May 2, 2022

NOTES ABOUT THE DRAFT EDITS TO THE CODE OF BY-LAWS C. 8 THROUGH 17:

1. The draft includes suggested changes made by either Town Counsel or the Government and By-Law Committee. These include updating obsolete language and by-law sections, clarifying citations to laws, both state and federal, and eliminating unnecessary language.

2. Material in red print is suggested additions made by either Town Counsel or the Government and By-Law Committee. Material underlined or crossed out in red is to be deleted. Material highlighted in yellow indicates issues still being work on.

3. This is only a draft. We are looking for public input about content only. Before it goes to Town Meeting, it will be thoroughly proofread for typos, awkward sentence structure and making sure the formatting, the footing, pages numbers, the chapters and the sections are as they should be. In addition, Town Counsel will have vetted all changes suggested.

4. Remember, it all has to be passed by Town Meeting before it replaces the existing by-laws. The aim is for the entire draft by-laws to be presented at the Fall 2022 Town Meeting.

5. There will be an open Zoom Meeting, immediately following the business meeting of the Government and By-law Committee beginning at 4 p.m., Monday, May 9, 2022 We anticipate public comment will begin by approximately 4: 30 p.m. During the public comment portion of the meeting, please be specific as to chapter and section on which you are commenting and please try to keep comments on point. There is a lot of material to be looked at and we want to make sure everybody gets to speak.

6. If you would like to submit your comments in writing, please send them to our email address at Govtbylaw@rockportma.gov or send them to the Selectmen’s office at 34 Broadway, Rockport, 01966.

The Government and By-Law Committee

Lori Kaiser, Chair
Penny Pilzer, Vice Chair
Dina Horvath
Charley Seavey
Zenas Seppala
Chapters to be reviewed will include:

C. 8 Public Works
   A. Board of Commissioners
   B. Water, Sewer and Solid Waste
   C. Discharges to Municipal Storm Drain
   D. Stormwater Management By-Law

C. 9 Harbors and Floats

C. 10 Public Peace and Order
   A. Prohibited Conduct
   B. Animal Control
   C. Water Use Restrictions

C. 11 Motor Vehicle, Streets and Parking

C. 12 Public Safety
   Section 1 False Security Alarms
   Section 2 Swimming Pools - deleted
   Section 3. Street Names and Building Numbers

C. 13 Commerce and Trade
   A. Signs
   B. Licenses
   C. Sale of Art - deleted
   D. Gambling

C. 14 Wetlands Protection

C. 15 Other Environmental Protection and Public Health
   A. Litter
   B. Noise
   C. Water Pollution
   E. Aesthetics and Environment
   F. Single Use Plastic Prohibition

C. 16 General

C. 17 Administration
   Section 1. Enforcement
   Section 2. Penalties
CHAPTER 8.

PUBLIC WORKS

A. Board of Commissioners of Public Works

Section 1. Appointed Officials

The Selectmen shall appoint a Board of Commissioners of Public Works, hereinafter called the Commissioners, consisting of three (3) persons especially qualified by education, training or experience to oversee the Department of Public Works and to serve as highway, parks, water, sewer and cemetery commissioners and may for cause remove any or all such appointees. The Commissioners shall serve (3) three-year terms, staggered so that the term of one (1) Commissioner expires each year.

Section 2. Appointment of Director

The Commissioners shall appoint a Director of Public Works, herein called the Director, who shall be appointed without regard to his political beliefs and who need not be a resident of the Town when appointed. Such Director shall, if the Commissioners so decide, but shall be a resident of the Town while in service serving as Director should the Commissioners so decide. Before entering upon the duties of his office, the Director shall be sworn to the faithful and impartial performance thereof by the Town Clerk, or by a justice of the peace. He shall execute a bond in favor of the Town for the faithful performance of his duties of the office in such sum and with such surety or sureties as may be fixed or approved by the Commissioners, the premium for said bond to be paid by the Town.
The Director may designate, in writing by letter approved by and with the approval by of the Commissioners, filed with the Town Clerk, a qualified officer of the Town to perform his the Director’s duties during any temporary absence or disability of less than fourteen (14) days; such written designation shall be filed with the Town Clerk and the Town Administrator. Notwithstanding the foregoing, in the event of the appointment of a Director, or the filling of any disability lasting more than fourteen (14) days a vacancy, or the failure of the Director of Public Works to designate a temporary Director, or during the suspension of the Director, the Commissioners shall appoint a suitable person to perform the duties of the office.

Section 4. Removal of Director

The Commissioners by a majority vote of the full membership of the Board may remove the Director.

Section 5. Compensation for Director

The Director shall receive such compensation for his services as the Commissioners shall determine, but it said compensation shall not exceed the amount appropriated therefor by the Town.

Section 6. Powers and Duties of Director

In addition to other powers and duties expressly provided for in the Town Charter, the Director shall have the following powers and duties:

a. The Director shall supervise and direct and shall be responsible for the efficient administration of all offices, boards and committees appointed by him the Director and their respective departments.

b. The Director shall keep full and complete records of his all operations and shall render as may be required by the Commissioners a full report of all operations during the period reported on.

c. The Director shall keep the Commissioners fully advised as to the needs of the Town and shall recommend to the Commissioners for adoption such measures requiring action by them or by the Town as he the Director may deem necessary or expedient.

d. The Director shall be responsible for the maintenance and repairs of all Town property except school buildings and grounds. He The Director shall be responsible for the preparation of plans and the supervision of work on all construction, reconstruction, alterations, improvements and other undertakings authorized by the Town, subject however, to the approval of the School Committee with respect to plans for the construction or improvement of school buildings or property.
e. The Director shall perform such other duties consistent with the his office as may be required of him by the by-laws or vote of the Town or by vote of or by the Commissioners.

f. The Director shall have access to all Town books and papers for information necessary for the proper performance of his duties.

g. The Director shall appoint, upon merit and fitness alone, and may, subject to the provisions of M.G.L. Ch. M.G.L.c. 31, where applicable, may remove for cause any employee of the Department of Public Works.

h. Whenever a payroll, bill or other claim against the Town is presented to the Director of Public Works he shall, if the same seems to him to be of doubtful validity, excessive in amount, or otherwise contrary to the interests of the Town, refer it to the Commissioners, who shall immediately investigate the fact and determine, what, if any, payment should be made. Pending such investigation and determinations by the Commissioners, payment shall be withheld.

i. The Director shall prepare and submit a budget to the Commissioners in sufficient time for the Commissioners’ review.

Section 7. Fees Paid to Treasury

The aggregate compensation of each Town Officer or Employee appointed by the Director of Public Works shall be limited to the amount established by vote of Town Meeting in accordance with the provisions of this act or anything relative thereto, and all fees received by such employees in accordance with the provisions of any general or special laws shall be paid into the Treasury of the Town.

Section 8. Estimate of Expenditures

On or before the fifteenth day of December 15th of each year, the Commissioners shall submit to the Board of Selectmen a copy of their annual budget, which shall contain a careful, detailed estimate of the probable expenditures of the Department of Public Works for the ensuing fiscal year, showing specifically the amount necessary to be provided for each office and activity, together with a statement of the expenditures for the same purposes in the two preceding years and an estimate of expenditures for the current year. With the assistance of the Town Accountant, the Commissioners shall also submit to the Selectmen a statement showing all revenues received by the Town from the Department’s activities in the two (2) preceding years, together with an estimate of the receipts of the current year.
B. Water, Sewer and Solid Waste System

Section 1. Administration

The water, sewer and solid waste functions and services, including maintenance of the water supply and distribution, sewers and sewerage systems, shall be performed by the Department of Public Works.

a. The Department of Public Works shall have and exercise all of the powers vested in the Town by the federal, state, or local General Laws, Municipal State and Federal laws, rules and or regulations or special acts pertaining to the water and sewer systems. The Commissioners may appoint such officers, agents and assistants as shall be necessary to accomplish the administration of the water works and sewerage systems.

b. The Department of Public Works shall cause to be read all meters used for the purpose of measuring water and/or sewage utilized by the owner at least once in each year, and at more frequent intervals if so directed by the Commissioners. Whenever water service is discontinued at the request of the owner of any premises, or for nonpayment of water and/or sewage bills, or for any other reason, it shall forthwith read or cause to be read, the water user’s meter. The Commissioners, or their designee, shall assess all charges for water supplied by the Town and/or sewage utilized by the owner in accordance with the rates as established from time to time, and the same shall be committed to the collector, who shall after notice to the persons to whom they are assessed, collect the same and pay the proceeds to the Town Treasurer. All charges for water and/or sewage shall be due and payable to the Collector within thirty (30) days after the mailing or delivery of shall mail or deliver to the water and/or sewage user a bill.

c. The Commissioners shall have hereby be authorized the authority and duty to adopt, issue and administer rules and regulations for the administration and operations of the water and sewer functions and services, water usage and all subjects related to the functioning of the water works and sewerage systems.

Section 2. Operations

a. An application for the use of water, signed by the owner or agent of the premises where such service it is desired, must be made at the office of the Department of Public Works or otherwise as provided by the Department. The application shall contain such information as shall be prescribed by the Commissioners.

b. Each service pipe shall be of such size and material as the Department of Public Works shall determine on with respect to each application. The Department of Public Works shall maintain all water services from street main to curb valve near the property line with a proper service box at no expense to the property owner. A replacement of an existing line with a larger service and all new services shall be at the expense of the property owner.
The service pipe from the curb valve may be furnished and installed by any competent person whose work shall be satisfactory to the Department or its inspector. The Department may lay service pipe from curb valve to and through the cellar wall and place a meter valve on the end of the pipe. A Department estimate of the cost of the work to be performed by the Town shall be made and the amount shall be deposited with the Town Treasurer before the work is begun.

c. The owner shall furnish and install, at least one three-quarter inch (7/8") meter, approved by the Department, per building. Property owners needing a larger or additional meter shall furnish and install such a meter at the property owner’s sole expense. The Town of Rockport shall maintain or replace a meter with an existing size meter at no cost to the property owner (except meters disconnected, lost, tampered, damaged by the property owner and/or stored per request of the property owner to replace). Should a larger size or additional meter be requested in or outside of an existing building, the property owner shall pay for all related costs. (Amended ATM 03/21/98)

Meters and their appurtenances, including outside meter reading devices, shall be located by the department, at the discretion of the Department head or his designee, and shall become the property of the Town after installation.

d. When a water taker fails to receive a sufficient supply of water through its service pipe, the owner shall furnish information satisfactory to the Department that the pipe is clear of obstructions within its premises to the curb valve before any opening will be made in the street by said Department.

e. The following regulations shall be considered a part of the contract with every person who takes water and every such person by taking the water shall thereby express his assent to be bound thereby. Whenever any regulation is violated, the Department of Public Works may cut off the water to the building or place of such violation, although two or more parties may receive the water and/or sewage utilized through the same pipe and it shall not be let on again except by order of the Commissioners, or their designee, and on the payment of all applicable fees. In case of such violation, said Commissioners shall have the right to retain as liquidated damages for such violation any payment made for the water and/or sewage utilized by the persons committing such violation.

(i) Every person taking the water shall, at his own expense, keep the pipes within his premises in good repair and protected from frost and shall be held liable for all damage which may result from his failure to do so.

(ii) Every person taking the water shall prevent all unnecessary waste of water and shall not conceal the purpose for which the water is used.

(iii) No alteration shall be made in any of the pipes, meters or appurtenances belonging to the Town except by its agents.
(iv) No water shall be supplied to a person not entitled to its use under these rules and regulations, except by special permission of the Commissioners.

(v) A representative of the Department of Public Works, upon reasonable notice, may enter the premises of any water user to install, repair, or read meters, or to examine pipes and fixtures used and the manner of their use.

Section 3. Rates

Water, sewer, solid waste, cemetery and related rates shall be set by the Commissioners after a public hearing by the Commissioners.

a. If a meter fails to register, the consumer shall be charged for water and/or sewage upon the basis of the average consumption for a corresponding period as shown by the meter when in order or by estimate.

b. A charge may be made for water used through fixtures that are installed solely for protection against fire.

c. The charge for turning on or turning off water shall be set by the Commissioners within such limits as established by law.

d. The Commissioners or their designee may make adjustments in the water charges to a consumer to correct an error in billing or usage.

Section 4. Transfer Station and Recycling Center

a. Transfer Station. No person or business using the Town of Rockport’s Town’s Transfer Station and Recycling Center shall place yard waste, tin or glass containers, aluminum containers, number 1 and number 2 plastic containers, newspapers, magazines and corrugated cardboard into the trash trailers.

b. Recycling Center. The articles excluded from trash trailers referred to above shall be recycled into the proper bin or designated area within the Transfer Station and Recycling Center. However, this section shall not prohibit the dumping of mixed waste material including the aforementioned recyclables by authorized Department of Public Works employees in the course of assigned duties.

Section 5. Underground Storage Tanks

The Department of Public Works shall regulate the Regulation of underground storage tanks, hazardous materials and regulated substances; will be regulated under the Department of Public Works Rules and Regulations.

C. Discharges to the Municipal Storm Drain MS4

Section 1. Purpose
Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of the town's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment. The objectives of this bylaw are:

a) To prevent pollutants from entering the town's municipal separate storm drain system (MS4);
b) To prohibit illicit connections and unauthorized discharges to the MS4;
c) To require the removal of all such illicit connections;
d) To comply with state and federal statutes and regulations relating to stormwater discharges; and
e) To establish the legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.

Section 2 Definitions  NOTE: STILL UNDER REVIEW

For the purposes of this bylaw, the following shall mean:

AUTHORIZED ENFORCEMENT AGENCY: The DPW Board of Commissioners.

BEST MANAGEMENT PRACTICE (BMP): An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.


DISCHARGE OF POLLUTANTS: The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth from any source.

GROUNDWATER: Water beneath the surface of the ground.

ILlicit CONNECTION: A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this bylaw.

ILlicit DISCHARGE: Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Section 8. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or a Surface Water Discharge Permit, or resulting from fire fighting.
activities exempted pursuant to Section 8 of this bylaw.

IMPERVIOUS SURFACE: Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and rooftops.

MUNICIPAL SEPARATE STORM DRAIN SYSTEM (MS4) or MUNICIPAL STORM SEWER SYSTEM: The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Rockport.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT: A permit issued by United States Environmental Protection Agency or jointly with the State that authorizes the discharge of pollutants to waters of the United States.

NON-STORMWATER DISCHARGE: Discharge to the municipal storm drain system not composed entirely of stormwater.

PERSON: An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

POLLUTANT: Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or non-point source, that is or may be introduced into any sewage treatment works or waters of the Commonwealth. Pollutants shall include without limitation:

a) Paints, varnishes, and solvents;
b) Oil and other automotive fluids;
c) Non-hazardous liquid and solid wastes and yard wastes;
   Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, accumulations and floatables;
d) Pesticides, herbicides, and fertilizers;
e) Hazardous materials and wastes; sewage, fecal coliform and pathogens;
f) Dissolved and particulate metals;
g) Animal wastes;
h) Rock, sand, salt, soils;
i) Construction wastes and residues; and
j) Noxious or offensive matter of any kind.
PROCESS WASTEWATER: Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

RECHARGE: The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

STORMWATER: Storm water runoff, snow melt runoff, and surface water runoff and drainage.

SURFACE WATER DISCHARGE PERMIT. A permit issued by the Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.

TOXIC OR HAZARDOUS MATERIAL OR WASTE: Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under G.L. Ch.21 C and Ch.21 E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

WATERCOURSE: A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.

WATERS OF THE COMMONWEALTH: All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.

WASTEWATER: Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

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### Section 13 Applicability

This by-law (8C) shall apply to flows entering the MS4.

### Section 24 Authority

This by-law is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Procedures Act, and pursuant to the regulations of the Federal Clean Water Act found at 40 CFR 122.34 and the Phase II ruling from the Environmental Protection Agency found in the December 8, 1999 Federal Register.
Section 3  Responsibility for Administration

The DPW Board of Commissioners shall administer, implement and enforce this by-law (8C). Any powers granted to or duties imposed upon the DPW Board of Commissioners may be delegated in writing by the DPW Board of Commissioners, to its employees and authorized agents.

Section 4  Regulations

DWP Board of Commissioners may promulgate rules and regulations to effect the purposes of this bylaw. Failure by the DPW Board of Commissioners to promulgate such rules and regulations shall not have the effect of suspending or invalidating this bylaw.

