction, improper installation, or negligence of the user of an alarm system or his employees or agents; or (2) the activation of the monitored system requesting, requiring or resulting in a response on the part of the Police Department when, in fact, there has been no unauthorized intrusion, robbery or burglary, or attempted threat. For the purposes of this bylaw, activation of a monitored system for the purposes of testing with prior approval by the Police Department, or by an act of God, including, but not limited to, power outages, hurricanes, tornadoes, earthquakes and similar weather or atmospheric disturbances shall not be deemed to be a false alarm. A fine for violation of this bylaw may be assessed against the owner or tenant of the residence or place of business. Penalties for violation of this bylaw shall be as follows, successive responses to be counted within any twelve month period: First three responses Warning; Fourth response \$ 50.00; Fifth response \$ 75.00; Sixth response \$100.00; Seventh response \$150.00; Eighth and subsequent responses \$200.00; This section may be enforced pursuant to the noncriminal disposition method as contained in M.G.L. Chapter 40, Section 21D. Enforcing persons shall be police officers. *(This section was approved at the Special Town Meeting on April 30, 2009, Article 12 as a Non Criminal Disposition by-law and accepted by the Attorney General on June 8, 2009)

NO.6 STRETCH ENERGY CODE; in effect as of July 1, 2010

§ 1 - Definitions

International Energy Conservation Code (IECC) 2009 - is the model building code for energy efficiency, created by the International Code Council (ICC), adopted in Massachusetts and in effect as of January 1, 2010.

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Stretch Energy Code – is the *International Energy Conservation Code (IECC) 2009* with Massachusetts amendments referenced in Appendix 120.AA of the Massachusetts Building Code, 7th edition (780 CMR).

§ 2 - Purpose

The purpose of the *Stretch Energy Code* is to provide a more energy efficient alternative to the base energy code.

§ 3 - Applicability

The *Stretch Energy Code*, commencing July 1, 2010 applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 13, 34, 61, or 93, as applicable.

§ 4 - Authority

Montague, as a municipality seeks to ensure that construction within its boundaries is designed and built above the energy efficiency requirements of 780 CMR and through its general By-laws chooses to adopt Appendix 120.AA (780 CMR). This By-law article may be adopted or rescinded in the same manner by the municipality, as prescribed by law.

§ 5 - Stretch Energy Code is herein incorporated by reference.

The *Stretch Energy Code* is the *International Energy Conservation Code (IECC) 2009*, including amendments and modifications of Appendix 120.AA, in effect as of April 1, 2010, of the Massachusetts Building Code, Seventh Edition, 780 CMR.

This code is enforced by the Inspector of Buildings as a section of the Massachusetts Building Code.

*[Adopted April 1, 2010, STM Article 6]

BOARD OF APPEALS: There shall be a Board of Appeals of three members, as provided in Section 30 of the Chapter 40 of the General Laws, as amended, and associate members to be appointed for particular cases when needed, as provided in said section. The terms of the members shall end at the date of the annual town elections of the years in which their terms expire or when their successors qualify. *(Section 30 of Chapter 40, Mass. General Laws has been repealed.) **(Article 10 of the 1/31/1974 Special Town Meeting established a Board of Appeals under Section 81Z of Chapter 41, Mass. General Laws.)

Voted that the Town vote to amend its by-laws by adding the following new chapter thereto as follows:

GAS PIPING AND GAS APPLIANCES

Section 1: The Selectboard shall appoint annually in April an Inspector of Gas Piping and Gas Appliances in buildings who shall be a licensed plumber or licensed gas fitter. Said inspector shall enforce the rules and regulations adopted by the Board established under Section 12H of Chapter 25 of the General Laws of Massachusetts as amended and shall perform any other duties as shall be assigned to him by the Selectboard. Said Inspector of Gas Piping and Gas Appliances shall receive such compensation as shall be determined by vote of the Town Meeting.

Section 2: The Selectboard may from time to time establish fees for inspections made by the Inspector of Gas Piping and Gas Appliances.

Voted that the Town accept the following By-Law (Fees):

That all Town officers shall pay all fees received by them, by virtue of their office, into the treasury.

SOLICITORS AND CANVASSERS

Section 1: It shall be unlawful for any person to engage in business as a canvasser or solicitor calling at residences without the previous consent of the occupants for the purpose of soliciting orders. Sales subscriptions or business of any kind, or soliciting alms or contributions for any person, cause or organization without first having registered in the office of the Police Chief. The registrant shall give his complete identification, his signature, the name of his employer, the nature of the products or services in which he is interested, the names of the manufacturers of such products or of the organization which he is representing, and the proposed method of operation in the Town, and such other information as may be requested of him. The Chief of Police shall thereupon, if satisfied with the honest and good character of the registrant, issue a written permit for a period not exceeding twelve months. Each person shall at all times while soliciting or canvassing the Town carry upon his person the permit and the same shall be exhibited by such registrant whenever he is required to do so by any police officer or by any person solicited.

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Section 2: The Chief of Police may, however, authorize the directors of any veterans group, hospital, Community Chest, Red Cross, YMCA, or other organization engaged in social, charitable or educational services to solicit contributions without having each solicitor under their direction register. The provisions of this by-law shall not apply to officers or employees of the town, county, state or federal government or any subdivision thereof when on official business, nor shall it apply to religious or political organizations.

Section 3: Any such registration may be revoked by the Selectboard or the Chief of Police because of any violation by the registrant of this by-law or of any other by-law of the Town or of any state or federal law, or, whenever the registrant shall cease to possess the qualifications and character required in this by-law for the original registration.

Section 4: Anyone failing to register under this chapter or anyone who solicits after his registration has been revoked as herein provided shall be subject to arrest, prosecution, and fines not to exceed fifty dollars for the first offense, one hundred dollars for the second offense, and two hundred dollars for each subsequent offense.

TIME LIMIT ON SOLICITING:

It is hereby declared to be unlawful for any person whether registered under this ordinance or not, to go upon any premises and ring the doorbell upon or near any door of a residence located thereon, or rap or knock upon any door or create any sound in any other manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience, with the occupant thereof and engage in soliciting as herein defined, prior to 9 a.m. or after 8 p.m. of any weekday, or on a state or national holiday.

INOPERABLE OR UNREGISTERED MOTOR VEHICLE BYLAW

Voted 5-5-2012 Art. #26. Approved by Attorney General 9-4-2012.

Section 1: Purpose

It is the intent of this by-law to provide a mechanism for regulating, subject to reasonable and appropriate controls, the storage of Inoperable and/or Unregistered Motor Vehicles within the Town of Montague.

Section 2: Definitions

FARMER – a person substantially engaged in the occupation of farming, as further defined in Massachusetts General Law (M.G.L.) Chapter 90, Section 1.

GARAGE: A building, as defined by the Montague Zoning By-Law for the storage of motor vehicles.

MOTOR VEHICLE: Any motor vehicle defined as such in M.G.L. Chapter 90, Section 1, requiring registration pursuant to M.G.L. Chapter 90, Section 2 to be operated on a public way.