Section 5  Prohibited Activities

a.  **I illicit Discharges.** No person shall dump, discharge, cause or allow to be discharged, whether directly or indirectly, any pollutant or non-stormwater discharge not completely composed entirely of stormwater into the municipal separate storm drain MS4, into a watercourse, or into the waters of the Commonwealth.

b.  **Illicit Connections.** No person shall construct, use, allow, maintain or continue any (illicit connection) to the municipal storm drain system, MS4 regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.

c.  **Obstruction of Municipal Storm Drain System.** No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system MS4 without prior written approval from the DPW Board of Commissioners.

Section 6  Exemptions

Discharge or flow resulting from firefighting activities.

The following non-stormwater discharges or flows are exempt from the prohibition of § 5(a) provided that the source is not a significant contributor of a pollutant to the municipal storm drain system MS4.

a.  Discharge or flow resulting from fire fighting activities;
b.  Waterline flushing;
c.  Flow from potable water sources;
d.  Natural flow from springs, water courses; riparian habitats and wetlands;
e.  Diverted stream flow;
f.  Rising groundwater;
g.  Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
h. Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;

i. Incidental discharge from landscape irrigation or lawn watering;

j. Water from individual residential car washing;

k. Discharge from dechlorinated swimming pool water (less than one ppm chlorine) provided the water is allowed to stand for one week prior to draining, the pool is drained in such a way as not to cause a nuisance and notification is provided to the Department of Public Works;

l. Discharge from street sweeping;

m. Dye testing, provided verbal notification is given to the DPW Board of Commissioners as far in advance as possible prior to the time of the test;

n. Non-stormwater discharge permitted under an NPDES permit or a surface water discharge permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency pursuant to 314 CMR 3.00 or the Massachusetts Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and

o. Discharge for which advanced written approval is received from the DPW Board of Commissioners as necessary to protect public health, safety, welfare or the environment; and

p. Discharge or flow that results from urgent conditions and occurs during a State of Emergency declared by any agency of the federal or state government, or by the Town Administrator, Select Board or the Board of Health.

Section 7 Emergency Suspension of Storm Drainage System Access

The DPW Board of Commissioners may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the DPW Board of Commissioners may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

Section 8 Notification of Spills

a. Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials that at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the Commonwealth, the person shall take all necessary steps to ensure containment and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the municipal Fire and Police departments, the DPW Board of Commissioners and the Board of Selectmen.
b. In the event of a release of non-hazardous material, the reporting person shall notify
the Board of Selectmen Select Board, the DPW Board of Commissioners and the Fire
Department no later than the next business day. The reporting person shall provide to the
Board of Selectmen Select Board, the DPW Board of Commissioners and the Fire Chief
written confirmation of all telephone, facsimile or in-person notifications within three (3)
business days thereafter. If the discharge of prohibited materials is from a commercial or
industrial facility, the facility owner or operator of the facility shall retain on-site a
written record of the discharge and the actions taken to prevent its recurrence. Such
records shall be retained for at least three (3) years.

Section 9  Enforcement

a. The DPW Board of Commissioners, its employees and its authorized agents
(the "enforcing person") shall enforce this bylaw, the stormwater rules and regulations,
orders, violation notices, and enforcement orders, and may pursue all civil and criminal
remedies for such violations.

b. Civil Relief. If a person violates the provisions of this bylaw, the stormwater
rules and regulations, or a permit, notice, or order issued there under, the DPW Board of
Commissioners may seek injunctive relief in a court of competent jurisdiction restraining
the person from activities which would create further violations or compelling the person
to perform abatement or remediation of the violation.

c. Orders.

i. The DPW Board of Commissioners, its employees and its authorized agents may
issue a written order to enforce the provisions of this bylaw or the regulations there
under, which may include:


- elimination of illicit connections or discharges to the MS4;
- performance of monitoring, analyses, and reporting;
- require that unlawful discharges, practices, or operations shall cease and
desist; and
- remediation of contamination in connection therewith.

ii. If the enforcing person DPW of Commissioners or its agent determines that
abatement or remediation of contamination is required, the order shall set forth a
deadline by which such abatement or remediation must be completed. Said order shall
further advise that, should the violator or property owner fail to abate or perform
remediation within the specified deadline, the Town may, at its option, undertake such
work, and expenses thereof shall be charged to the violator.

iii. Within thirty (30) days after completing all measures necessary to abate the
violation or to perform remediation, the violator and the property Owner will be notified
of the costs incurred by the Town, including administrative costs. The violator or
property Owner may file a written protest objecting to the amount or basis of costs with
the Select Board of Selectmen within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Select Board of Selectmen, affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in M.G.L. c. 59, § 57 after the thirty-first (31st) day at which the costs first become due.

iv. The DPW Board of Commissioners may seek injunctive relief in a court of competent jurisdiction restraining a person from activities that would create further violations of this by-law or an order issued under it or compelling that person to perform abatement or remediation of the violation.

d. Criminal Penalty. Any person who violates any provision of this bylaw, regulation, order or permit issued there under, shall be punished by a fine of not more than three hundred dollars ($300.00) penalty. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

e. Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the Town of Rockport may elect to utilize the non-criminal disposition procedure set forth in M.G.L. Ch. 40, § 21D and the Town of Rockport General Bylaws c. 16§, Section 2(b). The DPW Board of Commissioners, or its authorized employees or agents, shall have authority to issues notices of violations. The penalty for the first violation shall be one hundred dollars ($100.00). The penalty for the second violation shall be two hundred dollars ($200.00). The penalty for the third and subsequent violations shall be three hundred dollars ($300). Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

a. Entry to Perform Duties Under this Bylaw. To the extent permitted by state law, or if authorized by the owner or other party in control of the property the DPW Board of Commissioners, its employees and its authorized agents may enter upon privately owned property for the purpose of performing their duties under this bylaw and related regulations and may make or cause to be made such examinations, surveys or sampling as the DPW Board of Commissioners, its employees and its authorized agents deem reasonably necessary.

b. Appeals. The decisions or orders of the DPW Board of Commissioners shall be final. Further relief shall be to a court of competent jurisdiction.

c. Remedies Not Exclusive. The remedies listed in this bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

Section 12 Severability
The provisions of this bylaw are hereby declared to be severable. If any provision, paragraph, sentence, or clause, of this bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this bylaw.

Section 10  Transitional Provisions

All property owners shall have thirty (30) days from the effective date of the by-law to comply with its provisions or petition the DPW Board of Commissioners for an extension provided good cause is shown for the failure to comply with the by-law during the specified period.

C. Stormwater Management By-law

Section 1 Purpose and Intent

The purpose and intent of this bylaw are to:

1. Protect water resources
2. Require practices that mitigate soil erosion and sedimentation and control the volume and rate of stormwater runoff resulting from land disturbance activities so that the after-development runoff characteristics are equal to or less than the pre-development runoff characteristics;
3. Promote infiltration and the recharge of groundwater;
4. Protect land resources, minimize cut and fill, encourage on-site infiltration of stormwater;
5. Ensure that soil erosion and sedimentation control measures and stormwater runoff control practices are incorporated into the site planning and design process, and are implemented and maintained;
6. Encourage the use of Low Impact Development practices such as reducing impervious cover and the preservation of green space and other natural areas, to the maximum extent practicable;
7. Comply with state and federal statutes and regulations relating to stormwater discharges and establish regulations and decision-making processes in Rockport to accomplish this;
8. Establish the Town of Rockport as the legal authority to ensure compliance with the provisions of this by-law and associated regulations through inspection, monitoring, and enforcement;
9. Establish provisions for the long-term maintenance of structural stormwater control facilities and non-structural stormwater management practices to meet the permit criteria, including adequate funding mechanism, including surety, for proper review, inspection and long-term maintenance;

a) This bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statues, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34. 
b) Nothing in this by-law is intended to replace the requirements of any other bylaw.
that has been made or may be adopted by the Town of Rockport.

Section 2 Applicability

a) This by-law shall apply to all, land disturbing activities, that are part of development, new development, or redevelopment, that result in disturbance of an area of land [XXXXX] or more square feet that drains to the (MS4). Any activity that will alter the drainage characteristics of such a parcel of land, unless exempt pursuant to §3, will be subject to the by-law.

A permit from the Planning Board shall be required for [land disturbing activities including any new or redevelopment] activity.

b) That will disturb equal to or greater than [xxx] square feet; or will disturb less than [xxx] square feet but which is part of a larger common plan of development or sale which will ultimately disturb [xxx] square feet or greater, which drains to the Town of Rockport municipal separate storm sewer system.

3. Exemptions

Land disturbing activities that are exempt from c. 8D § 2 above are:

a) Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulations 310 CMR 10.045 Chapter 40A, section 3;

b) Maintenance of existing landscaping gardens, or lawn areas associated with a single family dwelling provided such maintenance does not include the addition of more than 100 cubic yards of soil or other material, or alteration of drainage patterns;

c) The construction of fencing that will not alter existing terrain or drainage patterns;

d) Normal maintenance of Town owned land, ways, and appurtenances;

e) Repair or maintenance of an individual subsurface septic disposal system, and related elements such as pipes, etc.; provided that the post-repair condition drainage is equal to the pre-repair condition.

f) Any work or projects from which all necessary approvals and permits have been issued before the effective date of this by-law section.

g) Activities undertaken in connection with any existing, permitted sand and gravel operation or similar enterprise which such activity is allowed by zoning but shall not include expanded operations;

h) Maintenance, reconstruction or resurfacing of any public way;

i) The installation of drainage structures or utilities within or associated with public ways that have been approved by the appropriate authorities provided that written notice be filed with the Planning Board fourteen (14) days prior to commencement of activity;

j) Activities undertaken in connection with the refurbishing of an existing athletic field; and

k) Activities that are subject to jurisdiction under the Wetlands Protection
Act and demonstrate compliance with the Massachusetts Storm Water Management Policy as reflected in an Order of Conditions issued by the Conservation Commission, as authorized in the Phase II Small MS4 General Permit for Massachusetts.

NOTE: TO BE REMOVED TO A DEFINITION SECTION

Section 2. Definitions

ABUTTER: The owner(s) of land abutting the lot on which the activity is proposed to take place.

AGRICULTURE: The normal maintenance or improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act G.L. c. 131, § 40, and its implementing regulations.

APPLICANT: Any person, individual, partnership, association, firm, company, corporation, trust, authority, agency, department, or political subdivision, of the Commonwealth or the Federal government to the extent permitted by law requesting a soil erosion and sediment control permit for proposed land-disturbance activity.

AUTHORIZED ENFORCEMENT AGENCY: The Department of Public Works and/or its respective employees or agents designated to enforce this by-law.

BEST MANAGEMENT PRACTICE (BMP): An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of storm water runoff as described in the Stormwater Management Handbook and any other applicable local regulations.

CERTIFIED PROFESSIONAL IN EROSION AND SEDIMENT CONTROL (CPESC): A certified specialist in soil erosion and sediment control. This certification program, sponsored by the Soil and Water Conservation Society in cooperation with the American Society of Agronomy, provides the public with evidence of professional qualifications.

CONSTRUCTION AND WASTE MATERIALS: Excess or discarded building or site materials, including but not limited to concrete truck washout, chemicals, litter and sanitary waste at a construction site that may adversely impact water quality.

CLEAN FILL: Fill that does not contain lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, asphalt, concrete, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing or similar materials, or any other waste products or hazardous waste.

CLEARING: Any activity that removes the vegetative surface cover in part or in its entirety, that causes irreversible damage to roots or trunks; destroying the structural integrity of vegetation; and/or any filling, excavation, grading, or trenching in the root area of a tree which has the potential to cause irreversible damage.
DEVELOPMENT: The modification of land to accommodate a new use or expansion of use, usually involving construction.

DISTURBANCE OF LAND: Any action that causes a change in the position, location, or arrangement of soil, sand, rock, gravel, ledge or similar earth material, and includes earth fill, earth moving, and earth removal.

EARTH FILL: The addition of earth materials to a lot or parcel, including but not limited to, sand, gravel, stone, soil, loam, sod, clay and mineral products.

EARTH MOVING: The addition, removal or relocation of earth materials within the boundaries of a lot or parcel, including but not limited to, sand, gravel, ledge, stone, soil, loam, sod, clay and mineral products and includes the processes of grading and grubbing.

EARTH REMOVAL: The removal of earth materials from a lot or parcel, including but not limited to sand, gravel, ledge, stone, soil, loam, sod, clay and mineral products.

EROSION: The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.

ESTIMATED HABITAT OF RARE WILDLIFE AND CERTIFIED VERNAL POOLS: Habitats delineated for state-protected rare wildlife and certified vernal pools for use with the Wetlands Protection Act Regulations (310 CMR 10.00) and the Forest Cutting Practices Act Regulations (304 CMR 11.00).

GRADING: Changing the level or shape of the ground surface.

GRUBBING: The act of clearing land surface by digging up roots and stumps

IMPERVIOUS SURFACE: Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and roof tops.

LAND-DISTURBING ACTIVITY: Any activity that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material, including without limitation: earth fill, earth moving, earth removal, clearing, grubbing, or grading.

LOT: A single parcel of land held in identical ownership throughout and defined by metes, bounds, or boundary lines in a recorded deed or on a recorded plan.

LOW IMPACT DEVELOPMENT: A set of strategies that seek to maintain natural systems for treating stormwater during the development process and after the development is complete. Stormwater is managed with a distributed network of swales and rain gardens, and other options rather than a centralized system of pipes and ponds.
MASSACHUSETTS ENDANGERED SPECIES ACT: (G.L. c. 131A) and its implementing regulations at (321 CMR 10.00) which prohibit the "taking" of any rare plant or animal species listed as Endangered, Threatened, or of Special Concern.

MASSACHUSETTS STORMWATER MANAGEMENT POLICY: The Policy issued by the Department of Environmental Protection, and as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act G.L. c. 131 §. 40 and Massachusetts Clean Waters Act G.L. c. 21, §. 23-56. The Policy addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or municipal storm drain system: The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Rockport.

NEW DEVELOPMENT: Development on sites that have not previously been subject to extensive land disturbance activities; development on sites with less than 250sf of impervious surface; and development on sites with less than 10% of the site receiving land disturbance in the last 25 years.

OPERATION AND MAINTENANCE PLAN: A plan setting up the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to insure that it continues to function as designed.

OUTFALL: The location where a sewer, drain, stream or other point source discharges into receiving waters.

OUTSTANDING RESOURCE WATERS (ORWs): Waters designated by Massachusetts Department of Environmental Protection as ORWs. These waters have exceptional sociologic, recreational, ecological and/or aesthetic values and are subject to more stringent requirements under both the Massachusetts Water Quality Standards (314 CMR 4.00) and the Massachusetts Stormwater Management Standards. ORWs include vernal pools certified by the Natural Heritage Program of the Massachusetts Department of Fisheries and Wildlife and Environmental Law Enforcement, all Class A designated public water supplies with their bordering vegetated wetlands, and other waters specifically designated.

OWNER: A person with a legal or equitable interest in property.

PERSON: An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.
POINT SOURCE: Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, ground boring that produces the discharge of water, or container from which stormwater and/or pollutants are or may be discharged.

PRE-CONSTRUCTION: The conditions that exist at the time that plans for the land disturbance of a tract of land are formulated and are subsequently submitted to the Stormwater Permit Authority for a Stormwater Permit, or the conditions that exist at the time that plans for the land disturbance of a tract of land are formulated for activities that require other permits or approvals to undertake the proposed activity in the Town of Rockport.

POST-CONSTRUCTION: The conditions that reasonably may be expected or anticipated to exist after completion of the land disturbance activity.

PRIORITY HABITAT OF RARE SPECIES: Habitats delineated for rare plant and animal populations protected pursuant to the Massachusetts Endangered Species Act and its regulations.

RAIN GARDEN A planted depression that is designed to absorb rainwater runoff from impervious areas like roofs, driveways, walkways, and compacted lawn areas. This reduces rain runoff by allowing stormwater to soak into the ground (as opposed to flowing into storm drains and surface waters which causes erosion, water pollution, flooding, and diminished groundwater).

REDEVELOPMENT: Development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface or increase the impervious area on previously developed sites.

RUNOFF: Rainfall, snowmelt, or irrigation water flowing over the ground surface.

SEDIMENT: Mineral or organic soil material that is transported by wind or water, from its origin to another location; the product of erosion processes.

SEDIMENTATION: The process or act of deposition of sediment.

SITE: Any lot or parcel of land or area of property where land-disturbing activities are, were, or will be performed.

SLOPE: The incline of a ground surface expressed as a ratio of vertical distance to horizontal distance (ratio of rise over run).

SOIL: Any earth, sand, rock, gravel, or similar material.

STABILIZATION: The use, singly or in combination, of mechanical, structural, or vegetative methods, to prevent or retard erosion.

STORMWATER: Rainfall runoff, snow melt runoff, and surface water runoff and
STORMWATER MANAGEMENT PERMIT: (SMP): A permit issued by the Planning Board or Conservation Commission after review of an application, plans, calculations, and other supporting documents, which is designed to implement this Bylaw.

STORMWATER MANAGEMENT PLAN: A plan required as part of the application for a Stormwater Management Permit (see Section 6 and Planning Board Rules and Regulations). A document containing narrative, drawings and details developed by a qualified professional engineer (PE) or a Certified Professional in Erosion and Sedimentation Control (CPESC), which includes best management practices, or equivalent measures designed to control surface runoff, erosion and sedimentation during pre-construction and construction related land disturbance activities.

STORMWATER PERMIT AUTHORITY: This title shall apply to any of the several entities authorized to issue Stormwater Management Permits in the following circumstances:
The Conservation Commission shall be the Permit Authority when any part of the project comes solely under their jurisdiction in the Wetlands Protection Act and the Rockport Wetlands Protection Act and not under the jurisdiction of any other Town Board or Commission. The Planning Board shall be the Permit Authority for all applications subject to Rockport Zoning Bylaw including Site Plan Review, or Rules and Regulations Governing the Subdivision of land. The Zoning Board of Appeals shall be the Permit Authority for Comprehensive Permits under MGL Chapter 40B. The Planning Board shall be the Permit Authority for all other activities that require a Stormwater Management Permit. The Stormwater Permit Authority is responsible for coordinating the review, approval, and permit process as defined in this Bylaw. Other Boards and/or departments participate in the review process as defined in the Stormwater Regulations adopted by the Town of Rockport.

STORMWATER UTILITY: The Department of Public Works, or its designee may, upon Town Meeting approval, adopt a Stormwater Utility pursuant to M.G.L. Chapter 83 Section 16 and Chapter 40 Section 1A. The Department of Public Works, or its designee, shall administer, implement and enforce this Utility. Failure by the Department of Public Works to promulgate such a Stormwater Utility through this Bylaw or a legal declaration of its invalidity by a court shall not act to suspend or invalidate the effect of this Bylaw.

STRIP: Any activity which removes the vegetative ground surface cover, including tree removal, clearing, grubbing, and storage or removal of topsoil.

SWALE: A constructed watercourse shaped or graded in earth materials and stabilized with site suitable vegetation, for the safe conveyance and water quality improvement of storm runoff.

TSS: Total Suspended Solids.

VERNAL POOLS: Temporary bodies of freshwater which provide critical habitat for a number of vertebrate and invertebrate wildlife species.
WATERCOURSE: A natural or man-made channel through which water flows or a stream of water, including a river, brook, or underground stream.

WETLAND RESOURCE AREA: Areas specified in the Massachusetts Wetlands Protection Act G.L. c. 131, § 40 and in the Town of Rockport wetland bylaw/ordinance.

**Section 3 Authority**

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

B. Nothing in this Bylaw is intended to replace the requirements of any other bylaw that has been made or may be adopted by the Town of Rockport.

**Section 4 — Applicability**

A. This bylaw shall apply to all land disturbing activities that are part of new development or redevelopment that result in disturbance of an area of land 20,000 or more square feet that drain to the Municipal Separate Storm Sewer System (MS4). Any activity that will alter the drainage characteristics of a parcel of land, unless exempt pursuant to Section 4.B of this Bylaw, will be subject to the bylaw. A permit from the applicable Stormwater Permit Authority shall be required for any land disturbing, new development, or redevelopment activity that will disturb equal to or greater than 20,000 square feet; or will disturb less than 20,000 square feet but which is part of a larger common plan of development or sale which will ultimately disturb 20,000 square feet or greater, which drains to the Town of Rockport municipal separate storm sewer system.

B. Construction activities that are exempt are:

1. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulations 310 CMR 10.04 and MGL Chapter 40A, section 3;

2. Maintenance of existing landscaping, gardens, or lawn areas associated with a single family dwelling provided such maintenance does not include the addition of more than 100 cubic yards of soil or other material, or alteration of drainage patterns;

3. The construction of fencing that will not alter existing terrain or drainage patterns;

4. Normal maintenance of Town owned land, ways, and appurtenances;

5. Repair or maintenance of an individual subsurface septic disposal system, and related elements such as pipes, etc., provided that the post-repair condition drainage is equal to the pre-repair condition.

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

7. Activities undertaken in connection with any existing, permitted sand and gravel operation or similar enterprise where such activity is allowed by zoning, but shall not include expanded operations;

8. Maintenance, reconstruction or resurfacing of any public way; and the installation of drainage structures or utilities within or associated with public ways that have been approved by the appropriate authorities provided that written notice be filed with the Planning Board fourteen (14) days prior to commencement of activity;

9. Activities undertaken in connection with the refurbishing of an existing athletic field;

10. Activities that are subject to jurisdiction under the Wetlands Protection Act and demonstrate compliance with the Massachusetts Storm Water Management Policy as reflected in an Order of Conditions issued by the Conservation Commission, as authorized in the Phase II Small MS4 General Permit for Massachusetts.

Section 5  Responsibility for Administration

A. For the purpose of this Bylaw section, as noted in B. below, the term Stormwater Permit Authority shall indicate the Conservation Commission, the Planning Board, or the Zoning Board of Appeals as applicable in Section 2 of this Bylaw. Any powers granted to or duties imposed upon the Stormwater Permit Authority may be delegated in writing by the Permit Authority to its employees or agents.

B. To the extent that the Planning Board is the Permit Authority under the Zoning Bylaw, Section 11, and the Rules and Regulations Governing the Subdivision of Land, and for certain other activity; and to the extent that the Conservation Commission is under the Wetlands Protection Act; and to the extent that the Zoning Board of Appeals is under MGL Chapter 40B; then each of the above named Town boards or Commissions shall also be the Permit Authority in that instance.

1. Applications, plans and accompanying data under this bylaw may be filed simultaneously with and may be incorporated into those plans and documents required in other permitting processes.

2. Rules and Regulations. The Planning Board shall adopt, and may periodically amend Rules and Regulations to effectuate the purposes of this Bylaw section. Failure by the Planning Board to promulgate such rules and regulations shall not have the effect of suspending or invalidating this bylaw. The Rules and Regulations shall include but shall not be limited to: the size, quantity, and distribution of plans; filing fee; required details for Stormwater Management Plan; Operation and Maintenance Plan; and Inspection and Site

1. The Stormwater Permit Authorities will utilize the policy, criteria and information including specifications and standards of the latest edition of the Massachusetts Stormwater Management Policy to execute the provisions of this Bylaw. This Policy includes a list of acceptable stormwater treatment practices, including the specific design criteria for each. The Policy may be updated and expanded periodically, based on improvements in engineering, science, monitoring, and local maintenance experience. Unless specifically altered in the Regulations, stormwater treatment practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to be protective of Massachusetts water quality standards.

2. Stormwater Credit System. The Stormwater Authority may adopt a Stormwater Credit System as part of the regulations authorized by this Bylaw section. This credit system will allow applicants the option to use better site design practices to reduce some of the requirements specified in the criteria section of the Regulations. Failure of the Planning Board to promulgate such a credit system through its Regulations or a legal declaration of its invalidity by a court shall not act to suspend or invalidate the effect of this Bylaw.

Section 6 Rules and Regulations

a. The Planning Board shall adopt and may periodically amend rules and regulations to effectuate the purpose of this by-law (8D). Failure to promulgate such rules and regulations shall not have the effect of suspending or invalidating this by-law.

b. The rules and regulations shall include, but shall not be limited to, the size, quantity, and distribution of plans, filing fee, required details for plans and inspection and site supervision, etc.

c. Such rules and regulations, including those relating to the permit requirement shall require or encourage best management practices and utilize the policy, criteria and information, including specifications and standards of the latest edition of the Massachusetts Stormwater Handbook. Unless specifically altered in the regulations stormwater treatment practices that are designed, constructed, and maintained in accordance with the design and sizing criteria of the Massachusetts Stormwater Handbook will be presumed to be protective of Massachusetts water quality standards.

d. The Planning Board may adopt a stormwater credit system that will allow applicants the option to use better site design practices to reduce some of the requirements specified in the regulations. Failure of the Planning Board to promulgate such a credit system through its Regulations (or a legal declaration of its
invalidity by a court) shall not act to suspend or invalidate the effect of the remainder of this by-law.

Section 7. Stormwater Management Permit

a. In order to obtain a stormwater management permit, the applicant must submit to the Planning Board:

(i) a stormwater management plan designed to meet the Massachusetts Stormwater Standards set forth in the Stormwater Management Handbook and any standards set by the stormwater rules and regulations. The plan shall fully describe the pertinent conditions of the site and adjacent areas prior to commencement of the activity and fully describe the project in drawing and narrative. The plan should incorporate best management practices and low impact development strategies as set forth in the Massachusetts Stormwater Handbook and conform to the requirements in the Town’s stormwater regulations.

(ii) an erosion and sedimentation control plan that describes proposed erosion and sedimentation control practices that will be employed to reduce erosion and sedimentation resulting from the land disturbing activity; and

(iii) an operation and maintenance plan that demonstrates how the operation of the site will comply the Massachusetts Surface Water Quality Standards, 314 CMR 4.00, and how the Town’s stormwater management regulations will be met in all seasons and throughout the life of the system.

b. The Planning Board may require a pre-constructed meeting at which to present and discuss the plans submitted. If required, the applicant, the general contractor and technical representatives of the Planning Board and the applicant will attend.

c. The Planning Board or its designated agent shall make inspections in accordance with this by-law and the stormwater regulations and shall either approve the portion of the work completed or shall notify the permittee if the work fails to comply with the approved plans and require any modifications needed in order to achieve the compliance.

d. The permittee shall notify the Planning Board or its designated agent at least three (3) business days before each of the following events:

(i) erosion control and tree protection measures are in place and stabilized;

(ii) site clearing and rough grading have been substantially completed;

(iii) final grading has been substantially completed;
(iv) bury inspection prior to backfilling of any underground drainage or stormwater conveyance structures;
(v) the close of the construction season; and
(vi) final landscaping and project completion.

e. Upon completion of the work, the permittee shall prepare a report certifying that all erosion and sedimentation control devices, best management practices and low impact development strategies outlined in its plans, along with any approved changes and modifications have been completed in accordance with the conditions of the approved permit along with certified as-built construction plans from a registered professional engineer, professional land surveyor or CPESC. The report will be delivered to the Planning Board.

f. The Planning Board may require the permittee to post, before the start of land disturbance activity, a surety bond, irrevocable letter of credit, cash or other acceptable security as performance guarantee, to be in an amount deemed sufficient by the Planning Board to ensure that the work will be completed in accordance with the permit. If the project is phased, the Planning Board may release part of the bond as each phase is completed in compliance with the permit but the bond may not be fully released until the Planning Board has received the final report as required by § 6(e) above and issued a certificate of completion. The stormwater rules and regulations shall establish reasonable criteria for assessing the performance guarantee.

g. Applications, plans and accompanying data under the by-law may be filed simultaneously with and may be incorporated into those plans and documents required in other permitting processes.

h. The Planning Board may employ outside consultants, at the applicant’s expense, under the terms of M.G.L. Ch. 44, §53G, to assist in its permit decision, including, but not limited to, plan review, drainage and stormwater analysis; to determine conformance with this by-law section and other requirements and for construction, inspection etc.

i. A Stormwater Management Permit is granted for a period of three (3) years from the date of its approval and shall lapse if substantial use or construction has not commenced by such date, except for good cause as shown.

Section 6 — Employment of Outside Consultants

The Permit Authority may employ outside consultants, at the Applicant’s expense, under the terms of MGL Ch. 44 Section 53G, the Town of Rockport Zoning Bylaw, and Planning Board Rules and Regulations, to assist in its permit decision, including but not limited to plan review, drainage and stormwater analysis; to determine conformance with
this Bylaw section and other requirements; and for construction inspection, etc.

Section 7  Performance Guarantee

A. The Permit Authority may require the Permittee to post, before the start of land disturbance activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security as performance guarantee, to be in an amount deemed sufficient by the Permit Authority to ensure that the work will be completed in accordance with the permit. If the project is phased, the Permit Authority may release part of the bond as each phase is completed in compliance with the permit but the bond may not be fully released until the Permit Authority has received the Final Report as required by this bylaw and issued a Certificate of Completion.

B. The Stormwater Rules and Regulations shall establish reasonable criteria for assessing the Performance Guarantee.

Section 8 — Duration of Stormwater Management Permit

A Stormwater Management Permit is granted for a period of three years from the date of its approval and shall lapse if substantial use or construction has not commenced by such date, except for good cause as shown.

Section 8. Stormwater Utility. The Planning Board or its designee may, upon Town Meeting approval, adopt a Stormwater Utility pursuant to M.G.L. c. §16 and c.40 §1A. The Planning Board or its designee, shall administer, implement and enforce this Utility. Failure to promulgate such a Stormwater Utility through this by-law of a declaration of the invalidity of the Utility by a Court shall not act to suspend or invalidate the effect of this by-law 8D.

Section 9  Enforcement of Violations

a. The Department of Public Works, or an authorized agent of the Department of Public Works Planning Board, shall enforce this by-law, and related regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations, including seeking injunctive relief in a court of competent jurisdiction restraining the person from activities that would create further violations or compelling the person to perform abatement or remediation of the violation.

A. Orders

b. The authorized agent of the Department of Public Works Planning Board may issue a written order to enforce the provisions of this by-law or the regulations thereunder, which may include:
i) a requirement to cease and desist from the land-disturbing activity until there is compliance with the bylaw and provisions of the land-disturbance permit;

ii) maintenance, installation or performance of additional erosion and sediment control measures;

iii) monitoring, analyses, and reporting; and

iv) remediation of erosion and sedimentation resulting directly or indirectly from the land-disturbing activity.

c. If the enforcing person determines that abatement or remediation of erosion and sedimentation is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town may, at its option, undertake such work, and the property owner shall reimburse the Town its expenses.

d. Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the Town of Rockport may elect to utilize the non-criminal disposition procedure set forth in M.G.L. Ch. 40, 21 D and Town General Bylaw Chapter 16, Section 2.

e. Penalties for violation of the Town of Rockport. The penalty for the first violation shall be one hundred dollars ($100.00). The penalty for the second violation shall be two hundred dollars ($200.00). The penalty for the third and subsequent violations shall be three hundred dollars ($300.00). Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

f. The decisions or orders of the Stormwater Permit Authorities shall be final. Further relief shall be to a court of competent jurisdiction.

g. Remedies Not Exclusive. The remedies listed in this by-law are not exclusive of any other remedies available under any applicable federal, state or local law.

Section 10—Severability

If any provision, paragraph, sentence, or clause of this by-law shall be held invalid for any reason, all other provisions shall continue in full force and effect.
Section 1. Definitions of Terms
The following words, for the purposes of this by-law, shall have the following meanings unless another meaning is clearly apparent from the way in which the word is used.

Adrift. The word “adrift” shall mean a vessel not under command without being fast to a stationary object.

Aground. The word “aground” shall mean stuck on the bottom.

Anchor. The word “anchor” shall mean to hold temporary holding a vessel in place by lowering a heavy weight into the water by cable, chain, line or other method.

Anchorage areas. The words “anchorage areas” shall mean areas designated for anchoring.

Awash. The word “awash” shall mean a semi-submerged vessel or object.

Berth. The word “berth” shall mean a position to tie up to or anchor.

Boating season. The words “boating season” shall mean the period from July 1 to the following June 30.

Harbormaster. The word “harbormaster” shall mean the harbormaster and assistant harbormasters duly appointed by the Board of Selectmen the Select Board.

LOA, Length Overall, Overall length. The terms “LOA” and “Length overall” and “Overall length” are interchangeable and, where used, shall be taken to mean the length of a vessel from its forward-most part to its aft-most part.

Moor. The word “moor” shall mean to hold a vessel in place by cable, chain, line or other method as to a pier or buoy.

Mooring. The word “mooring” shall mean a semi-permanent anchorage anchor installation, consisting of a heavy anchor, chain, a mooring buoy and a pennant assigned by the Harbormaster and maintained by assigned mooring holder.

Mooring area. An area inside a harbor where moorings are assigned by the Harbormaster.

Mooring buoy. The words “mooring buoy” shall mean a white buoy with a blue band marking a mooring.

Mooring permit. The words “mooring permit” shall mean annual written authority signed by the Harbormaster pursuant to M.G.L c. 91, §10A. Also known as a “10A permit”.