INOPERABLE VEHICLE: any Motor Vehicle or Trailer, that is not capable of being used as such in its existing condition by reason of being damaged, dismantled or failing to contain parts necessary for operation. Any Unregistered Vehicle, as defined herein, shall be considered an Inoperable Vehicle for purposes of this Bylaw.

OPERABLE VEHICLE: any Motor Vehicle or Trailer, that is capable of being used in its existing condition for the purpose for which it was designed and that is registered in accordance with Massachusetts General Laws, Chapter 90, Section 2.

UNREGISTERED VEHICLE: any Motor Vehicle or Trailer that is not registered in accordance with Massachusetts General Laws, Chapter 90, Section 2.

TRAILER: Any vehicle defined as such in M.G.L. Chapter 90, Section 1.

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Section 3: Storage of one (1) Inoperable Vehicle Permitted

A property owner, or other person having the permission of the property owner, may store one (1) Inoperable Vehicle on said premises.

Section 4: Storage of more than one (1) Inoperable Vehicle

- (a) No property owner, or any person, may store or permit to be stored more than one (1) Inoperable Vehicle on said property owner's premises unless:
 - 1. The vehicles are stored in a garage, or;
 - 2. An Inoperable Vehicle Storage Permit is granted by the Selectboard after a public hearing as described in Section 5 of this By-law, or;
 - 3. The property owner or person in control of the property holds a Class I or Class II or Class III License for the sale of motor vehicles or trailers issued pursuant to M.G.L. Chapter 140, Section 57 to Section 69.
- (b) This Section shall not apply to a Farmer or a Farm Equipment dealer as defined in M.G.L. Chapter 93G, Section 1.

Section 5: Inoperable Vehicle Storage Permit

- (a) Any property owner or other person with the permission of the property owner, seeking to store more than one Inoperable Vehicle, un-garaged on a premise must make application for an Inoperable Vehicle Storage Permit to the Selectboard.
- (b) The application shall be accompanied by a fee of \$100. Said fee may be amended by the Selectboard from time to time.
- (c) Upon receipt of an application for an Inoperable Vehicle Storage Permit, the Selectboard shall hold a public hearing on the issue within 30 days.
- (d) An Inoperable Vehicle Storage Permit may be granted by the Selectboard if it finds that no hazard to health or safety are involved and no unsightly conditions visible from public streets or ways, or abutting properties, exist or will be created and upon such terms and conditions as the Board deems appropriate, including but not limited to a limit on the number of Inoperable Vehicles that may be stored at any one time.
- (e) Prior to any public hearing the Selectboard may request the Board of Health or any other agent of the town to conduct an inspection of the property in question. The Board of Health or other agent of the town, as requested, shall submit a report to the Selectboard describing any issues of concern.
- (f) The Selectboard may waive the public hearing requirement to allow more than one (1) Inoperable or Unregistered Vehicle on a premises for a period of (30) days or less if it finds that no hazards to health or safety are involved and no unsightly conditions visible from public streets or ways, or abutting properties, exist or will be created by the storage of said vehicles for such temporary period of time.
- (g) Legal notice of any public hearing held pursuant to this section shall be given by:
 - (1) Posting legal notice in a newspaper of general circulation at least seven (7) days prior to the date of the public hearing and,
 - (2) Sending notification to all abutters, within three hundred (300) feet of any part of the storage property, via first class letter.

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Section 6: Enforcement

This By-law may be enforced by the Police Department, Board of Health, Zoning Enforcement Officer, or other designee of the Selectboard.

Section 7: Violations and Penalties

- (a) Non-Criminal Disposition - Whoever violates any provision of this by-law may be penalized by a non-criminal disposition as provided in Massachusetts General Laws, Chapter 40, Section 21D and may be punished by a non-criminal fine of fifty dollars (\$50) for the 1st offense, one hundred dollars (\$100) for the 2nd offense, and two hundred dollars (\$200) for the 3rd and subsequent offenses. Each day a violation continues shall constitute a separate offense.
- (b) Criminal Complaint - Whoever violates any provision of this by-law may be penalized by indictment or on complaint brought in the district court. The maximum penalty for violation of this by-law shall be three hundred dollars (\$300) for each offense. Each day on which a violation exists shall be deemed to be a separate offense; or
- (c) The Town may enforce this Bylaw or enjoin violations thereof through any lawful process, and the election of one remedy by the Town shall not preclude enforcement through any other lawful means.

Section 8: Existing Inoperable Motor Vehicles

A property owner, or other person having the permission of the property owner, who, at the time this by-law takes effect, is in violation of any section(s) of this by-law shall have ninety (90) days to come into compliance.

Section 9: Severability

In the event any section or provision of this by-law is declared invalid or unconstitutional, the remaining sections and provisions shall remain in full force and effect.

STRIPPING LAND OF SOIL AND LOAM

Section 1: No person, firm or corporation shall strip, sever, remove or convey away any soil, loam, sand or gravel from any land in the Town not in public use, unless and until such stripping, severance, removal or conveyance away, is first authorized by a permit issued by the Selectboard of Montague, except in conjunction with construction or a building on the parcel, or except in conjunction with the development, improvement, or landscaping of said land, or except for the continued operation of an existing sand and gravel pit. No such permit shall be issued unless and until an application therefor has been filed with the Board. Said Board shall then hold a public hearing on the application, and notice of the filing of the application and the date and time of the holding of the public hearing thereon, shall be advertised forthwith, at the expense of the applicant, in a newspaper, published in the County seven days, at least, before the meeting.

Section 2: The Superior Court shall have jurisdiction in equity to compel compliance with this by-law. The penalty for violation of this by-law shall be as follows: for the first offense, fifty dollars; for the second offense, one hundred dollars; and for each subsequent offense, two hundred dollars.

ALCOHOLIC BEVERAGES

In order to preserve peace and good order, no person will publicly consume alcoholic beverages or intoxicating liquors in any Town park, public school or property under the jurisdiction of the Gill-Montague Regional School Committee, cemetery, common or any

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public way in the Town of Montague unless a permit for such activity is issued by the License Commissioners and in the case of a regional school or property, authorization has also been given by the Gill-Montague Regional School Committee. Anyone violating this by-law shall be subject to arrest, prosecution and fines not to exceed fifty dollars for the first offense, one hundred dollars for the second offense, and two hundred dollars for each subsequent offense.

No person shall bring upon the premises of an establishment or restaurant holding a common victualler's license any alcoholic beverages or intoxicating liquors for the purpose of consuming said alcoholic beverages and intoxicating liquors on said premises. Anyone violating this by-law shall be subject to a fine of not more than fifty dollars.

All liquor establishments have a minimum fifteen minute call time before closing.

COUNCIL ON AGING

There is hereby established a Council on Aging for the purpose of coordinating and carrying out programs designed to meet the problems of the aging in coordination with programs of the Department of Elder Affairs, all in accordance with Chapter 40, Section 8B of the General Laws of Massachusetts. The Council shall submit an annual report to the Town and shall send a copy to the Department of Elder Affairs of the Commonwealth. Said council shall consist of 7 members, more or less, appointed by the Selectboard, and said members shall be voters and residents of the Town. Three members shall be appointed for three years, two members for two years, and two members for one year. The Council shall annually elect its chairman and other officers as it deems appropriate, and shall have all the powers specified in said Chapter 40, Section 8B.

A BY-LAW TO PROHIBIT SLEEPING OR LOITERING IN OR UPON STREETS, SIDEWALKS, PARKS OR PUBLIC PLACES SUCH AS TO CONSTITUTE A PUBLIC NUISANCE WITHIN THE TOWN OF MONTAGUE AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF.

Section 1: ACTS PROHIBITED. No person shall sleep or loiter in or upon any street, sidewalk, park or public place such as to constitute a public nuisance within the Town of Montague.

Section 2: LOITERING DEFINED. For the purpose of this by-law, loitering shall include the following acts:

- (a) The obstruction of the free unhampered passage of pedestrians or vehicles in or upon any street, sidewalk, park or public place.

Section 3: PUBLIC PLACE DEFINED. For the purpose of this by-law, the term public place shall include streets, sidewalks, any place to which the public has right of access, shall include the quasi-public area in front of or adjacent to any store, shop, restaurant, luncheonette or other place of business, and shall also include any parking lot or vacant private property not owned by or under the dominion of the person charged with a violation of this by-law.

Section 4: VALIDITY. Should any section, subsection, clause or provision of this by-law be declared invalid or unconstitutional by any court by competent jurisdiction, the same shall not affect the remaining provisions of this by-law.

Section 5: PENALTIES. Any person violating any of the provisions of this by-law shall, upon conviction thereof, be subject to a fine not exceeding fifty dollars.

DRAWN VEHICLES

It shall be unlawful for any person to utilize any domesticated animal for the purpose of riding or pulling of drawn vehicles upon any sidewalk, or public park or common, in the Town of Montague. Domesticated animals shall include, but shall not be limited to horses, mules, donkeys, oxen, draught horses. Anyone violating this ordinance shall be subject to arrest, prosecution, and fines not to exceed fifty dollars for the first offense, one hundred dollars for the second offense, and two hundred dollars for any subsequent violation.

SWIMMING POOLS

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Every outdoor swimming pool, with the exception of children's wading pools, but including all plastic pools or other synthetically manufactured pool constructed above ground, whether or not filled with water, shall be completely surrounded at all times by a fence or wall not less than four feet in height above grade, which may be the pool itself.

Every such fence or wall shall be so constructed as to not have openings, holes, or gaps larger than four inches in any dimension except for doors, gates and picket fences; in the latter case, however, the gaps between pickets shall not exceed four inches.

All gates or doors opening through such enclosure shall be of not less than four feet in height and shall be equipped with a latching device located at least three feet above the underlying ground and inaccessible from the outside to small children. Every such gate or door shall be kept locked at all times when the swimming pool is not in use, and any ladders removed from use.

A natural barrier, hedge, pool cover or other protective device approved by the Building Inspector may be used in lieu of a fence or wall so long as the degree protection afforded by the enclosure, gates, and latch, described herein.

This by-law shall be enforced by Selectboard or appointed representatives of the Selectboard. Any person violating any provision of the by-law may be fined not more than one hundred dollars for each offense. Each day that such violation continues shall constitute a separate offense.

DOG CONTROL

Section 1: No person shall keep any dog which by biting, barking, howling or in any manner disturbs the peace and quiet of the neighborhood or endangers the safety of any person.

Section 2: No female dog shall be allowed to run or be at large in any street or other public place in the Town while in season.

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Voted 5/7/94 - Art. #29. Approved by Attorney General 8/22/94 - Pg. 149.

Every building in the Town of Montague shall have affixed thereto a number representing the address of such building (MGL c.148s.59).

- (a) The address number shall be attached to each principal building and shall be made of permanent, weather-proof materials, shall be at least three (3) inches in height, and shall be clearly readable from the street upon which the building fronts. Any building that is not clearly visible from the street, shall have the address number posted on a suitable support visible at the driveway or other access that serves such building.
- (b) The address number shall be that number presently being used, except that the Town may change an address number where deemed necessary and assign new address numbers where none exist. The Inspector of Buildings shall notify an owner of a building of a newly assigned number. The owner shall then have thirty (30) days in which to permanently display the number. The Town Clerk shall keep a record of changes and new assignments of address numbers.
- (c) Failure to display and maintain an address number shall subject a building owner to a fine of five (\$5.00) dollars per day. The display of a false or misleading address number shall subject a building owner to a fine of twenty-five (\$25.00) dollars per day. Each day shall be a separate offense. This by-law shall be enforced by the Police Department.

RIGHT TO FARM BYLAW

Voted 5/5/2012 – Art. #27. Approved by Attorney General 9/4/2012.

Section 1: Purpose and Intent

The Town of Montague understands that farming is an essential and valued activity which provides fresh food, economic diversity and local employment, open space, and scenic vistas to all the citizens of our town, and is a draw for tourism. Therefore, this bylaw is intended to encourage the pursuit of agriculture and agricultural-based economic activities and

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employment, and protect farmland. The purpose is to allow agricultural practices to function in harmony with the community, town agencies, and others.

This By-law restates with emphasis the Right to Farm accorded to all citizens of the Commonwealth under Article 97 of the Constitution, and all state statutes and regulations thereunder including but not limited to Massachusetts General Laws Chapter 40A, Section 3, Paragraph 1; Chapter 90, Section 9, Chapter 111, Section 125A and Chapter 128 Section 1A. We, the citizens of Montague, restate and republish these rights pursuant to the Town's authority conferred by Article 89 of the Articles of Amendment of the Massachusetts Constitution, ("Home Rule Amendment").

Section 2: Definitions

The word "farm" shall include any parcel or contiguous parcels of land, or water bodies used for the primary purpose of agriculture, as allowed by zoning regulations. The words "farming" or "agriculture" or their derivatives shall include, but not be limited to, the following:

- farming in all its branches and the cultivation and tillage of the soil;
- dairying;
- production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities;
- Production of crops for biofuels;
- growing and harvesting of forest products on forest land, and any other forestry or lumbering operations;
- raising and keeping of livestock, including horses;
- keeping of horses as a commercial enterprise;
- keeping and raising of poultry, rabbits, sheep, swine, cattle, horses, ratites (such as emus, ostriches and rheas) and camelids (such as llamas and camels), and other domesticated animals for food and other agricultural purposes, including bees and fur-bearing animals.