Chapter 9, Harbors and Floats
Pennant. The word “pennant” shall mean a line or chain by which a vessel is made fast to a mooring buoy.

Person. The word “person” shall mean and include an individual, a receiver, a trustee, a co-partnership, a joint venture, a firm and unincorporated association, a syndicate, a trust, a corporation, or any other entity.

Pier. The word “pier” shall mean any structure built out into the water for use as a landing place.

Rockport harbors. The term “Rockport harbors” includes Rockport Harbor, Old Harbor, Granite Pier Harbor and Pigeon Cove Harbor.

Scuba. The word “scuba” shall mean self-contained underwater breathing apparatus consisting of a diving apparatus with compressed air tanks for breathing underwater.

Snorkel. The word “snorkel” shall mean a breathing tube extending above the surface of the water, used in swimming just below the surface.

Transient permit. A mooring permit issued for no more than seven (7) consecutive days.

Vessel. The word “vessel” shall mean ships of all kinds, barges, houseboats, sailing vessels, watercraft and powerboats of any type or kind by whatever means propelled, every structure designed, adapted or capable of being navigated, towed or operated on water from place to place for the transportation of merchandise, people, or for any other purpose.

Wharf. The word “wharf” shall mean any structure generally parallel to the shore for use as a landing place.

Winter buoy. The words “winter buoy” shall mean a winter mooring marker.

Section 2 Mooring of Boats

a. Permits

(i) Mooring Permits. No person shall moor, anchor or set any mooring, vessel or float within the limits of Rockport harbors without first obtaining a mooring permit from the Harbormaster.

(ii) Mooring Permit Application. No mooring permit shall be issued until the applicant files an application with the Harbormaster on a form setting forth the applicant's name and address, date of birth, business and home telephone number(s), length and type of vessel, the applicant's preference with regard to Rockport harbors, and such further reasonable information as the Harbormaster deems necessary. The applicant must be a...
natural person and not a company, partnership or other association. The application shall be accompanied by a fee to be determined by the Select Board of Selectmen.

(iii) **Issuance of Mooring Permit.** Upon receipt of a completed mooring application and any inspection of the mooring gear as the Harbormaster may require, and upon full payment of any fee that may be required pursuant to this by-law, a mooring permit may be issued designating the mooring location if in the opinion of the Harbormaster, the mooring and gear is sufficient to moor the vessel described in the application and there is available space within Rockport harbors to moor the vessel without endangering other vessels. The Harbormaster may reassign any vessel to a different mooring location as he deems appropriate. A permit may be issued only to a natural person and will not be issued to a company, partnership, or other association.

(iv) **Waiting List.** If, in the opinion of the Harbormaster, there is not available space within Rockport harbors to moor the vessel described in the application specified above, the applicant shall be placed on a waiting list maintained by the Harbormaster and a mooring permit shall be issued designating the mooring location when and if, in the opinion of the Harbormaster the mooring and gear is sufficient to moor the vessel described in the application and there is available space within Rockport harbors to moor the vessel. Applicants shall be issued permits on a first-come, first-served basis, taking into account availability of space, vessel size and such other factors as the Harbormaster deems fit and reasonable to equitably allocate space. In order to remain on the waiting list from year-to-year, the applicant shall pay an annual fee to be determined by the Select Board of Selectmen.

The Harbormaster shall maintain and make available for public inspection records of issuance, modification, surrender and revocation of mooring permits, and will post a list detailing all such changes to the waiting list on the Town Bulletin Board in Town Hall, with copy to the Select Board of Selectmen, twice per year.

(v) **Transfer of Permit.** No person may transfer his or her vessel’s mooring permit and no person shall cause any vessel to be attached to the mooring unless the vessel is described in the aforesaid application. Provided, however, the Harbormaster, however, may permit the use of a mooring by another vessel. In the event of the death of a mooring permit holder, the Harbormaster may assign the mooring permit to the decedent’s spouse or becomes the vessel’s registered owner or title holder and requests the transfer in writing within one (1) year of the event of death.

(vi) **Mooring Permit Terms.** No mooring permit will be issued for longer than a twelve-month period. No mooring permit shall be issued until the applicant files an application with the Harbormaster on a form supplied by him or her. The Harbormaster shall obtain the applicant’s name and address, date of birth, business and home telephone number(s), length and type of vessel to be attached thereto, and such further reasonable information as the Harbormaster deems necessary to enable him or her to determine the adequacy of the application, and until the applicant makes full payment of all fees that may be required imposed by Statute or pursuant to this...
by-law. No transient mooring permit shall be issued for more than seven (7) consecutive days.

(vii) **Maximum Vessel Length.** The maximum overall length of vessels on moorings in Rockport's harbors shall not exceed fifty (50) feet.

(viii) **Vessel Sales or Changes.** The Harbormaster must be notified within thirty (30) days of the sale of any vessel, or the transfer of any interest therein, assigned to a mooring in the Rockport harbors. The permit holder has one (1) year to replace the vessel. In extenuating circumstances, the Harbormaster may extend the time limit. Replacement vessels must conform to the type and size boat that has been approved by the Harbormaster. The Harbormaster may, if he deems appropriate, reassign any such replacement vessel to a different mooring.

(ix) **Designated Use.** A permit holder may, with the written approval of the Harbormaster, authorize a non-permit holder the use of said permit holder's mooring. The name of the non-permit holder must be present on the Waiting List as described in paragraph (iv) above for at least one (1) year [ref. Par. (iv) above]. Authorization can be granted for a maximum period of one (1) year. The same non-permitted boat will not be allowed to use the same mooring for more than one boating season. In the event that a permit holder shall not use his the holder’s mooring for thirty (30) days in any boating season it may be deemed abandoned and reassigned unless the permit holder has notified the Harbormaster, in advance and in writing, of his the holder’s intent not to use the mooring for a period not to exceed one boating season. In such event the Harbormaster may make the mooring available for assignment.

(x) **Skiffs, Floats.** Stickers will be issued for skiffs. All skiffs shall bear identification indicating the name and number of its owner, and the vessel to which it is a tender. A fee will be charged to skiffs not covered on a mooring permit. There should be a Bow lines must have six (6) feet of slack in bow line when a skiff is tied to a float; chain will not be allowed. Maximum length of skiffs and line shall be no more than will be twelve (12) feet. Motors are not allowed.

b. **Gear**

(i) **Mooring Buoy Identification.** The holder of a mooring permit shall cause his the holder’s name and boat length to be painted or placed on the mooring buoy of the mooring. Any mooring not properly marked may be removed by the Harbormaster. Mooring buoys shall be standard white with a two (2) Inch blue band.

(ii) **Winter Buoy.** The holder of a mooring permit may use winter buoys to mark the location of his the holder’s mooring. The winter buoy shall be upright and clearly marked with the name of the permit holder and length of boat. Winter buoys shall be removed by the first of by July 1st and not set until Labor Day of each calendar year without the written permission of the Harbormaster. The top part of all winter buoys shall be painted white with a blue band so as to be easily visible at any tide level. Any winter buoy not removed by the first of July 1st may be considered abandoned and may be removed by the
Harbormaster unless written permission has been granted by the Harbormaster to maintain the winter buoy beyond the July 1st deadline.

(iii) **Mooring Gear Inspection.** Holders of mooring permits shall annually inspect moorings and gear, including pennants and buoys, and if the gear is found defective, shall correct the defective condition immediately. The Harbormaster shall order the permit holders to have their mooring lifted at the permit holder's expense once every three (3) years for visual examination to determine its condition. In lieu of lifting moorings, replacements may be made or, at the holder's expense, the Harbormaster may permit an underwater visual inspection by an independent diver or a diver satisfactory to the Harbormaster who shall report the mooring condition to the Harbormaster.

(iv) **Minimum Mooring Gear.** The Harbormaster may issue mooring gear rules and regulations, including minimum standards for anchors and ground tackle, in order to protect against endangering other vessels. These rules and regulations shall prescribe the minimum gear required prior to the issuance or renewal of a mooring permit. It shall be the permit holder's responsibility to make sure that the gear selected is adequate to moor the permitted vessel in all conditions. The permit holder ought not rely solely upon the minimum gear standards that may be set forth in the Rockport Harbor Regulations as these standards are only minimum in nature. All gear must be installed and inspected by persons qualified by the Harbormaster to install ground gear. Gear not properly installed will be removed at the permit holder's expense.

c. **Fees**

Before a mooring permit is issued, and annually thereafter upon the sending of mooring permit bills, the applicant or holder shall pay a mooring permit fee. Such fee shall be assessed on a per foot basis, according to the overall length (LOA). The mooring permit fee for a float shall be assessed likewise. Fees shall be paid to the Town of Rockport. All mooring permit fees shall be calculated in the same manner. The Harbormaster may revoke any permit upon which the applicable fee has not been paid in full within ninety (90) days.

Transient mooring fees shall be paid on a per-foot, per-day basis.

All mooring fees shall be established on an annual basis as recommended by the Harbormaster and as approved by the Select Board of Selectmen.

**Section 3. Town Floats**

a. **Tying of Vessels.** Any person using the Town floats shall tie up their vessels as directed by the Harbormaster and shall move from the float when so directed by the Harbormaster.

b. **General Use.** Town floats may be used only for the prompt loading and unloading of passengers or supplies. For example, temporarily casting off from the float and then returning to the float within an hour will be considered unreasonable use of the float.
c. Charter/Party Boat Use. No person shall load or unload passengers for charter or party vessels except at the Town floats designated for that purpose. No person operating a charter or party boat will cause a charter or party boat to arrive at Town floats until just before loading time or to discharge passengers, and any person operating a charter or party boat shall leave the Town float immediately after loading or discharging passengers. One side of the Town Float in Rockport Harbor shall be left open for non-commercial use.

Section 4. T-Wharf

a. Loading and Unloading of Traps, Fish and Gear. No person shall moor a boat at the area at the head of T-Wharf designated for loading and unloading lobster traps, fish, lobsters, nets and related gear.

b. Fueling and Repair of Vessels. No person shall moor a boat at the area of T-Wharf north of the Town Float designated for fueling repairs and related activities of commercial vessels.

Section 5. Piers and Wharves
No person shall moor or station a vessel alongside piers or wharves in the Town of Rockport without permission of the Harbormaster.

Section 6. Headway Speed
No person shall operate a vessel at a speed greater than five (5) miles per hour or cause a disturbing wake in Rockport harbors.

Section 7. Towing in Anchorage Areas
No person shall operate a vessel while towing water-skiers, aquaplanes or similar devices in Rockport harbors.

Section 8 Stray Vessels
A vessel that is:

1) in a deteriorated or un-seaworthy condition; or
2) sunken or likely to sink; or
3) aground; or
4) adrift and likely to damage piers, wharves, floats or other vessels or to constitute a menace to navigation; or
5) secured to a mooring or pier without proper authorization, or in violation of these by-laws; and/or
6) awash,

is hereby declared to be a public nuisance and shall be considered a stray vessel. All stray vessels shall be delivered to the possession of the Harbormaster until claimed by the owner or disposed of according to law. The vessel owner shall pay all expenses incurred in connection therewith including charges for raising and storing same. Removal of any stray vessel by the Harbormaster shall be without liability to the Town of Rockport, its
officers, agents or employees. The Harbormaster may order the owner of any stray vessel to properly moor or remove any such vessel and failure to do so shall be a violation. For purposes of this section, the registered owner or title holder or any person commanding said vessel at the time just prior to it becoming "stray" shall be presumed to be the vessel owner.

Section 9. Lobstering, Fishing, or Obstructing Navigation in Harbors
No person shall place or maintain any obstruction to navigation, including a lobster pot or buoy attached thereto, or anchor any vessel within Rockport harbors, or any approach thereto.

Section 10. Scuba Diving, Swimming and Snorkeling
No person shall scuba dive, swim or snorkel in Rockport harbors except for purposes related to hull and mooring inspection, cleaning and maintenance.(Amended ATM 04/05/03)

Section 11. Fishing
No fishing is allowed from any Town float.

Section 12. Livery Boat Service

A Livery Boat Service licensed under Chapter 13.B.1.b, c.13 B, §1 (h) of these by-laws operating within the boundaries of the Town or the waters under its jurisdiction shall provide the following safety support:

a. Demonstrations of the rented/leased equipment to customers;

b. The following waterproofed documents to be placed aboard every rented/leased vessel:
   (i) Written instructions for operating the equipment,
   (ii) Abbreviated Rules regarding marine Right-of-Way,
   (iii) Chart sections of the anticipated areas of operation;

c. Such other equipment and/or training as may be mandated by Federal, Commonwealth, or Town regulations;

d. Personnel certified in CPR and other first aid techniques; and (added Amended ATM 04/03/04)

e. A designated means of retrieving the property of the Livery Boat Service or proof of contract for such retrieval services; (Amended ATM 04/02/05)
Section 13. Police Assistance
Police officers shall assist the Harbormaster or his or her assistants in enforcing the orders relative to the use of the floats and the provisions of this by-law. The Chief of Police or his designee, may, upon request of the Harbormaster, and when the interest of safety so requires, close some or all of any wharf or street to permit the orderly hauling or storage of vessels.

Section 14. Violations
Violations of Rockport Harbor Regulations or any rules or regulations promulgated hereunder may result in loss of mooring permit, fines or both.

CHAPTER 10. PUBLIC PEACE AND ORDER

A. Prohibited Conduct

Section 1. Public Drinking of Alcohol
No person shall drink any alcoholic beverage (as defined in Massachusetts General Laws, C. 138, § 1) or possess an opened container, full or partially full, of any alcoholic beverage, while in or upon any street, sidewalk, park, playground or other public place in the Town. No person shall drink any alcoholic beverage (as defined in Massachusetts General Laws, C.M.G.L. c 138, § 1) or possess an opened
container, full or partially full, of any alcoholic beverage, while in or upon any private land or place in the Town without the consent of the owner or persons having control thereof.

Section 2. Window Peeping
No person, except an officer of the law in the lawful performance of his duties, shall enter upon the premises of another with the intention of peeping into the windows of a residence or of spying in any manner upon any person or persons therein.

Section 3. Discharging Firearms
No person shall fire or discharge any gun, pistol or other firearm as defined M.G.L. c.140, § 121 in or across any street or other public place within five hundred (500) feet thereof, or on private grounds beyond the five hundred (500) feet limit, against the objection of the owner; but this section shall not prevent the use of such weapons in the lawful defense of one's person, family, or property, or in the performance of any duty required or authorized by law.

Section 4. Dressing in Vehicles
No person shall dress or undress in a motor vehicle or trailer on any street in the Town.

Section 5. Defacing Public Grounds and Property
No person shall willfully deface or damage any gravestones or markers in cemeteries, public playgrounds, planting spaces, flower beds, guideposts or guideboards, official signs, posts or signaling devices for the direction of traffic, lamp posts or lamps or lanterns, or any building, fence or monument, or other thing situated, erected or made for the use or ornament of the Town, subject to a three hundred dollar ($300.00) fine.

Section 6. Canvassing, Soliciting and Distributing Handbills on Private Premises
No person shall canvass, solicit, throw, deposit or distribute any commercial or non-commercial handbill upon any private premises, if requested by the owner or occupant not to do so, or if there is placed on the premises in a conspicuous position near the entrance, a sign bearing the words: “No Trespassing”, “No Peddlers or Agents”, “No Advertising”, “No Canvassing or Soliciting”, or any other words to a similar effect notice. No person shall canvass or solicit in the Town except in relation to non-
commercial purposes without first having filled out an application form and offered sufficient identification in the form of a driver's license or other suitable picture identification with the Police Department Select Board.

Section 7. Use of Tobacco Smoking or Vaping Products

a. Definitions. As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:

Smoking: The lighting of any cigar, cigarette, pipe or other tobacco or marijuana or nicotine product or of a device that heats up and vaporizes a liquid or solid tobacco, marijuana or nicotine product including but not limited to e-cigarettes, vape pen or similar products, or having the possession of any lighted cigar, cigarette, pipe or other tobacco such product.

Public building: Any enclosed, indoor area that is located in a building owned or occupied by any department or agency of the Commonwealth, or any political subdivision thereof, including the Town.

School Property: Any land, public building, trailer or motor vehicle owned or occupied by the Town School Department.

b. Smoking prohibited on School Property. Smoking, as that term is defined herein, The use of tobacco products within school buildings, the school facilities, or on school grounds by any individual, including school personnel, is prohibited.

c. Public Buildings. No person shall smoke in any public building except in an area that has been designated as a smoking area.

d. Penalties. Any person who violates any provision in subsections of this section b. and c. above shall be punished by a fine as follows:

First Offense: Warning
Second offense: $25.00
Third and subsequent offense: $50.00
(Added 03/21/98)

B. Animal Control

Section 1. Purpose

The purpose of this by-law is to control animals, and to prevent injury to property, persons and animals and to provide for the elimination of nuisance acts of dogs.