"Farming" shall encompass activities including, but not limited to, the following:

- operation and transportation of any farm equipment over roads within the Town;
- control of pests, including but not limited to, insects, weeds, predators, and disease organisms of plants and animals;
- application of manure, fertilizers and pesticides in accordance with state and federal regulations;
- conducting agriculture-related educational and farm-based recreational activities, including agri-tourism;
- processing and packaging of the agricultural output of the farm and the operation of a farmer's market or farm stand including related signage;
- maintenance, repair, or storage of equipment or apparatus owned or leased by the farm owner or manager, that is used expressly for the purpose of agricultural activities;
- on-farm relocation of earth and the clearing of ground for farming operations, including burning brush in accordance with Massachusetts agricultural fire permit regulations;
- operation of composting facilities;
- irrigation of crops;
- construction and use of farm structures and facilities for the purpose of: storing animal wastes, farm equipment, pesticides, fertilizers, or agricultural products; housing of livestock; processing of animal wastes and agricultural products; season extension; hydroponic production of agricultural products; sale of agricultural products; and use by farm labor; all as permitted by local and state building codes and regulations;
- rejuvenating drainage or irrigation ditches; picking stone; construction, repair, and maintenance of fences; rejuvenating and maintaining pastures;
- herding or moving of livestock including horses from area to area, including along roads.

Section 3: Right To Farm Declaration

The Right to Farm is hereby recognized to exist within the Town of Montague, in recognition of the benefits of farming to the neighborhood, community, and society in general. The above-described agricultural activities could occur on weekdays, weekends, and holidays, by night or day, and include the attendant incidental noise, odors, dust, and fumes associated with accepted agricultural practices. The benefits and protections of this By-Law are intended to apply exclusively to those

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agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. For any agricultural practice, in determining the reasonableness of the time, place and methodology of such practice, consideration shall be given to both traditional customs and procedures as well as to new practices and innovations. The Town endorses the use of best management practices to limit use of pesticides, protect animal health, and minimize negative environmental impacts.

Nothing in this Right-To-Farm Bylaw shall be deemed as acquiring any interest in land, or as imposing any land use regulation, which is properly the subject of state statute, regulation, or local zoning law. Moreover, this By-Law does not supersede any state or federal laws or regulations or private covenants.

Section 4: Effective Date

This Bylaw shall be effective upon approval by the Massachusetts Attorney General and the publication and posting as required by law.

Section 5: Disclosure Notification

In order to allow prospective purchasers or tenants to make informed decisions prior to a real estate transaction or rental agreement, and to promote harmony between farmers and their neighbors after such transactions, the Town of Montague requests that sellers and landlords and/or their agents (and assigns) provide written notification to prospective buyers and renters substantially as follows:

“It is the policy of this community to conserve, protect and encourage the maintenance and improvement of agricultural land for the production of food and other agricultural products, and also for its natural and ecological value. This disclosure notification is to inform buyers or occupants that the property they are about to acquire or occupy lies within a town where farming activities occur. Such farming activities could include, but are not limited to, activities that cause noise, dust, and odors, and could occur by day or night on weekdays, weekends, and holidays. Occupying land within the Town of Montague means that one could expect and accept such conditions as a normal and necessary aspect of living in such an area”.

Written notification to buyers or renters may occur in one of several ways, including but not limited to disclosure forms, or as an addendum to a Purchase and Sale Agreement or rental agreement.

Within 30 days after this Bylaw becomes effective, a copy of the above notification will be displayed at the Town Hall and posted on the Town’s website. A copy of the notification shall be included in the Town’s annual report. The notification shall also be available for distribution upon request in the offices of the Select Board, Board of Assessors, and Town Clerk.

Section 6: Resolution of Disputes

Any person having a complaint about a farm or farming activity is encouraged to seek an amicable solution directly with the owner or operator of the farm at issue. Such person may, notwithstanding the pursuit of any other available remedies, request resolution assistance directly from the Agricultural Commission, or file a complaint with the Town Administrator, Select Board, Board of Health, or Zoning Enforcement Officer. The filing of a grievance does not suspend the time within which to pursue any other available remedies. The Town officials may forward the complaint to the Agricultural Commission if deemed appropriate and the Commission can help to seek an amicable resolution through facilitating discussion between the parties. The Agricultural Commission will report back to the Town officials on the outcome within a reasonable time frame. Any complaints brought directly to the Agricultural Commission will also be forwarded to Town officials, so that they may help determine whether any public health or other laws and regulations are being violated.

Section 7: Severability Clause

If any part of this By-law is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this By-law. The Town of Montague hereby declares the provisions of this By-law to be severable.

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Montague Public Tree Protection Bylaw

Voted 5-22-2021 – Art. 28. Approved by the Attorney General 8-26-2021.

1. Preamble

The Town of Montague recognizes that trees are an asset to the community and provide a healthier and more beautiful environment in which to live. Trees improve air quality and provide shade, wildlife habitat, and beauty. Trees store carbon, give protection from wind, glare and noise, and act as barriers and water quality protection. Public trees and landscaping are economically beneficial in attracting new residents, shoppers, visitors and industry. When properly chosen varieties are planted in appropriate settings, trees enhance property values, promote the economic viability of commercial districts, and enhance the desirability and sustainability of residential neighborhoods.

2. Intent and Purpose

This by-law is enacted for the purpose of preserving and protecting public trees pursuant to Massachusetts General Law Chapter 87. It is also enacted to encourage the planting of more public trees than are removed to compensate for tree losses and the time it takes for trees to mature.

3. Definitions

Critical Root Zone (CRZ): Defined by measuring outwards from the trunk a minimum of 1.25 feet for every inch diameter of tree trunk four feet above the ground. For any tree, a minimum of six feet must be protected around trees regardless of the trunk diameter.

Public Tree: Any public shade tree, tree in a municipal park, or tree on Town-owned land adjacent to or within 200 feet of any public building, but not including trees within State highways.

Public Shade Tree: All trees within a public way or on the boundaries thereof including trees planted in accordance with the provisions of section 7 of Chapter 87 of the Massachusetts General Laws and this Bylaw, shall be public shade trees; and when it appears in any proceeding in which the ownership of or rights in a tree are material to the issue, that, from length of time or otherwise, the boundaries of the highway cannot be made certain by records or monuments, and that for that reason it is doubtful whether the tree is within the highway, it shall be taken to be within the highway and to be public property until the contrary is shown.

Right-of-Way: All land within the boundaries of the public right-of-way as set forth by an order of the town laying out a public way. The public right-of-way may include not only the traveled surface of the public way but lands adjacent thereto, including sidewalks and the tree belt.

Drip Line: Drip line of a tree is the area defined by the outermost circumference of a tree's canopy, where water drips from and onto the ground.

Hazardous Tree: Any public shade tree which endangers persons travelling on a highway and any other public tree which presents a threat of injury or damage to persons or property.

4. Tree Warden

The Tree Warden is an elected position pursuant to Massachusetts General Law, Chapter 41, Section 106.

The duties and responsibilities of the Tree Warden shall conform to the Massachusetts General Law Chapter 87 and shall include, but not be limited to the following:

- Care, control, and management of all public trees, shrubs and growths within the Town; ; and the care, control, and management of trees in public parks or open places under the jurisdiction of the park commissioners, if so requested in

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writing by the park commissioners; ;

- Expenditure of funds for public tree planting and maintenance consistent with this bylaw, Massachusetts General Law Chapter 87 and appropriations by Town Meeting.
- Enforcement of the provisions of this bylaw and Massachusetts General Law Chapter 87;
- Preparation and maintenance of a current Public Tree Management Plan;
- Coordination with the Highway Department, Planning Department, Parks and Recreation, Planning Board, and the Montague Tree Advisory Committee on matters related to urban forestry and public tree management;
- Develop regulations for the care and preservation of public trees; and
- Other responsibilities consistent with this bylaw and Massachusetts General Laws.

5. Cutting of Public Trees

No person other than the Tree Warden or the Tree Warden's deputy shall plant, prune, trim, cut above the ground, remove, or conduct any excavation within the drip line of, a public tree without first procuring written permission from the Tree Warden, in accordance with the procedures set forth in Sections 5 and 7 of this Bylaw.

The Tree Warden may not remove, permit the removal of, or cause to be destroyed any public tree measuring 1.5 inches in diameter, measured one foot from the ground, or more without a duly advertised public hearing as specified in Massachusetts General Law Chapter 87, or if objection is given at or prior to the hearing in writing, without the additional approval of the Selectboard, unless that tree is determined to be a hazardous tree as defined herein.

The Tree Warden and their deputies, but no other person, may, without a hearing, trim, cut down or remove public trees, less than one and one half inches in diameter one foot from the ground, and bushes, standing in public ways; and, if ordered by the Selectboard or Highway Superintendent, shall trim or cut down trees and bushes, if the same shall be deemed to obstruct, endanger, hinder or incommode persons traveling thereon or to obstruct buildings being moved pursuant to the provisions of section eighteen of chapter eighty-five of the Massachusetts General Laws.

Utilities, as defined in section 14 of Chapter 87 of the Massachusetts General Laws, shall be exempt from the requirements of this section with respect to any work done in accordance with an Annual Vegetation Management Plan or an Annual Hazardous Tree Removal Plan, provided that the work complies with said plan and the procedural requirements of said section 14 of Chapter 87.

In all cases, pruning and removal of public trees shall be done in accordance with the ANSI pruning standards, as may be amended from time-to-time.

An applicant who wishes to remove a non-hazardous public shade tree shall be is responsible for the following expenses:

- Cost of advertising a hearing as specified in Massachusetts General Law Chapter 87;
- Cost of removal of tree and stump, including hauling away of all debris, and proper filling of stump hole;
- Planting of sufficient replacement trees as described below;
- Cost of police traffic details, repair of street surface and road shoulder, protection and restoration of utility structures as may be required; and
- All other costs related to the removal and replanting.

All trees or tree parts (i.e. wood) removed from public trees are owned by the Town of Montague, with the exception of fallen leaves.

6. Planting of Public Trees

No person except the Tree Warden may plant a public tree without written permission as described in Section 7.

No public trees, except those smaller species appropriate for planting under utilities, shall be planted within 10 lateral feet of an

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overhead electric utility wire.

Consistent with Massachusetts General Law Chapter 87, the Tree Warden may plant trees within 20 feet of the public right-of-way with the written consent of the adjoining land owner. Such trees shall not be considered public trees and the Property owner will own the tree immediately after planting and is responsible for the maintenance for the lifetime of the tree. The Tree Warden may require a one-time cost share for the expense of the tree.

Any public tree planted on property owned by the Town of Montague shall become the property of the Town.

7. Permission for Pruning or Trimming Public Trees

The Tree Warden may, without a hearing, grant written permission to trim or prune portions of public trees.

In cases of emergency, the Tree Warden may, without a hearing, grant written permission to trim or excavate within the drip line of a public tree.

An emergency is defined as an unforeseen occurrence, which requires immediate action to avoid or reduce significant injury or damage to persons or property.

If the applicant proposes to trim or prune or excavate within the dripline of a public tree, and if, in the opinion of the Tree Warden, the proposed work will drastically affect the health, beauty, structural stability, or safety of the tree, the Tree Warden may consider the proposed work to have the same effect as the removal of the tree. In these cases, the Tree Warden may either order the removal of the tree, or allow the tree to remain, provided that it does not present an imminent hazard. In either case, appropriate replacement plantings must be provided by the applicant.

Nothing contained in this bylaw shall prohibit the Tree Warden from refusing to permit the cutting, trimming or removal of non-hazardous trees.

8. Replacement of Public Trees

Public trees shall not be removed for a private purpose without suitable compensation to the Town for replacements. The value of existing public trees is to be calculated on an inch-by-inch replacement basis. Replacements shall be at least two-inch trunk diameter, nursery grown stock. The Tree Warden may, at their discretion, require larger replacements. For example, if an 18-inch diameter tree, measured four feet above grade is to be removed, the applicant must sufficiently reimburse the Town to provide for the purchase and planting of nine, two-inch diameter replacements. At the discretion of the Tree Warden, the applicant shall either:

- A. Arrange to plant suitable replacements using his/her own contractor, working to the Town's specifications, or
- B. Make a cash contribution to the Town to be used exclusively for the purchase and planting of replacements, and related expenses.

9. Removal of Hazardous Trees

The Tree Warden may remove, without a public hearing, a tree that is determined by the Tree Warden, to be a Hazardous Tree. The Tree Warden shall maintain a photographic record of all hazardous tree removals.

The hazard determination shall be made based on an objective risk tree rating system such as the USDA Forest Service 12-point Risk Tree Rating system or the International Society of Arboriculture Hazard Tree Evaluation system. Hazardous trees shall be prioritized for pruning, removal, or otherwise minimizing the risk based on hazardous trees objectively presenting the most risk.

10. Penalties and Enforcement

Any person who removes, or causes to be destroyed, a non-hazardous public shade tree without a duly advertised hearing,

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permission from the Tree Warden, and the approval of the Selectboard if an objection is made to the removal, shall pay a fine of up to \$500.

The following acts are prohibited with respect to Public Trees:

- Cutting, trimming, pruning, or damaging, or removing any part of a public tree, including roots within the drip line of the tree without or otherwise not in compliance with permission from the Tree Warden;
- Mutilating (e.g. driving in nails or screws), girdling, carving into, or topping a tree;
- Damage to the root system by trenching, digging, or other excavation;
- Tapping a publicly owned sugar maple;
- Removing any tree guard, tree stake, watering bag, or other device or material intended for the protection or to support the health of a public tree;
- Covering or obstructing any open land at the base of a public tree designed to permit access of air, water and fertilizer to the root system;
- Applying or sweeping road salt onto the CRZ of a public tree;
- Securing, fastening or running any rope, wire, holiday lighting, unprotected electrical installation, or other device or material to, around or through a public tree, or attaching any sign, poster, notice or other object to any public tree, except that the Tree Warden may authorize tying temporary signs to such trees as necessary;
- Causing or encouraging any fire or burning within the drip line of any public tree. This includes the grilling of food below a public tree, within the drip line, unless the grill is provided in a public park and is permanently installed under the tree;
- Paving over the tree belt and/or over the CRZ on public land;
- Parking a vehicle on the CRZ of a public tree;
- The application of chemicals including, but not limited to, pesticides and herbicides on public land.