Section 2. Administration and Licensing
The Board of Selectmen shall annually appoint an Animal Control Officer and may appoint assistants who shall be responsible for the enforcement of this by-law. In addition to the requirements set forth in this Bylaw, the licensing, keeping and control of animals shall be in accordance with all applicable provisions of M.G.L. c. 140, §§ 136A to 174E. inclusive, as may be amended from time-to-time.

Annual dog and kennel licenses, as required by M.G.L. c.140, §§137 and 137A, must be obtained from the Office of the Town Clerk by January 1 for a licensing period of January 1 through December 31. When licensing a dog for the first time, proof of spay or neutering should be presented in order to be eligible for neutered or spayed license fee. There will be a late fee per dog for licensing after March 1.

Section 3. **Nuisance and Dangerous Dogs**

No person owning, harboring or having custody or control of a dog shall permit such dog to be a nuisance or dangerous dog as set terms are defined in M.G.L. c. 140, §§ 136A and 157, as may be amended from time-to-time. Orders concerning the restraint or disposal of nuisance or dangerous dogs may be made by the Select Board or its designee in accordance with the procedure set forth in M.G.L. c. 140, § 157, as may be amended from time-to-time. or cause a public nuisance. Public nuisance shall include, but not be limited to, making repeated and prolonged excessive noise, chasing or otherwise molesting people, attacking people or other animals, chasing vehicles and trespassing on private or public land in such a manner as to cause damage.

Section 4. **Prohibited Areas**

No person owning, harboring or having custody or control of a dog shall allow such dog to enter or remain

a. upon any cemetery grounds at any time;

b. upon any public school property between the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday during the school year and any special sessions, of school that shall be posted in the office of the School Superintendent and the Town Clerk;

c. upon any public beach from June 1st to September 15th.

This section, however, shall not prohibit a trained guide dog accompanying a person with visual impairment. the presence and of a trained guide dog accompanying any person with a visual impairment and in use as a service animal as that term is defined in the Americans with Disabilities Act and its implementing regulations and guidance, as may be amended from time-to-time, provided that the owner or keeper is in proper control of such dog at all times.

Section 5. **Control of Animals**
No person owning or keeping a dog in Rockport the Town shall permit such dog at any time to run at large in town roam freely in town, unless in an area or at a time exempted from this section by-law by order of the Animal Control Officer for the Town of Rockport which order shall first be approved by the Select Board Selectmen. Each time occurrence of a dog, licensed or unlicensed is at large roaming freely shall constitute a separate violation under this section. Dogs under law enforcement auspices shall be exempt. This section shall not apply to dogs in use for hunting, sporting or working purposes, provided that the owner or keeper is in proper control of such dog at all times.

As used in this section the term ‘at large’ “roam freely” shall mean that a dog is off the premises of the owner or and keeper and is on the premises of another without permission. When on public ways and other public property, including, but not limited to, parks, recreation areas and school grounds (when permitted), dogs shall be and not on a leash or, except in the downtown district of Rockport, under direct voice control. For purposes of this section the downtown district is that area encompassed by the shoreline from King Street southerly to High Street, then to Parker Street, then to Railroad Avenue to King Street and King Street to the shoreline, within this area dogs can only be on a leash. When permitted to be off leash, the owner or keeper must accompany the dog and must have a leash in possession at all times. (Amended ATM 3/18/2000)

Section 6. Fecal Deposits

The person owning, harboring or having custody or control of a dog shall remove and dispose of (in a suitable container) any feces left by such dog on any beach, sidewalk or street, in any park or other public place or on any private property neither owned nor occupied by said person.

Section 7. Dogs in Season

Every female dog in heat shall be confined in a building or secure enclosure in such a manner that such female dog cannot come into contact with another animal except for planned breeding.

Section 8. Dog Tags

All dogs shall wear a collar or similar device with the current dog tags (license) attached.

Section 9. Penalties

Notice of Violation

The Animal Control Officer shall issue a notice of violation of this by-law. The violation notice shall be given to the owner or person harboring or having control or custody of the dog that violated this by-law.

Section 10—Penalties (changed FTM 9/11/2006)
Any person who violates any provision in section 3-7 of this by-law shall be punished by a fine as follows:

- **First Offense:** $25.00
- **Second Offense:** $50.00
- **Third Offense:** $100.00
- **Fourth and Subsequent Offences:** $200.00

The violation of any other provision in this by-law or in M.G.L., c. 140, §136A-§174B shall be punished by a fine not greater than **one hundred dollars ($100.00)** for each offense.

The Animal Control Officer or any police officer of the Town shall be empowered to enforce provisions of this by-law.

In addition to the remedies set forth herein and in M.G.L. c. 140 §§136A to 174E, inclusive or any other applicable provision of law, this by-law may be enforced through any lawful means in law or in equity, including, but not limited to, non-criminal disposition pursuant to M.G.L. c. 40, §21D. If non-criminal disposition is elected, then any person who violates any provision of this by-law shall be subject to the following penalties:

- **First Offense** $50 fine
- **Second Offense** $100 fine
- **Third Offense** $200 fine
- **Fourth and subsequent Offenses** $300 fine

Subsequent offenses shall be determined as offenses occurring within two (2) years of the date of the first noticed offense. Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

### Section 10  Pick-up of Offending Dogs

Unrestrained or unlicensed dogs may be sought out, caught and confined by the Animal Control Officer or any police officer of the Town, and impounded pursuant to M.G.L. c. 140, §§151A and 167, as may be amended from time-to-time. The owner or keeper of any dog impounded under the provisions of M.G.L. c. 140, §167 may claim such dog, provided they first procure from the Town Clerk a license and tag for any such dog that is not licensed and pays the sum of twenty dollars ($20) per day for the care of the dog during the period of impoundment.

Any dog found to be in violation of this by-law and not under the immediate control of its owner or any other person may be picked up by the Animal Control Officer and either returned to the owner or deposited in a dog pound or similar facility. The owner shall be required to pay (in addition to any applicable fine) a pick-up fee of $20.00 and also shall
be responsible for all costs of maintaining and keeping the animal at the dog pound or similar facility.

Section 11. Application of Statute

The provisions of General Laws Chapter M.G.L. c. 140, Sections §§136A to 174B, inclusive, as from time to time amended, shall apply within the Town of Rockport and shall govern the control and licensing of dogs, except as modified herein and by Section 147A in said Chapter 140.

Section 12. Forms and Tags

Dog license forms, dog tags, kennel license forms and kennel dog tags shall be provided by the Town.

Section 13. Fees

Dog licenses shall be annual licenses that are effective during the licensing period for which they are issued, which period shall run from May 1st through the following April 30th. The failure to obtain a license prior to the end of the month of May in each year or to properly license a dog or kennel shall be punishable by a graduated fine of five dollars ($5.00) per month for each month the dog or kennel is not registered up to a total fine of twenty-five dollars ($25.00) in addition to the applicable annual fee.

The annual fee for every license shall be as follows:

- Sterilized male dog or spayed female: $10.00
- Male or female dog (not neutered): $16.00
- Kennel license (four or more but less than 10 dogs): $40.00
- Kennel license (10 or more dogs): $60.00
- Late fee: $xx

Section 15. County Fees

All fees and costs designated as paid by the County, in said sections 136A to 174B, inclusive, shall be paid by the Town.

Section 14. Use of Fees

All fees received hereunder shall be paid into the treasury of the Town for its use.

C. Water Use Restrictions

Section 1. Authority

This by-law is adopted by the Town under its police power to protect public health and welfare and its powers under M.G.L. c. 40, §§21 and implements the Town's
authority to regulate water use pursuant to M.G.L. c. 41, §41A. This by-law also implements the Town’s authority under M.G.L. c. 40, §41A, conditioned upon a declaration of water supply emergency issued by the Department of Environmental Protection.

Section 2. Purpose

The purpose of this by-law is to protect, preserve and maintain the public health, safety and welfare whenever there is in force a State of Water Supply Conservation or State of Water Supply Emergency by providing for enforcement of any duly imposed restrictions, requirements, provisions or conditions imposed by the Town or by the Department of Environmental Protection.

Section 3. Definitions

For the purposes of this by-law, the following definitions shall apply;

Person: shall mean any individual, corporation, trust, partnership, or association, or other entity.

State of Water Supply Emergency: shall mean a State of Water Supply Emergency an existing or impending water supply shortage that endangers the public health, safety or welfare as declared by the Massachusetts Department of Environmental Protection (“DEP”) under M.G.L.c.21G, §15.

State of Water Supply Conservation: shall mean a State of Supply Conservation need to conserve water due to an existing or impending water supply shortage that endangers the public health, safety, or welfare as declared by the Town Board of Commissioners of Public Works pursuant to Section 4 of this by-law.

Water Users or Water Consumers: shall mean all public and private users of the Town’s public water system, irrespective of any person’s responsibility for billing purposes for water used at any particular facility.

Section 4. Declaration of a State of Water Supply Conservation

The Town, through its Board of Commissioners of Public Works, (Board of Commissioners) may declare a State of Water Supply Conservation upon a determination by a majority vote of the Board that a shortage of water exists and conservation measures are appropriate to ensure an adequate supply of water to all water consumers. Public notice of a State of Water Conservation shall be given under Section 6 of this by-law before it may be enforced.

Section 5. Restricted Water Uses

A declaration of a State of Water Supply Conservation shall include one or more of the following restrictions, conditions, or requirements limiting the use of water as necessary
to protect the water supply. The applicable restrictions, conditions or requirements shall be included in the public notice required under Section 6 of this by-law.

a. Odd/Even Outdoor Watering: Outdoor watering by water users with odd numbered addresses is restricted to odd numbered days. Outdoor watering by water users with even numbered addresses is restricted to even numbered days.

b. Outdoor Watering Ban: Outdoor watering including, but not limited to the watering of lawns, gardens, washing of motor vehicles, is prohibited.

c. Outdoor Watering Hours: Outdoor watering is permitted only during daily periods of low demand, to be specified in the declaration of a State of Water Supply Conservation and public notice thereof.

d. Filling Swimming Pools: Filling of swimming pools is prohibited.

e. The use of sprinklers, soaker hoses and in-ground sprinkler systems is prohibited (Amended ATM 03/29/99).

Section 6. Public Notification of a State of Water Conservation: Notification of DEP

Notification of any provision, restriction, requirement or condition imposed by the Town as part of a State of Water Supply Conservation shall be published in newspaper of general circulation within the Town, or by such other means reasonably calculated to reach and inform all users of water of the State of Water Supply Conservation. Which shall include, at a minimum, publication on the Town’s Website and in any manner required by the DEP. Any restriction imposed under Section 5 of this by-law shall not be effective until such notification is provided. Notification of the State of Water Supply Conservation shall also be simultaneously provided to the Massachusetts Department of Environmental Protection DEP.

Section 7 Public Notification of Termination of State of Water Supply Conservation: Notice

A State of Water Supply Conservation may be terminated by a majority vote of the Board of Commissioners of Public Works upon a determination that the water supply shortage no longer exists. Public notification of the termination of a State of Water Supply shall be given in the same manner required by Section 6 of this by-law.

Section 8 Orders, State of Water Supply Emergency: Compliance with DEP

Upon notification to the public that a declaration of a State of Water Supply Emergency has been issued by the Department of Environmental Protection DEP, no person shall violate any provision, restriction, requirement, condition of any order approved or issued by the Department DEP intended to bring about an end to the State of Emergency.
Section 9. Penalties
Any person violating this by-law shall be liable to the Town in the amount of fifty dollars ($50.00) for the first violation and one hundred dollars ($100.00) for each subsequent violation which shall inure to the Town for such uses as the Board of Commissioners of Public Works may direct.

Fines shall be recovered by indictment, or on complaint before the District Court, or by non-criminal disposition in accordance with M.G.L. c.40, § 21D of Chapter 40 of the General Laws. Each day of violation shall constitute a separate offense.

Section 10. Severability
The invalidity of any portion or provision of this by-law shall not invalidate any other portion or provision thereof. (Added 03/21/98)

CHAPTER 11. MOTOR VEHICLES, STREETS AND PARKING

Section 1. Obstructing Streets and Sidewalks
No person, unless he is the holder of a permit issued by the Department of Public Works and except in accordance with the terms and conditions of such permit, shall obstruct any street or sidewalk by placing therein any structure, house or other building, permanent or temporary, within the Town and allow it to remain there, or allow shrubbery to overhang sidewalks so as to impede free passage of pedestrians and snow removal equipment.

Section 2. Damage to Sidewalks
No person, unless he is the holder of a permit issued by the Department of Public Works and except in accordance with the terms and conditions of such permit, shall break or dig up any public sidewalk, street, or highway in the Town. Any person having such a permit, shall before the expiration of same restore such sidewalk, street or highway to its original condition or to a condition satisfactory to such officials. Any such permit issued under the provisions of this section shall be in force for such time as the officials may specify and shall be subject to such other conditions as they may prescribe. During the whole of every night from sunset to sunrise, lighted lanterns, or similar devices, shall be provided by the permit holder to protect persons from danger. No person having obtained such a permit shall fail to comply with the conditions thereof. The official granting such permit shall have the right to revoke the same at any time, and may require a bond either before or after the commencement of work or during its progress to secure its performance.

Section 3. Placing Water in Streets
No person, shall knowingly permit any water or other liquid substance to run or be discharged from any structure or property owned by him or the structures and appurtenances under his control under their the person’s ownership or control, or onto or
Section 4. Horses on Sidewalks

No person shall ride or drive a horse on any public sidewalk in the Town. Nothing in this section shall prohibit a person from riding or driving a horse across a public sidewalk where it is necessary to access private property.

Section 5. Obstruction to Vision at Intersections

Prohibition. In order to reduce the probability of collisions between motor vehicle and/or pedestrian traffic due to lack of visibility, a person, owning, possessing or having under his control any real estate abutting any intersection of streets in any section of the Town, shall erect, place, plant or permit or suffer the erection, placing or planting of any fence or structure, shrubbery, foliage, hedge, tree or the like in such a manner that it shall materially impede the vision of operators of motor vehicles between a height of two and one half (2 ½) and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the street lines of said real estate and a line joining points thirty (30) feet along said street lines from the point of intersection of said street lines.

b. Enforcement. This section shall be enforced by fence viewers.

Section 6 Snow and Ice on Streets

No person shall cause snow or ice to be deposited on a street, sidewalk or gutter other than in line with and contiguous to snow and ice plowed by the Town. Property owners shall remove snow and ice from sidewalks on and adjacent to their property to the extent practicable.

Section 7. Placing Objects on Streets and Sidewalks

No person shall place in any street or sidewalk any object so as to obstruct a free passage for travelers and pedestrians, nor allow any object to remain more than one hour after being notified by police officer to remove it. Nothing in this section shall be construed to prohibit a person from using streets and sidewalks for building purposes if he is the holder of a permit issued by the Department of Public Works.

Section 8. Skateboarding, Coasting in Streets

No person shall use skateboards or similar devices or coast on sleds, inflatable tubes, toboggans or similar devices on any public way, street, sidewalk or private way to which
the public has the right of access, except in those areas, if any, designated for such use by
the Chief of Police, and approved by the Select Board of Selectmen.

Section 9  Parking

The Select Board of Selectmen may make rules and regulations regulating traffic and
parking upon the streets and highways of the Town and parking on Town property for the
health, safety and welfare of its citizens. The rules and regulations shall be known as the
Town of Rockport Traffic Rules and Regulations and shall be adopted in accordance with
the provisions of M.G.L. c.40, Section 8 22.

Section 10.  Parades and Public Gatherings

No person shall form or conduct any parade in any public street, public sidewalk or
public way within the Town or form or conduct for the purpose of display or
demonstration, any procession or assembly of people, (except a military or funeral parade
or procession within such public street, sidewalk or way), without first obtaining a
written permit from the Chief of Police; and no person shall take part in any such parade,
procession or assembly which is not authorized by such a permit.

Section 11.  Camping Without Permission

No person shall set up on any property, public or private, at any time without written
permission of the owner of the land, a camp or tent.

Section 12.  Failing to Stop or Go When Directed by Police Officer

No person having charge of a vehicle, whether motor or horse driven, in any public way
shall neglect to stop the same or to place the same when stopped as directed by a police
officer of the Town, nor shall neglect to refuse to go upon that part of the said way to
which such person is directed by a police officer of the Town.