This Bylaw may be enforced by the Tree Warden, Whoever violates any provision of this Bylaw may be penalized by a noncriminal disposition process as provided in G.L. c.40, §21D and the Town's non-criminal disposition by-law. If noncriminal disposition is elected, then the non-criminal fine for each such violation, if not otherwise specified, shall be:

| | |
|----------------------|-------|
| First Offense: | \$100 |
| Second Offense: | \$200 |
| Third and | |
| Subsequent Offenses: | \$300 |

Each tree damaged shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

Whoever violates any provision of this Bylaw may be penalized by indictment or on complaint brought in the district court. Except as may be otherwise provided by law and as the district court may see fit to impose, the maximum penalty for each violation or offense shall be three hundred dollars (\$300). Each tree damages shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

11. Public Hazard and Abatement

Upon a determination by the Tree Warden that a private tree constitutes a public hazard, they shall give written order to the owner of the property upon which said hazard exists to remove, or otherwise mitigate the hazard posed by such tree. Any person aggrieved by an order of the Tree Warden made pursuant to this section may make a written request for a hearing. Said written request shall be received by the Tree Warden within five business days of receipt of the Tree Warden's order. After such hearing, the Tree Warden may affirm, rescind or modify the order. Failure to request a hearing or comply with such written order within fifteen days thereafter is a violation of this section, and the Tree Warden may assess monetary penalties as set forth above and/or seek enforcement through a court of competent jurisdiction.

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12. Interaction with Other Laws

This Bylaw is intended to further the objectives of and to act in concert with any existing federal, state, or local laws concerning public trees, including but not limited to the provisions of Chapter 87 of the Massachusetts General Laws, and nothing herein shall be deemed to limit or restrict Town officials whatsoever from acting in accordance with such laws.

13. Severability

Should any part or provision of this bylaw be declared invalid, the same shall not affect the validity of the bylaw as a whole or any part thereof other than the part held to be invalid. (Voted at ATM 5-22-2021)

Montague Demolition Delay Bylaw

Voted 5-7-2022 - Art. #32. Approved by the Attorney General 9-12-2022.

§ 1 Purpose.

The purpose of this Bylaw is to preserve and protect, through advance notice of their proposed demolition, Significant Buildings within the Town of Montague which constitute or reflect distinctive features of the architectural, cultural, political, economic, or social history of the Town, to encourage owners of Preferably Preserved Significant Buildings to seek out persons who might be willing to purchase and to preserve, rehabilitate, or restore such buildings rather than demolish them, to alert residents of the Town to impending demolitions of Significant Buildings, and by furthering these purposes to promote the public welfare, to preserve the resources of the Town, and to make the Town a more attractive and desirable place to live. To achieve these purposes, the Montague Historical Commission is empowered to advise the Montague Inspector of Buildings with respect to the issuance of permits involving demolition, and the issuance of demolition permits for Significant Buildings is regulated as provided in this Bylaw.

§ 2 Definitions.

As used in this Bylaw, the following terms shall have the meanings indicated:

APPLICATION

An application for a permit involving the demolition of a Significant Building. Every application shall include the address of the building to be demolished, the owner's name, address and telephone number, photographs of all sides of the building visible from a public way taken within the past year, plans, a narrative description of the building and justification of the proposed demolition, and a brief description of the proposed reuse, reconstruction, or replacement.

BUILDING

Any combination of materials capable of providing shelter for persons, animals, or property.

COMMISSION

The Montague Historical Commission.

DEMOLITION

Any act of pulling down, destroying, removing, or razing a structure or significant portion thereof, or commencing the work of total or substantial destruction with the intent of completing the same. Significant portion is defined as twenty-five percent (25%) of the volume of the building or structure, or twenty-five percent (25%) of the roof structure. For purposes of this Bylaw, the term "demolition" shall not include the ordinary maintenance or repair of any building or structure, interior renovations, or removal or demolition of any ancillary portion of a structure such as porches, decks, or windows, provided that in the instance of demolition of

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said ancillary portions for the purpose of repair or replacement, said repair or replacement shall be done using like-kind or better materials.

DEMOLITION PERMIT

A permit issued by the Inspector of Buildings under the State Building Code for the demolition of a building or structure.

INSPECTOR OF BUILDINGS

The administrative chief of the building department in a municipality who is charged with the administration and enforcement of 780 CMR, the Massachusetts State Building Code.

SIGNIFICANT BUILDING

- A.** Any building or structure individually listed on the National Register of Historic Places or is the subject of a pending application for listing on said National Register; or
- B.** Any building or structure evaluated by Massachusetts Historical Commission to be a contributing building within a National Register or State Register District; or
- C.** Any building or structure which has been certified by the Massachusetts Historical Commission to meet eligibility requirements for individual listing on the National Register of Historical Buildings; or

§ 3 Preferably Preserved Significant Buildings.

- A.** A Preferably Preserved Significant Building is any Significant Building which the Montague Historical Commission determines, pursuant to the procedure detailed in § 4, is in the public interest to be preserved or rehabilitated rather than to be demolished. A Preferably Preserved Significant Building is subject to the one-year delay period of this Bylaw.
- B.** The Montague Historical Commission may determine that a building or structure be designated as a Preferably Preserved Significant Building if it meets one or more of the following criteria:
 - (1)** It is listed on, or is within an area listed on, the National Register of Historic Places, or is the subject of a pending application for listing on said National Register; or
 - (2)** The Montague Historical Commission determines that the structure meets one or more of the following three criteria:
 - (a)** Historical importance. The structure meets the criteria of historical importance if it:
 - [1]** Has character, interest, or value as part of the development, heritage or cultural characteristics of the Town of Montague, the Commonwealth of Massachusetts, or the nation; or
 - [2]** Is the site of an historic event; or
 - [3]** Is identified with a person or group of persons who had some influence on society; or
 - [4]** Exemplifies the cultural, political, economic, social, or historic heritage of the community.
 - (b)** Architectural importance. The structure meets the criteria of architectural importance if it:
 - [1]** Portrays the environment of a group of people in an era of history characterized by a distinctive architectural style; or
 - [2]** Embodies those distinguishing characteristics of an architectural type; or
 - [3]** Is the work of an architect, master builder or craftsman whose individual work has influenced the development of the Town; or
 - [4]** Contains elements of architectural design, detail, materials, or craftsmanship which represent a significant innovation.

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(c) Geographic importance. The structure meets the criteria of geographic importance if:

[1] The site is part of, or related to, a square, park, or other distinctive area; or

[2] The structure, as to its unique location or its physical characteristics, represents an established and familiar visual feature of the neighborhood, or the community as a whole.

§ 4 Procedure.

- A.** No permit for the demolition of any building or structure shall be issued other than in conformity with this Bylaw. The Inspector of Buildings, on the day of receipt of an application for demolition of a Significant Building or within seven days, shall cause a copy of each such permit application to be forwarded to the Montague Historical Commission. At such time, the applicant will be notified that their permit application has been submitted to the Montague Historical Commission. No demolition permit shall be issued at that time, unless the Inspector of Buildings deems the building is in need of emergency demolition and the emergency demolition provisions of this Bylaw have been met.
- B.** The Montague Historical Commission shall hold a public hearing within 45 days of receiving a copy of such application and shall give public notice thereof by publishing notice of the time, place, and purpose of the hearing in a local newspaper at least 14 days before said hearing. The Montague Historical Commission shall mail a copy of said notice to the applicant and shall, at least seven days prior to said hearing, notify the Selectboard, Town Administrator, Inspector of Buildings, Planning Department, Planning Board, Zoning Board of Appeals, and such other persons as the Montague Historical Commission shall deem entitled to notice. The applicant shall notify all abutting landowners as they appear on the most recent local tax list no later than seven days prior to said hearing.
- C.** If, after such hearing, the Montague Historical Commission determines that the demolition of the Significant Building would not be detrimental to the historical or architectural heritage or resources of the Town, the Montague Historical Commission shall so notify the Inspector of Buildings and Selectboard within seven days of such determination. Upon receipt of such notification, or after the expiration of 21 days from the date of the close of the public hearing, if he or she has not received notification from the Montague Historical Commission, the Inspector of Buildings may, subject to the requirements of the State Building Code and any other applicable laws, rules, or regulations, issue the demolition permit.
- D.** If, after such hearing, the Montague Historical Commission determines that the demolition of the Significant Building would be detrimental to the historical or architectural heritage or resources of the Town, such building shall be considered a Preferably Preserved Significant Building. The Montague Historical Commission's determination remains in effect for one year from the date of decision. Upon a determination by the Montague Historical Commission that the Significant Building which is the subject of the application for a demolition permit is a Preferably Preserved Significant Building, the Montague Historical Commission shall, within seven days, so advise the applicant by registered mail, and the Inspector of Buildings, and no demolition permit may be issued until at least one year after the date of designation as a Preferably Preserved Significant Building. The applicant shall, upon notice of said designation, secure the building or site against vandalism, fire or other destruction and post a copy of said designation on the building in a place visible from the nearest public way. The applicant shall give reasonable access to the building or site to the Montague Historical Commission.
- E.** Notwithstanding the preceding section, the Inspector of Buildings may issue a demolition permit for a Preferably Preserved Significant Building at any time after receipt of written advice from the Montague Historical Commission to the effect that either:
- (1)** The Montague Historical Commission is satisfied that there is no reasonable likelihood that either the owner or some other person or group is willing to purchase, preserve, rehabilitate, or restore such building; or

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- (2)** The Montague Historical Commission is satisfied that reasonable efforts have been made to identify a purchaser to preserve, rehabilitate or restore the subject building, and that such efforts have been unsuccessful.

§ 5 Emergency demolition.

Nothing in this Bylaw shall be construed to derogate in any way from the authority of the Inspector of Buildings derived from Massachusetts General Laws Chapter 143.

- A.** If a building poses an immediate threat to public health or safety due to its deteriorated condition, the owner of such building or structure may request issuance of an emergency demolition permit from the Inspector of Buildings.
- B.** Upon receipt of any application for an emergency demolition permit, the Inspector of Buildings shall within five days transmit a copy thereof to the Montague Historical Commission.
- C.** As soon as is practicable, but within 14 days after receipt of such an application, and regardless as to whether a copy of the emergency demolition permit has been transmitted to the Montague Historical Commission, the Inspector of Buildings shall inspect the building with an inspection team consisting of the Inspector of Buildings, Fire Chief, Montague Historical Commission Chair, or the designees of said officials.
- D.** Within five days after inspection of the building and after consultation with other members of the inspection team, the Inspector of Buildings shall determine:
- (1)** Whether the condition of the building or structure represents a serious and imminent threat to public health and safety; and
- (2)** Whether there is any reasonable alternative to the immediate demolition of the building which would protect public health and safety.
- E.** If the Inspector of Buildings finds 1) that the condition of the building or structure poses a serious and imminent threat to public health and safety, and 2) that there is no reasonable alternative to the immediate demolition of the building or structure which would protect public health and safety, then the Inspector of Buildings may issue an emergency demolition permit to the owner of the building.
- F.** If the Inspector of Buildings finds 1) that the condition of the building does not pose a serious and imminent threat to public health and safety, and/or 2) that there are reasonable alternatives to the immediate demolition of the building which would protect public health and safety, then the Inspector of Buildings may refuse to issue an emergency demolition permit to the owner of the building or structure.
- G.** Upon issuing an emergency demolition permit under the provisions of this section, the Inspector of Buildings shall submit a brief written report to the Montague Historical Commission describing the condition of the building and the basis for his/her decision to issue an emergency demolition permit. Nothing in this section shall be inconsistent with the procedure for the demolition and/or securing of buildings and structures established by G.L. c. 143, §§ 6 through 10.

§ 6 Enforcement and remedies.

The Inspector of Buildings is specifically authorized to institute any and all actions and proceedings, in law or equity, as he/she may deem necessary and appropriate to obtain compliance with the provisions of this Bylaw or to prevent a threatened violation thereof.

- A.** No permit for erection of a new structure on the site of an existing Preferably Preserved Significant Building may be issued prior to issuance of a permit for demolition of such existing building.
- B.** No permit for erection of a new building, paving of drives or for parking shall be issued for one year from the commencement of such work if a structure is demolished in violation of this Bylaw. The Commission may suspend this

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moratorium if it determines that earlier reconstruction, restoration, or other remediation of any demolition in violation of this Bylaw better serves the intent and purpose of this Bylaw.

C. Any owner of a building and/or structure subject to this Bylaw who knowingly acts to demolish said building and/or structure, or damage a portion of a building or structure in a way which increases its likelihood of total failure, without first

obtaining a building permit for demolition in accordance with the provisions of this Bylaw, or who likewise by some causative action contributes to the deterioration of said building or structure during the demolition review period, shall be in violation of this Bylaw and subject to enforcement by a noncriminal complaint pursuant to the provisions of G.L. c. 40, § 21D, as amended.

D. Notwithstanding the provisions of Article 30 of the Town of Montague Bylaws, the fine for any such violation shall be \$300 for each offense. Each day the violation exists shall constitute a separate offense until the demolished building is rebuilt or recreated as directed by the Montague Historical Commission, or unless otherwise agreed to by the Montague Historical Commission.

§ 7 Historic Districts Act.

If any provision of this Bylaw conflicts with Massachusetts General Laws Chapter 40C, the Historic District Act, that Act shall prevail.

NON-CRIMINAL DISPOSITION

Voted 5/7/94 - Art. #30. Approved by Attorney General 8/22/94 Pg. 150.

Any by-law of the Town of Montague, or rule or regulation of its officers, boards, or departments, the violation of which is subject to a specific penalty, may in the discretion of the Town official who is the appropriate enforcing person, be enforced in the method provided in MGL Chapter 40;21d.