Section 13.  Motorcycle, Motorbike, Snowmobile, Trail Bike, Motorized Scooter,
or any other Motorized Two-wheel Vehicles. (added Amended STM 09/10/01)

a. It shall be unlawful for any person to operate a motorcycle, motorbike, snowmobile,
trail bike, motorized scooter, or any other motorized two-wheel vehicle under the
following circumstances and the operator shall be subject to the traffic laws and
regulations of the commonwealth:

(i) On private property of another without the express permission to do so by the
owner or occupant of the property.

(ii) On public school grounds, public property, park property, playgrounds,
conservation areas, wetland areas, recreational areas, cemeteries and beaches
without the express provision or permission to do so in writing by the proper public authority.

(iii) In a manner as to create loud, unnecessary or unusual noise so as to disturb or interfere with the peace and quiet of other persons.

(iv) In a careless, reckless or negligent manner so as to endanger the life and safety of any person or the property of any other person.

(v) On sidewalks and public paths.

(vi) Operate a motorized scooter on any way without being equipped with a braking system to enable the operator to bring the scooter traveling at a speed of fifteen miles per hour to a smooth safe stop within thirty feet on a dry, clean, hard level surface.

(vii) Operate a motorized scooter without a helmet as described under 540 CMR 22.08. Furthermore, this regulation insists that any helmet meet current U.S. Department of Transportation (DOT) Federal Motor Vehicle Safety Standard No 218.

(viii) Operate a motorized scooter during the period from one-half hour after sunset to one-half hour before sunrise without displaying to the front of the scooter a lamp emitting a white light visible from a distance of at least five hundred feet, and to the rear of said scooter a lamp emitting a red light, or a red reflector visible for not less than six hundred feet when directly in front of lawful lower beams of headlamps of a motor vehicle. A generator powered lamp that emits light only when the scooter is moving shall meet the requirements of the clause.

(ix) To park a motorized scooter upon any way or sidewalk in such a manner as to obstruct vehicular or pedestrian traffic.

(x) Failure of the operator of a motorized scooter to report any accident involving either personal injury or property damage in excess of one hundred dollars, or both, to the Rockport Police Dept.

(xi) Operator of a motorized scooter not yielding right-of-way to pedestrians.

**D. Penalty for Violation.** Any person who violates any provision of this section shall be fined punished by any means in law or inequity and may be fined up to three hundred dollars ($300) per violation. This by-law may also be enforced by non-criminal disposition. in accordance with Chapter M.G.L.c.16, Section 8 2, Penalties of the Rockport Code of these of By-Laws.
Section 14. Repair of Private Ways

The Town may make temporary repairs and perform temporary maintenance on private ways. A For the purposes of this section, a private way shall be defined as private in ownership but a privately owned way open to the public use. To qualify under this bylaw, the private way must abut three (3) or more year-round occupied residences, be at least three hundred (300) feet in length and have been open to the public for a minimum of six (6) years. The repairs may include both the sub-surface and surface of a private way. This by-law shall not authorize the installation or repair of sewer piping, the installation, maintenance and repair of drainage, asphalt surfacing or resurfacing of the roadway, or the maintenance of any trees, shrubs or bushes.

Upon petition of the Director of Public Works, the Board of Commissioners of Public Works or by fifty (50%) percent (50%) of the abutters of a private way open to the public for a minimum of six (6) years, the Select Board of Selectmen by majority vote may declare that the repairs to the said private way are required because of public necessity and convenience.

Repairs to a private way proposed to be made pursuant to this by-law shall not be made unless eighty-five percent (85%) percent of the abutters adjacent to the affected area of said repairs have executed written agreements stipulating that the way in question is private and is open to public use, agreeing to the said repairs, and further agreeing to release, defend, indemnify and hold harmless the Town, its officers, employees and agents, from all claims arising out of the carrying out of said repairs, or out of the Town’s failure to make repairs to any portion of the way at any time, including all claims brought pursuant to M.G.L. c.84, §25. The Town shall incur no liability on account of damages caused by such repairs. Nothing in this by-law is intended to create any duty to maintain or repair such private ways on an annual basis. Betterments may be assessed for such repairs at the discretion of Town Meeting. The Board of Commissioners of Public Works shall require a cash deposit of seventy-five percent (75%) of the total project cost from the abutters prior to beginning the project, which shall be applied toward the cost of such repairs. The requirement for a cash deposit can be waived by Town Meeting action.

CHAPTER 12. PUBLIC SAFETY

Section 1. False Security Alarms

A Definition False Alarms. For the purpose of this section the term false alarm shall mean:

(i) the activation of an alarm through mechanical failure, malfunction, improper installation, or the negligence of the user of the alarm system, and/or his their user’s employees or agents;
(ii) any signal requesting, or requiring, or resulting in a response on the part of the Police and/or Fire Departments, when in fact, there has been no unauthorized intrusion into the premises, and no attempted robbery or burglary at the premises. Excluded from this definition will be false alarms that are caused by power outages, hurricanes, tornadoes, earthquakes, wind, or rain storms and similar conditions.
b. Persons to be Notified. Every alarm user shall submit to the Police Department and/or Fire Departments, the names, addresses and telephone numbers of at least two (2) other persons who can be reached at any time, day or night, and who will be authorized to respond to an emergency signal transmitted by an alarm system, and who can open the premises wherein the alarm system is installed. The names, addresses and telephone numbers of these persons must be kept current at all times by the alarm user.

It shall be the responsibility of the user to instruct the persons receiving calls from the Police Department and/or Fire Departments as to their responsibility when notified of an alarm and their responsibility to accept all calls from the Police Department and/or Fire Departments, and accepting charges for said calls.

c. False Alarm Report. The Police Department and/or Fire Departments shall notify the user in writing of each false alarm attributable to his or her alarm system, and it shall be the responsibility of the user to forward a full written explanation specifying the reasons for such false alarms, and the corrective action to be taken to prevent the further occurrence of said false alarms. The written explanation shall be forwarded directly to the Police Department and/or Fire Departments no later than fifteen (15) days from the date of notification of a false alarm.

d. Penalties for False Alarms. Any user of an alarm system which transmits false alarms shall be assessed a fine for each false alarm in excess of three (3) within the calendar year, as provided by the following schedule:

<table>
<thead>
<tr>
<th>Offense</th>
<th>Fine</th>
</tr>
</thead>
<tbody>
<tr>
<td>First</td>
<td>No Charge</td>
</tr>
<tr>
<td>Second</td>
<td>No Charge</td>
</tr>
<tr>
<td>Third</td>
<td>No Charge</td>
</tr>
<tr>
<td>Fourth</td>
<td>$25.00</td>
</tr>
<tr>
<td>Fifth</td>
<td>$50.00</td>
</tr>
<tr>
<td>Sixth and Subsequent</td>
<td>$100.00</td>
</tr>
</tbody>
</table>

The Police Department and Fire Departments shall provide written notification to the user of the assessment of set fines. Payment shall be made to the Town of Rockport through the Police Department and/or Fire Department within fifteen (15) days of the receipt of notification of said assessment. In addition to all remedies under law the failure to pay said fines within thirty (30) days of the assessment shall result in the disconnection of the alarm system from the Police Department until such payments of fines are made.

e. Testing of Equipment. No person shall work on, test, or demonstrate any alarm system designed to transmit emergency messages directly to the Police and/or Fire Departments. Permission is not required to test or demonstrate alarm devices not transmitting emergency messages directly to the Police Department and/or Fire Departments. An unauthorized test will constitute a false alarm with a subsequent penalty imposed.
f. **Start Up Period for New Connections.** Each user shall be allowed a period of thirty (30) days from the date of installation to correct faults, and/or defects, within the system, and to properly train all persons in the operation of the system. During this start up period no fines will be assessed.

g. **Waiver of Fines.** The Chief of Police or Fire Chief shall be authorized to waive the fines assessed for false alarms in the event the alarms are the result of a problem that cannot be readily identified, provided the unidentified problem is substantiated by a written report of a qualified alarm company which *that* will also outline what steps are being made to identify the problem. Said waiver of fines may be granted by the Chief of Police or Fire Chief for a reasonable period not to exceed thirty (30) days to allow the system to be repaired.

h. **Disconnection by Town.** The Town, of Rockport, through its Chief of Police or Fire Chief, reserves the right to order the disconnection of any alarm system which *that* is connected in any way to the Police *Department* and/or Fire Departments for violation of any of the provisions of this bylaw. Said disconnection shall occur only after the expiration of thirty (30) days from the date of written notification of pending actions by the Chief of Police or Fire Chief.

### Section 2. Swimming Pools

a. Any persons owning land in the Town of Rockport on which there is a swimming pool in-ground or above-ground, shall erect and maintain around such swimming pool an enclosure adequate to ensure that such pool is inaccessible to small children. Such enclosure shall extend from the ground to height of not less than five (5) feet above the ground or otherwise made inaccessible to children from the outside. Such enclosure shall be at least (5) feet from the edge of the swimming pool.

b. Above ground pool decks are subject to the requirements in Section 2. If the enclosure is on the deck around a swimming pool, it shall extend to a height of not less than five (5) feet above the deck at all points.

c. Pre-existing swimming pools lawfully installed prior to the original enactment of the requirements set forth herein are exempt from the requirement in the last sentence in Section 2, which requires a five (5) foot set back from the edge of the swimming pool, to the extent that the location or shape of the swimming pool precludes a minimum enclosure set back from the edge of the pool of at least five (5) feet.

### Section 2. Street Names and Building Numbers

a. In order to promote public safety and to implement the Enhanced 911 system, the Select Board of Selectmen shall adopt rules and regulations for the identification of unnamed private driveways serving two (2) or more lots.

b. All buildings in the Town shall be numbered. Building numbers shall be of a sufficient size and shall be affixed so as to be visible from the public or private way that provides access to said building. *(Added Amended 03/21/98)*
CHAPTER 13. COMMERCE AND TRADE

A. Signs

Section 1. Posting Bills, Placards, Etc.

a. No person shall post any written or printed matter, or any bill, placard, with paste or by any other means, or shall write any other figures, words or devices upon any building, fence or wall in the Town without consent of the owner or occupant of the same, nor upon any property of the Town, without the consent of the Select Board of Selectmen, or the official having jurisdiction over said property. No person shall deface or tear down any bill, placard or notice posted under the provisions of the preceding sentence, unless the same is affixed to premises owned by the person him or her under the person’s their control.

(iii) Signs permitting in All Zoning Districts without the need for a permit:

(i) One "For Sale" sign or "For Rent" sign, having not more than not exceeding six (6) square feet of signboard area and advertising only the premises on which the sign is located may be displayed.

(ii) One construction-related sign, not exceeding six (6) square feet of signboard area may be displayed on the premises where and only while any a structure is actually under construction.

(iii) Signs containing political, religious or personal messages shall not exceed six (6) square feet of signboard area and shall be subject to all other provisions of this section (Added Amended, Article 21 c. September 8, 1997, Town Meeting. Approved December 23, 1997) FTM 09/08/1997

(iv) Poster. Poster advertising Advertisements for non-profit or civic events may be placed in a window or on a bulletin board shortly before the event and all such signs must be removed on the next business day after immediately following the event.

IN ALL ROCKPORT ZONING DISTRICTS.
b. Permitting or Other Requirements in All Zoning Districts.

As defined in the Town’s Zoning By-Law, signs or advertising devices or display of goods are permitted only as follows:

(i) No person or corporation shall, out-of-doors, or extending beyond the door jambs, in connection with offering goods, wares or merchandise for sale, expose the same or a sign advertising the same, within the General District and Downtown District, without having first obtained a permit from the Select Board of Selectmen. No such display shall be placed in any district in such a manner as to create a public nuisance. Signs painted outdoors on driveways, sidewalks or rocks shall conform to this by-law. (amended ATM 04/06/13)

(ii) All signs or advertising devices or displays of goods shall be stationary and shall not contain any visible, moving or movable parts; no signs or advertising device shall be of neon or illuminated tube (gaseous discharge) type; lighting of any sign or advertising device shall be continuous, and shall not be intermittent, flashing, nor changing; no internally lighted signs are permitted; use of iridescent or luminescent types of paint are not permitted.

(iii) Sign illumination is permitted only between the hours of seven o'clock 7:00 A.M. in the morning and eleven o'clock in the evening 11:00 P.M., except that signs may be illuminated during any hours establishments are open to the public.

(iv) Signs shall relate to the premises on which they are located and shall identify only the residence, property and/or occupant of such premises and advertise only the articles or services available within said premises except by special permission of the Select Board of Selectmen.

(v) No sign shall be affixed to any public shade tree.

(vi) There shall be no temporary or permanent special promotional signs, banners, balloons, windsocks, streamers or placards erected, suspended, posted, or affixed in any manner outdoors or on the exterior of any commercial building, except by permission of the Select Board of Selectmen.

(vii) All signs protruding over Town property shall require a permit from the Select Board of Selectmen and shall be covered by such insurance as the Select Board Selectmen deem adequate.

c. Signs in general, downtown and semi-residential districts Zoning Districts.

As defined in the Zoning By-Law, signs or advertising devices or display of goods are
Chapter 13, Commerce and Trade

permitted only as follows: (Amended 04/06/13)

(i) On each lot in a General, Downtown or Semi-Residential District, there are permitted two (2) signs may be affixed to the exterior of a building for the occupant or business; the top edge of each sign shall not be higher than the lowest point of the roof except within the pediment. In buildings containing more than one business, not more than one sign per business shall be permitted. All No signs affixed to buildings in the General, Downtown and Semi-Residential districts, except on Bearskin Neck, shall not be more than exceed ten (10) square feet of signboard area per sign except by special permit from the Select Board of

(ii) All signs on Bearskin Neck shall be by require a special permit from the Select Board of

(iii) No free-standing sign shall have a signboard area (or display area if no signboard) exceeding ten (10) square feet gross area, measured from the tops of the topmost display elements to the bottom of the lowest display elements, and from exterior side of display elements and including in such measurements any blank space between display element: no display or free standing signboard dimension shall exceed four (4) feet except by special permit by the Select Board of Selectmen. Businesses shall be limited to one (1) free-standing sign per business or occupant.

(iv) **Window Signs.** Signs painted or placed on the inside of the glass of a window shall be permitted, provided, that the aggregate area of such signs does not exceed ten percent (10%) of the area of the window glass.

(iv) **Directory Signs.** In buildings properly used for business, commercial or industrial uses, one (1) directory sign which sets forth a directory of the establishments occupying a building may be erected and maintained at each exterior public entrance to the building, provided that such directory sign shall not exceed an area determined on the basis of one (1) square foot for each establishment lawfully occupying the building.

**d. IN RESIDENTIAL, RESIDENTIAL A, AND SINGLE RESIDENCE DISTRICTS** Signs in the Residential, Residential A and Single Resident Districts.

In Residential, Residential A, Single Residence zoning districts, As defined in the Zoning By-Law, signs or advertising devices or displays of goods are permitted only as follows:

(i) One (1) sign displaying the street number or name of the occupant of the premises, or both, not exceeding three (3) square feet in area; such sign may be attached to a building or may be on a rod or post not more than six (6) feet high and not less than three (3) feet from the street line; such sign may include identification of an accessory studio or professional office in the dwelling or on the premises, or may identify other permitted accessory uses, including customary home occupation.

Chapter 13, Commerce and Trade
For churches and institutions two (2) bulletin or announcement boards or identification signs are permitted; for each church or institution one (1) sign shall not exceed ten (10) square feet of signboard area and the other shall not exceed six (6) square feet of signboard area; no sign shall be located less than three (3) feet from the street line.

On a premises with a lawful non-conforming use, one (1) sign of not exceeding six (6) square feet of signboard area may be displayed. Other accessory signs require a special permit from the Select Board of Selectmen.

e. Fines (Amended ATM 04/06/13)

Violators of Chapter 13A shall be punishable by fines as follows:

First Offense: Warning
Second and subsequent offenses $100.00

Each day that a sign is maintained in violation of this by-law shall constitute a separate offense.

B. Licenses

Section 1. No person, without having first obtained a license in accordance with Chapter 3, Section 4(e)(ii) of these By-Laws, shall conduct the following activities within the Town:

a. Purchase, sell or barter junk, old metals or second hand articles within the Town;

b. Set up, use or drive hackney carriages for the conveyance of persons for hire from place to place within the Town or from within the Town to places outside the Town;

c. Discharge, explode, set off (or cause any of the foregoing) fireworks within the Town;

d. Set up, operate or carry on a self-service laundry or Laundromat, so called, or self-service dry cleaning establishment.

e. Set up, operate or carry on any business as a transient vendor as defined in G.L. c. 101, Section §1.

f. Hawk or peddle any magazines, publications, books, or magazine and book subscriptions;

g. Set up, operate or carry on any business for which a license is required by statute to be issued or which may be issued by the licensing authority of the Town.

h. Set up, operate or carry on a livery boat service for motor, sail or man-powered vessels.

Section 2. Criminal History Check Authorization. (Added Amended ATM 04/03/04)
a. In accordance with the provisions of M.G.L. c.6, §172B½, the Police Department shall fingerprint the persons listed below and conduct state and national fingerprint-based criminal history checks for such individuals. To carry out these criminal history checks, the Police Department shall be authorized to utilize Federal Bureau of Investigations records, provided, however, that such records shall not be disseminated to unauthorized entities and shall be maintained and disclosed in accordance with law.

The licensing authority is hereby authorized to deny an application for any license specified herein, including renewals and transfers thereof, from any person unfit for the license due to information obtained pursuant to this by-law. Factors that shall be considered in making a determination of fitness shall include, but are not be limited to, whether the record subject has been convicted of, or is under pending indictment for, a crime that bears upon the subject’s ability or fitness to serve in that the capacity being licensed, including any felony or a misdemeanor offenses that involved force or threat of force, possession of a controlled substance, or a sex-related offense.

b. All applicants for Hawkers and Peddlers, Door-to-Door Sales, Pawn Brokers, Solicitors, or Taxi and Livery licenses, and for any license to sell alcoholic beverages, including the “responsible manager” listed on the license application, shall be subject to the requirements of this by-law.

c. The Select Board of Selectmen, in consultation with the Chief of Police, shall promulgate regulations for the implementation of this by-law, which may include, but shall not be limited to, establishment of submission deadlines; procedures for making recommendations to the licensing authority or making a licensing decision as a result of such criminal history check; procedures for accessing, correcting or amending any such record; and criteria for fitness determinations in addition to those set forth in Section 4(a) of this by-law, above.

The Police Department shall charge a fee of one hundred dollars ($100.00) for each fingerprinting and criminal history check. A portion of the fee, as specified in M.G.L. c.6, §172B½, shall be deposited into the Firearms Fingerprint Identity Verification Trust Fund, and the remainder of the fee shall be retained by the Police Department for costs associated with the administration of the fingerprinting system. The collected fee shall be allocated and paid as permitted by the General Laws as follows: fifty dollars ($50) to the Commonwealth of Massachusetts, twenty-five ($25) to the Town of Rockport and twenty-five dollars ($25) to the Firearms Fingerprint Identity Verification Trust Fund.

C. Sale of Art

No person shall advertise or sell a painting within the Town as an original work of art unless it is one of a kind. No person shall sell a painting within the Town that has been signed by a fictitious or fraudulent signature, or otherwise than by the bona fide signature of the artist who created the work.
C.  Gambling (Added Amended 09/11/00)
No person shall operate any vessel or its launches to support gambling or games of chance, and use harbor facilities in the Town of Rockport, without first obtaining approval of a majority vote by citizens attending a regular or special Town Meeting.
CHAPTER 14. ENVIRONMENTAL PROTECTION OF WETLANDS

A. WETLANDS Wetlands Protection (Amended 03/29/99)

Section 1. Purpose

The purpose of this by-law is to protect the wetlands, water resources, and adjoining land areas in Rockport, the Town by controlling activities deemed by the Conservation Commission likely to have a significant or cumulative effect upon resource area values, including but not limited to the following: public or private water supply, groundwater supply, flood control, erosion control and sedimentation control, storm damage prevention, other damage prevention including coastal storm flowage, water quality, water pollution control, fisheries, shellfish, wildlife habitat, rare species, aquatic species and their habitats including rare plant species, agriculture, aquaculture, and the natural character of recreation values deemed important to the community (collectively, the “resource area values protected by this by-law”). This by-law is intended to utilize the Home Rule authority of the Town to protect additional resource areas, for additional values, with additional standards and procedures stricter than those of the Wetlands Protection Act (G.L. c. 131, § 40) and Regulations thereunder (310 CMR 10.00).

Section 2. Definitions

Except as otherwise provided in this by-law or permitted by the Conservation Commission’s regulations of the Town, the definition of terms in this by-law shall be as set forth in the Wetlands Protection Act on anything relative thereto (G.L., c. 131, § 40) and Regulations promulgated thereunder (310 CMR 10.00).

The following definitions shall apply in the interpretation and implementation of this by-law.

The term “quarry pit” shall include a) Quarry pit shall mean any open pit previously used for cutting stone, which has since become inundated with water from rain, runoff, or springs. This includes small pits known locally as “motions”.

The term “alter” shall include, without limitation b) Alter shall mean to change the conditions of any area subject to protection of this by-law and shall include but not limited to one or more of the following activities without limitation, when undertaken to, upon, within or affecting the resource areas protected by this by-law, as defined in § 3 of this by-law.

1) Fill removal, excavations, or dredging of soil sand, gravel, or aggregate materials of any kind.

2) Changing of pre-existing drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood storage retention characteristics areas.
3) Drainage, or other disturbance or lowering of the water level or water table.

4) Dumping, discharging, or filling with any material which may degrade water quality.

5) Placing of fill or removal of material, which would alter elevation.

6) Driving of piles, erection, or repair of buildings, or structures of any kind.

7) Placing of any obstructions or objects or obstructions whether or not it interferes with the flow of the water.

8) Destruction extensive trimming or removal of natural or plant life vegetation or including cutting of trees.

9) Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters.

10) Any activities, changes, or work which may cause or tend to contribute to pollution of any body of water or ground water.

11) Incremental activities, which have, or may have, a cumulative adverse impact on the resource areas protected by this by-law.

Section 3  Jurisdiction

Except as permitted by the Conservation Commission or as provided in this by-law, no person shall commence to remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter within the following resource areas: any freshwater or coastal wetlands; marshes; wet meadows; bogs; swamps; vernal pools; banks; reservoirs; lakes; ponds of any size; quarry pits and motions; rivers; streams; creeks; beaches; dunes; estuaries; the ocean; lands under water bodies; lands subject to flooding or inundation by groundwater or surface water; lands subject to tidal action; lands within 100 feet of above cited resource areas; coastal storm flowage, or flooding (collectively the “resource areas protected by this by-law” or resource areas). Said resource areas shall be protected whether or not they border surface waters.

Section 4. Applications for Permits and Requests for Determination (RED)

Written A written application shall be filed with the Conservation Commission to perform activities affecting resource areas protected by this by-law. The permit application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the resource areas protected by this by-law. No activities shall commence without receiving and complying with a permit issued pursuant to this by-law.
The Commission in an appropriate case may accept as the permit application and plans under this by-law the Notice of Intent (NOI) and plans filed under the Wetlands Protection Act on anything relative thereto (G.L. c. 131, s. 40) and Regulations (310 CMR 10.00).

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

At the time of a permit application or RFD, or application for a Certificate of Compliance the applicant shall pay a filing fee specified in regulations promulgated under Section 7 of the Commission this by-law. The fee is in addition to that required by the Wetlands Protection Act on anything relative thereto (G.L. c. 131, § 40) and Regulations the regulations promulgated thereunder (310 CMR 10.00). The fee shall be deposited in a dedicated account, for use only for wetlands protection activities, from which the Commission may withdraw funds with the approval of the Board of Selectmen.

Section 5. Notice and Hearings (Amended 09/11/00)

Any person filing a permit application with the Conservation Commission at the same time shall give written notice thereof, by certified mail (return receipt requested) or hand delivery, to all abutters and abutters to the abutters within 300 feet of the property line of the parcel or parcels of land where the proposed activity is to take place, at their Such notice shall be delivered to the mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, including any in another municipality or across a body of water. The notice to abutters shall have enclosed a copy of the permit application or request, with plans, or shall state where copies may be examined and obtained by abutters. The applicant shall obtain a certified list of names and addresses of all persons required to be notified from the Rockport Board of Assessor's Office. The applicant shall file with the Commission an affidavit of service signed by the person serving the notices, the certified list of names and addresses from the Rockport Board of Assessor's Office and a copy of the notices mailed and delivered. When a person requesting a determination is other than the owner of the property where the activity is proposed, the request for determination (“RFD”) or permit application (“NOI”) shall also be mailed or delivered to the owner by the applicant and proof of service shall be filed with the Commission. The Commission shall send a copy of the notice of hearing and a copy of the determination or permit to both the owner and applicant.

The Commission shall conduct a public hearing on any permit application NOI or RFD, with written notice given at the expense of the applicant, five (5) business days prior to the hearing, in a newspaper of general circulation in the municipality Town.

The Commission shall commence the public hearing twenty-one (21) days from receipt of a completed permit application or RFD unless an extension is authorized in writing by the applicant.
The Commission shall issue its permit or determination in writing within 21 days of the Close of the public hearing thereon unless an extension is authorized in writing by the applicant.

The Commission in an appropriate case may combine its hearing under this by-law with the hearing conducted under the Wetlands Protection Act on anything relative thereto (G.L. c. 131 § 40) and the regulations promulgated thereunder (310 CMR 10.00).

The Commission shall have the authority to continue the hearing to a certain date announced at the hearing, for reasons stated at the hearing, which may include receipt of additional information from the applicant or others deemed necessary by the Commission in its discretion, or the comments and recommendations of other boards and officials.

**Section 6. Permits and Conditions**

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

The Commission is empowered to deny a permit for failure to meet the requirements of this by-law; for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specifications, performance standards, and other requirements in regulations of the Commission; for failure to avoid or prevent unacceptable significant or cumulative effects upon the resource area values protected by this by-law; and where no conditions are adequate to protect those values. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial or continuance, as presented at the public hearing.

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

A permit shall expire three (3) years from the date of issuance. Notwithstanding the above, the Commission in its discretion may issue a permit expiring five (5) years from the date of issuance for recurring or continuous maintenance work. Provided that annual notification of time and location of work is given to the Commission, any permit may be renewed once for an additional one-year period, provided that a request for a renewal is received in writing by the
Commission prior to expiration. Notwithstanding the above, a permit may contain requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all owners of the land.

For good cause the Commission may revoke or modify a permit or determination issued under this by-law after notice to the holder of the permit or determination, notice to the public, abutters, and town boards, pursuant to Section 4 above of this by-law, and a public hearing.

The Commission in an appropriate case may combine the permit or determination issued under this by-law with the Order of Conditions or Determination of Applicability issued under the Wetlands Protection Act on anything relative thereto (GL (G.L. c. 131, § 40) and Regulations the regulations promulgated thereunder (310 CMR 10.00).

No work proposed in any permit application shall be undertaken until the permit issued by the Commission with respect to such work has been recorded in the Registry of Deeds or, if the land affected is registered land, in the Registry section of the Land Court for the district wherein the land lies, and until the holder of the permit certifies in writing to the Commission that the permit has been recorded.

Section 7. Regulations

After a public notice and public hearing, the Conservation Commission shall promulgate rules and regulations to effectuate the purposes of this by-law, which shall be effective when voted and filed with the Town Clerk, and approved by the Select Board of Selectmen. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act on anything relative thereto to suspend or invalidate the effect of this by-law.

At a minimum these regulations shall define key terms in relation to this by-law in a manner not inconsistent with the by-law and establish procedures governing the amount and filing of fees.

Section 8. Security

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

a. By a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Commission, to be released in whole or in part upon issuance of a Certificate of Compliance for work performed pursuant to the permit.
b. By accepting a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed. This method shall be used only with the consent of the applicant.

Section 9. Compliance

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

The Conservation Commission, its agents, officers, and employees, may enter upon the land where the proposed work is to be done in response to a request for a prior determination, or for the purpose of carrying out its duties under this by-law, and may, or cause to be made such examination or survey as deemed necessary.

The Commission shall have the authority to enforce this by-law, its regulations, and permits issued thereunder, by violation notices, administrative orders (if the community has accepted in accordance with G.L., c. 40 § 21D and Chapter 16, Section 2 (b) of these By-Laws), and civil and criminal court actions. Any person who violates any provision of this by-law may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined, or both.

Upon request of the Commission, the Town Counsel may take legal action for enforcement under civil or criminal law. Upon request of the Commission, the Chief of Police may take legal action to assist Town Counsel, acting as prosecutor pursuant to G.L. c. 278, § 15, in the criminal enforcement of this law.

Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement. Any person who violates any provision of this by-law, or regulations, permits, or administrative orders issued thereunder, shall be punished by a fine of not more than three hundred dollars ($300). Each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the this by-law, or regulations, permits, or administrative orders violated shall constitute a separate offense.

As an alternative to criminal prosecution in a specific case, the Commission may issue citations under the non-criminal disposition procedure set forth in G.L., c. 40, §21D and Chapter 16, Section 2(b) of these By-Laws, which has been adopted by the Town in Chapter 16, Section 2.b. of these By-Laws.

Section 10. Burden of Proof

The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence from a competent source that the work proposed in the permit application will not
Section 11. Appeals

A decision of the Commission shall be reviewable in the Superior court in accordance with G.L., c. 249, s. 4.

Section 12. Severability

The invalidity of any section or provision of this by-law shall not invalidate any other section or provision thereof, nor shall it invalidate any permit or determination, which previously has been issued.

CHAPTER 15. OTHER ENVIRONMENTAL ISSUES AND PUBLIC SAFETY

A. Litter

Section 1. Advertising

No person shall throw, cast, hand out or distribute, or cause or permit to be thrown, cast, handed upon any public street or public place within the Town of Rockport. Nothing herein shall be deemed to prohibit the lawful distribution of anything other than commercial and business advertising matter.

Section 2. Debris in Streets

No unauthorized person shall place, or cause to be placed, on any public sidewalk, street or highway or upon any of the common lands of the Town, any gravel, dirt, wood, lumber, buildings, vehicles, boxes, barrels, stones, coal ashes, rubbish or filth of any kind, noxious or refuse liquid or solid matter or substance, or any other things. No person shall throw or place, or cause to be thrown or placed, in any street or any sidewalk of the Town, any nails, spikes, screws, glass or other similar articles. No person shall willfully tip over or upset the contents of any box or barrel containing ashes, house dirt, or rubbish of any kind upon any sidewalk or into any public way of the Town, or in or upon coastal or inland waters, except ashes for burial.

Section 3. Improper Disposal in Public Places

No person shall deposit household trash, garbage or waste materials in litter barrels and collection devices on any public way, public park area to which the public has a right of access.

B. Noise

Section 1. Sounding or Car Horns

have unacceptable significant or cumulative effects upon the resource area values protected by this by-law. Failure to provide adequate evidence or information to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.
No person shall unnecessarily sound a car horn on public or private ways creating a loud noise or disturbance.

**Section 2. Sound Devices in Motor Vehicles (Added 09/11/00)**

No person shall play any radio, music player such as a boom box or any audio system, or use any device to increase muffler or motor sounds in any type of motor vehicle at such a volume as to be clearly audible from fifty (50) feet away, which annoys, disturbs or endangers the quiet, comfort or repose of persons within the Town of Rockport.

The following penalties shall apply to violation of this by-law:

<table>
<thead>
<tr>
<th>Offense</th>
<th>Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>First offense</td>
<td>mandatory warning citation</td>
</tr>
<tr>
<td>Second offense</td>
<td>$ 50.00</td>
</tr>
<tr>
<td>Third offense</td>
<td>$100.00</td>
</tr>
<tr>
<td>Fourth and each subsequent offenses</td>
<td>$300.00</td>
</tr>
</tbody>
</table>

**C. Water Pollution**

**Section 1. Swimming in the Public Water Supply**

No person shall bathe, wade or swim in a pond, stream, quarry or reservoir which is used for public water supply in the Town of Rockport.

**Section 2. Polluting Public Water Supply**

No person shall deposit excrement, foul waste, decaying matter, or any pollutant or contaminant in any water source used for domestic or public water supply within the Town or upon any shore or within fifty (50) feet of the water of any pond, stream or reservoir used for domestic or private water supply. Nothing in this section shall prohibit the lawful enrichment of land for agricultural purposes by any person owning, leasing or controlling real estate in the Town.

**Section 3. Pollution of the Town’s Waters**

No person shall discharge sewage, waste, refuse, fuel oil, or any other pollutant to the waters of the Town. Such discharge shall be punishable by fine and/or loss of mooring permit.