"Enforcing person" as used in this by-law, shall mean any Police Officer of the Town of Montague with respect to any offense; and the Building Inspector and his designees, the Board of Health and its designees, the Sealer of Weights & Measures, the Superintendent of Streets, the Selectboard or its designees, each with respect to violations of by-laws and rules and regulations within their respective jurisdictions. In addition to police officers who shall in all cases be considered enforcing officers for the purposes of this article, the municipal personnel listed for each section shall be enforcing persons for such sections. If more than one official has jurisdiction in a given case, any such official may be an enforcing person with respect thereto.

The following by-laws, rules, and regulations are to be included within the scope of this article. The fines shall be as set forth in the applicable by-law rule, or regulation. Where the by-law, rule, or regulation does not state a specific fine, the penalty shall be as listed. Each day on which any violation exists shall be deemed to be a separate offense.

General By-Laws of the Town

| <u>Section Number & Name</u> | <u>Enforcing Person Other Than Police Officers</u> | <u>Fine Schedule</u> | |
|-----------------------------------------------------------------------|--------------------------------------------------------|----------------------|-----------|
| Article IV; Sec. 2 Obstructing or impeding travel on public way | Superintendent of Streets | as set forth | (\$20.00) |
| Article IV; Sec. 12 Throwing objects in public ways | | as set forth | (\$20.00) |
| Article IV; Sec. 23, Article VI | | as set forth | (\$20.00) |

Amended at: STM October 13, 2022

Approved by Attorney General:

Posted:

Effective:

Loitering

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|-----------------------------------------------------------------------------|--------------|-----------|
| Article IV; Sec. 14 Unlawful discharge of firearm, missile, or weapon | as set forth | (\$20.00) |
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|------------------------------------------|---------------------------|--------------|-------------------|
| Article IV; Sec. 17a-b-c Snow removal | Superintendent of Streets | as set forth | (\$20, \$35,\$50) |
|------------------------------------------|---------------------------|--------------|-------------------|

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|----------------------------------|-----------------|--------------|-----------|
| Article IV; Sec. 20 Littering | Board of Health | as set forth | (\$20.00) |
|----------------------------------|-----------------|--------------|-----------|

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|--------------------------------------------------------|--|--------------|----------|
| Article IV; Sec. 21 Indecent or disorderly behavior | | as set forth | (\$5.00) |
|--------------------------------------------------------|--|--------------|----------|

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|---------------------|---------------------------------------------------------------------|--------------|-------------|
| Article IV; Sec. 28 | WWTP Superintendent Superintendent of Streets Board of Health | as set forth | (((\$20.00) |
|---------------------|---------------------------------------------------------------------|--------------|-------------|

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|----------------------------------------------------|---------------------------|--------------|------------|
| Article IV; Sec. 29 Unauthorized street opening | Superintendent of Streets | as set forth | (\$250.00) |
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|------------------------------------------------------------------------------------------------------|----------------------------------------------|--------------|-----------|
| Article IV; Sec. 30 Unauthorized collection, separation, placement or ownership of recyclables | Board of Health Superintendent of Streets | as set forth | (\$50.00) |
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|-------------------------------------|--|--------------|----------------------|
| Article IV. Solicitors & canvassers | | as set forth | (\$50, \$100, \$200) |
|-------------------------------------|--|--------------|----------------------|

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|-----------------------------------------|--|--------------|----------------------|
| Article VI. Unregistered motor vehicles | | as set forth | (\$50, \$100, \$200) |
|-----------------------------------------|--|--------------|----------------------|

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|----------------------------------------------|---------------------------------------|--------------|----------------------|
| Article VI. Stripping land of soil & loam | Board of Health Building Inspector | as set forth | (\$50, \$100, \$200) |
|----------------------------------------------|---------------------------------------|--------------|----------------------|

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|----------------------------------------------------------|--|--------------|----------------------|
| Article VI. Public consumption of alcoholic beverages | | as set forth | (\$50, \$100, \$200) |
|----------------------------------------------------------|--|--------------|----------------------|

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|--------------------------------|--|--------------|----------------|
| Street numbering by-law (5/94) | | as set forth | (\$5.00 a day) |
|--------------------------------|--|--------------|----------------|

Traffic Rules & Regulations:

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|------------------------------------------------------------------------|--|--------------|-----------|
| Article 3, Sec. 2 Display of unauthorized signs/ traffic signals | | as set forth | (\$20.00) |
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|--------------------------------------------------------|--|--------------|-----------|
| Article 5, Sec. 4 Standing of vehicles near schools | | as set forth | (\$20.00) |
|--------------------------------------------------------|--|--------------|-----------|

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|------------------------------------------------|--|--------------|-----------|
| Article 5, Sec. 8 Parking vehicles for sale | | as set forth | (\$20.00) |
|------------------------------------------------|--|--------------|-----------|

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|--------------------------------------------|--|--------------|-----------|
| Article 5, Sec. 9 Repairing of vehicles | | as set forth | (\$20.00) |
|--------------------------------------------|--|--------------|-----------|

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|--------------------------------------------|--|--------------|-----------|
| Article 7, Sec. 14 Driving on sidewalks | | as set forth | (\$20.00) |
|--------------------------------------------|--|--------------|-----------|

Amended at: STM October 13, 2022

Approved by Attorney General:

Posted:

Effective:

Rules & Regulations:

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|-----------------------------|--------------|-----------|
| Article 8, Sec. 3 | as set forth | (\$20.00) |
| Clinging to moving vehicles | | |

Sewer Use By-Law

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|-------------------------------|------|
| Article 10, Section 5 | \$50 |
| Unauthorized sewer connection | |

Board of Health Regulations

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|-----------------------------|---------------------------|-------|
| MGL Ch 270; Sec. 16 | Board of Health | \$100 |
| Illegal dumping of trash | Director of Public Health | |

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|------------------------------------|---------------------------|------|
| 105 CMR 410.180 | Board of Health | \$50 |
| Sufficient potable water supply | Director of Public Health | |

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|------------------------------------|---------------------------|------|
| 105 CMR 410.300 | Board of Health | \$50 |
| Proper sewage disposal facility | Director of Public Health | |

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|--------------------------------------------------------|-----------------|------|
| 105 CMR 410.600,602 | Board of Health | \$25 |
| Proper storage of Director of Public Health rubbish | | |

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|--------------------------------------------------|---------------------------|------|
| 105 CMR 410.200-201 | Board of Health | \$50 |
| Proper and adequate heating facility supplied | Director of Public Health | |

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|----------------------------------------------------|---------------------------|------|
| 310.CMR 15.01 (19-20) | Board of Health | \$50 |
| Improper discharge of sewage to ground or water | Director of Public Health | |

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|----------------------------------------------------------------|---------------------------|------|
| 310 CMR 15.02 (2) | Board of Health | \$50 |
| Work on individual sewage disposal system without permit | Director of Public Health | |

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|-------------------------------------------|---------------------------|-------------------|
| 105 CMR 590.000 | Board of Health | \$10 non critical |
| Sanitary code for food Establishments` | Director of Public Health | \$20 critical |

Amended at ATM: 5-5-2018

Approved by Attorney General: 7-31-2018

Posted : 8-2-2018

Effective : 8-16-2018