**Section 4. Pollution**

No person shall deposit or leave any excrement, waste materials, pollutant, contaminant or refuse on any beach in the Town.

**Section 5. Swimming in the Nude**

NOTE: NOT YET REVIEWED
No person shall swim or bathe nude in any of the waters in or surrounding the Town.

Section 6. Rules and Regulations

The Select Board of Selectmen may make reasonable rules and regulations concerning beach use and activities in order to promote public health, safety and welfare.

D. Aesthetics and Environment NOTE: NOT YET REVIEWED

Section 1. Vending Machines

a. No person shall place a vending machine on property owned or controlled by the Town without a license from the Select Board of Selectmen. The term “vending machine” shall mean any self-service device offered for public use which, upon insertion of a coin, coins, token, paper currency, or by other means, dispenses, sells or otherwise delivers food, beverage, either in bulk or in package, or any goods, papers or supplies.

b. An application for a vending machine license shall be made to the Select Board of Selectmen on a form approved by them. No such license shall be for a term of longer than twelve months. Each license application shall specify the size of the vending machine, what shall be offered for sale from each machine, the exact proposed location for each machine and the power source for the operation of each machine. The name and address of the applicant and the name and address and telephone number of the party responsible for the maintenance of each machine shall be included with each application.

c. The Select Board of Selectmen shall not issue a license unless it finds that the granting of the license and the placement and operation of the machine will not have a negative impact upon the neighborhood in which it is to be placed by reason of noise, odor, light and trash, and will not have a negative impact upon the character of the neighborhood in which it is to be placed.

Section 2. Junk and Junk Vehicles

a. Junk Licenses

(i) License Required. No person shall do business as a junk collector or dealer in junk unless licensed to do so by the Select Board of Selectmen. No person shall allow the accumulation of junk, junk cars, or other trash upon his their property so as to create a nuisance.

(ii) Fees. Junk Licenses shall be assigned and recorded by the Town Clerk before being delivered to the licensee. Such license shall continue in force until the May 1st following issuance, at which time the license shall they shall automatically expire, unless sooner revoked at the pleasure discretion of the Selectmen Board.

(iii) Rules and Regulations. The Selectmen Board may make rules and regulations governing and imposing restrictions upon the use of junk licenses.
(iv) Fee for License. The fee for such license shall be set by the Selectmen.

b. Junk Vehicles

(i) No person in charge or in control of any real estate within the Town, whether owner, tenant, occupant, lessee or otherwise, shall allow any partially dismantled, non-operating or wrecked motor vehicles to remain on such property longer than sixty (60) days without a valid windshield sticker, so-called, issued and displayed in accordance with the requirements of Chapter M.G.L. c. 90, Section § 7A of the General Laws, as amended, and the rules and regulations of the Registrar of Motor Vehicles, unless a permit has been obtained from the Select Board of Selectmen. Said permit(s) must be affixed to the vehicle(s) plainly and visibly.

The Board shall not issue a permit unless it finds that such vehicle on said premises does not constitute a hazard to the safety and welfare of the inhabitants of the Town nor will otherwise nullify or substantially derogate from the purpose or intent of the Zoning By-laws. No such permit shall be required for a vehicle in an enclosed building nor for a vehicle on the property of a lawful business or farming enterprise if necessary to such operations, nor for motor vehicles at the place of business of a holder of a Class 3 license under Sections 58 and 59 of Chapter 140 of the General Laws.

(ii) For purposes of this by-law, a junk vehicle shall include:

a. Any motor vehicle which is worn out, cast off, or discarded;
b. Any motor vehicle which is ready for dismantling or destruction; or
c. Any motor vehicle which has been collected or stored for salvage or for scrapping in order to make use of the parts thereof. Any parts from a junk vehicle shall also be considered a junk vehicle under this by-law.

(iii) No such permit shall be required for a vehicle in an enclosed building, not for a vehicle on the property of a lawful business or farming enterprise necessary to such operations, not for motor vehicles at the place of business of a holder of a Class 3 license under Sections M. G.L. c. 140, §§ 58 and 59 of Chapter 140 of the General Laws.

c. Junk Vehicle Licenses

i) A license to keep not more than two (2) junk vehicles may be requested by filing with the Town Clerk an application in writing to the Select Board of Selectmen. The Board shall hold a public hearing upon such request. The cost of publishing a notice of the hearing shall be paid by the applicant for the license.

ii) The Select Board of Selectmen may grant a one (1) year license upon such conditions as the Board deems appropriate to keep such junk vehicles in the open after a public hearing has been held, and the Board determines that the keeping of same will not depreciate property values in the area, will not create a hazard to the public safety, or will not become a public nuisance. Renewal of this license shall be granted only after the procedure set forth above is followed.
(iii) **Revocation.** Upon the filing with the Select Board of Selectmen of a petition signed by at least ten (10) legal residents of Rockport, the Town asking for revocation of any license issued under this by-law, the Board shall call a public hearing to review the conduct of the licensee under said license. If the Board determines that the operation of the license is such as to depreciate property values in the area, create a hazard to the public safety, or constitute a public nuisance, the Board may by majority vote, revoke said license. The effective date shall be thirty (30) days after the said vote of revocation.

**Section 3. Top Soil, Stone and Gravel Removal**

**a. Permit Required.** The removal for sale or for use elsewhere other than on the parcel of land involved, of soil, (including turf or top soil), loam, sand, ledge, gravel and stone from any parcel of land not in public use in the Town, is prohibited unless in accordance with the terms of a permit issued by the Select Board of Selectmen.

**b. Application for Permit.** An application for a permit shall be filed with the Select Board of Selectmen and shall be accompanied by a plan of the land involved showing the boundaries, area and dimensions, the abutting land owners, and the location and extent of the portion from which the applicant proposes to remove said material. A fee for the permit shall be set by the Select Board of Selectmen.

**c. Public Hearing.** The Select Board of Selectmen shall hold a public hearing, together with the Planning Board and Conservation Commission, to consider the application. The Board of Selectmen shall publish a notice in a local newspaper in general circulation in the Town not less than ten (10) days before the date set for the hearing. The Select Board of Selectmen shall give notice of the hearing by mail postage prepaid to all known abutting land owners, as shown by the records of the assessors of the Town of Rockport, and to any other person or persons who, in the opinion of the Selectmen, may be interested in the application, not less than ten (10) days before the hearing. The applicant shall bear the expense of the publication and mailing.

**d. Refer to Planning Board and Conservation Commission.** After the hearing has been concluded the Select Board of Selectmen shall refer the application to the Planning Board and Conservation Commission for their recommendations thereon.

**e. Consideration of Public Welfare.** The Select Board of Selectmen, in passing upon such application, shall give due consideration to the property rights of the applicant and may not arbitrarily refuse to grant the permit.

The Select Board of Selectmen shall also give due consideration to the public welfare, safety, health and interest. The Select Board of Selectmen may refuse to grant the permit if they find that the proposed use is likely to adversely affect property values in the area or produce disagreeable dust and noise or a dangerous condition or unreasonably injure the character of the area or cause an objectionable condition or result in the other detriment to the public good or for any other valid reason. The Select Board of Selectmen may or, if requested in writing at the
f. Limitations to Permit. In granting such a permit the Select Board of Selectmen may impose limitations both of time and of use, and a continuation of the use permitted may be conditioned upon compliance with regulations to be made and amended from time to time.

g. Continued Use of Land. Notwithstanding the provisions of this by-law, any lawful use of land of the type regulated herein may be continued to the extent such use exists at the time this by-law became effective, such use to be restricted to the area then actually appropriated for such use.

h. Penalties for Violations. The penalty for violation of this by-law shall be as follows:

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<thead>
<tr>
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<td>First offense</td>
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<tr>
<td>Third and subsequent offense</td>
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</tr>
</tbody>
</table>

i. Permit Transfers. Permits issued under this by-law shall not be transferable.

Section 4  Off - Road Vehicles

a. The Select Board of Selectmen shall adopt, and may, from time to time, amend regulations governing the use of Town property by off-road vehicles, including, without limiting the foregoing, mini-bikes, motorbikes and off-road vehicles. This section shall not apply to vehicles, registered with the Commonwealth of Massachusetts, on public and private ways and public parking areas.

Section 5.  Historic District

a. Purpose. The purposes of the by-law, adopted under the provisions of General Law, Chapter M. G.L. c. 40C, are to promote the educational, cultural, economic and general welfare of the public and the owners of property located in historic districts, through the preservation and protection of the distinctive characteristics of buildings and places significant in the history of Rockport and the Commonwealth or their architecture, and to maintain and improve the settings of those buildings in the district.

b. Establishing of Districts. There may be established in the Town of Rockport districts to be known as “Rockport Historic Districts” with the descriptions of each district to be set forth herein as follows:

(i) Main Street Historic District - The Main Street Historic District is hereby created and shall be bounded and described as shown on a plan entitled “Main Street Historic District”, dated June 1976, a copy of which is on file with the Town Clerk's Office, which plan is incorporated herein by reference.
(ii) Mt. Pleasant/South Street Historic District - The Mt. Pleasant/South Street Historic District is hereby created and shall be bounded and described as shown on a plan entitled “Mt. Pleasant/South Street Historic District”, dated June 1976, a copy of which is on file with the Town Clerk's Office, which plan is incorporated herein by reference.

(iii) Downtown Historic District - The Downtown Historic District is hereby created and shall be bounded and described as shown on a plan entitled “Downtown Historic District” dated September 1980, a copy of which is on file in the Town Clerk's Office, which plan is incorporated herein by reference.

(iv) Broadway Historic District - The Broadway Historic District is hereby created and shall be bounded and described as shown on a plan entitled “Broadway Historic District” dated September 1982, a copy of which is on file in the Town Clerk's Office, which plan is incorporated herein by reference.

c. Establishment of Commission. (updated FTM 9-9-19) There is hereby established a Historical Commission under the provisions of the “Historic Districts Act”, General Laws, Chapter M.G.L. c. 40C, as amended, consisting of five (5) members and two (2) alternates appointed by the Selectmen Board including one (1) member, where possible, from two (2) nominees submitted by the Sandy Bay Historical Society; one (1) member, where possible, from two (2) nominees submitted by the Massachusetts State Chapter of the American Institute of Architects; one (1) member, where possible, from two (2) nominees of the Board of Realtors covering the Town Rockport; and two (2) members, where possible, from four (4) nominees, each residents of Historic Districts in Rockport the Town, as defined in Section (b) of this by-law.

When the Commission is first established one (1) member shall be appointed for one (1) year, one (1) member shall be appointed for a term of two (2) years, and three (3) members shall be appointed in like manner terms of for three (3) years, and their successors shall be appointed in like manner for terms of three (3) years.

d. Powers of Commission. The Historical Commission shall have the powers and duties of historic district commissions as provided by the Historic District Act, General Laws, Chapter M.G.L. c. 40C and the powers and duties of historical commissions as provided by General Laws, Chapter G.L. c. 40, Section §8D. (added Added STM 9/10/2001)

e. Rules and Regulations. The Historical Commission shall adopt rules and regulations for the conduct of its business not inconsistent with the provisions of the Historic Districts Act or anything relative thereto, General Laws, Chapter M.G.L. c. 40C, as amended, and may be subject to appropriation, employ clerical and technical assistants or consultants and may accept money gifts and expend same for such purposes.

f. Applications. Applications for certificates, restrictions concerning building permits, factors to be considered by the Commission, notice of hearing and hearing requirements, powers,
functions and duties of the Commission and appeals not provided for in this by-law shall be
governed by General Laws, Chapter M.G.L. c. 40C, the Historic Districts Act.

g. Determinations. When taking action under the provisions of the Historic Districts Act
General Laws, Chapter M.G.L. c. 40C, as amended, the Historical Commission shall make a
determination within the time specified by the statute for a certificate of appropriateness, or
such further time as the applicant may in writing allow.

h. Severability. The parts and provision of this by-law shall be deemed to be severable if any of
its provisions shall be held to be invalid or unconstitutional by any court of competent
jurisdiction and the remaining parts and provisions shall continue in full force and effect.

Section 6. Floodlights and Spotlights (Added ATM 03/24/01)

Exterior Residential Dwelling Lighting

a. Purpose: The need for exterior lighting is widely recognized. Used properly it increases
safety, helps provide security, and can enhance the Town’s nighttime character. New
 technologies have produced extremely powerful lights. Unless used properly, they can produce
excessive glare and light trespass. Glare is a safety issue. Light trespass is a privacy issue.
Exposure to artificial blue light is a health, safety and environmental issue1. Regulating exterior
lighting will benefit the ability of Rockport citizens and visitors to better view the nighttime
sky.

b. Definitions [NOTE: THIS SECTION NOT FINISHED. TOWN COUNSEL NOTES IN
RED AND IN BRACKETS]

[Fixture: An assembly that houses a lamp or lamps, and which may any other parts such as a
reflector, lens or mounting bracket.]

Color temperature (of a light source): The temperature at which an opaque and non-reflective
object will radiate light of a color comparable to that of the light source. Color temperature is
expressed in degrees Kelvin (°K). Light sources with higher color temperatures contain more
blue light than light sources with lower color temperatures, and appear brighter to the human
eye, all other conditions being equal.

Direct Light: The light emitted directly from the light source, off the reflector or reflector
diffuser, or through the refractor or diffuser lens of a luminaire.

Floodlight [or Spotlight]: A broad-beamed high-intensity luminaire [Any light fixture or lamp
which concentrates the light output into a directed beam in a particular direction.]
Foot-candle (FC): A measurement of the luminance reaching an object. One foot-candle equals one lumen per square foot. [A unit of light intensity measured at a distance from the source.]

Full-cut off (fully shielded): A luminaire that is constructed, and installed so that no light is emitted at any angle above a horizontal plane passing through the lowest light emitting part (including refractors, reflectors or other devices) of said luminaire to a point five (5) feet above grade at the property line as might be viewed at that height by an observer standing at that place.

Glare: A visual sensation caused by excessive and uncontrolled brightness. Glare is a function of the color temperature of the light source.

Illuminance: A measure of how much incident light strikes a surface, measured in foot-candles.

Light source (also referred to as a “bulb” or “lamp”): The component of a luminaire which produces light.

Light pollution: An unwanted consequence of outdoor lighting. It includes such effects as sky glow, light trespass, and glare.

Light trespass: Illumination from a luminaire being cast where it is neither wanted nor needed, going beyond the lot lines of the lot on which the luminaire is located, at a level greater than the ambient illumination level as measured at the lot line in a horizontal and vertical plane.

[Lamp: The component of a luminaire which produces light.]

• Lumen: [A unit of light output.] The measurement of the direct light emitted by its source. For the purposes of this section, the lumen output of a luminaire shall be the initial lumen rating listed by the light source data sheet when operated at its rated conditions.

• Luminaire: [A complete lighting system including a lamp or lamps and a fixture.] A complete lighting unit, consisting of light sources, ballast (when applicable), and any part designed to distribute the light, position the unit, protect the light sources (housing), and connect to the power supply.

• Luminance: The amount of light that passes through, is emitted from, or reflected from a particular area, and is thus an indicator of how bright a surface or light source will appear.

• Motion detector (also referred to as a “motion sensor”): Any electronic device capable of detecting physical motion within the environment being monitored. For the purposes of this Bylaw, said motion detector shall be used to trigger one or more luminaires into operation and to maintain it or them in the illuminated state for a preset time interval, after which said illumination shall be extinguished.
• **Residential dwelling**: A structure or part of a structure that is used as a home or residence by one or more persons who maintain a household, whether single family, multifamily, or mixed use.

• **Spotlight**: A high-intensity luminaire projecting a sharply-focused beam of light.

c. **Exterior Residential Lighting Regulations**

[i)] Any flood or spot luminaire rated at two thousand two hundred (2200) lumens or greater shall not emit any light beyond the property line on which the luminaires are located.

   ii) A difference of more than one-tenth (0.1) foot-candles, measured with and without the lights turned on, at a height of five (5) feet at the property line, will indicate non-compliance. The measurement will be made with a calibrated light meter directed at the luminaire.

   iii) Existing luminaires that do not conform, replaced with a conforming luminaire, or extinguished within one (1) year from the date of acceptance of this amendment.

   iv) For safety reasons, any private outdoor lighting fixture, whether temporary or permanent, shall be so placed or hooded that the light source itself shall not constitute a safety hazard or a nuisance to neighbors.

   v) The provisions of this by-law shall be enforced by the Building Inspector]

1) Temporary holiday lighting is exempt from these regulations.

2) Luminaires shall emit a steady and constant light while powered on.

3) Existing full-cutoff-designed luminaire light sources shall not exceed 3,000 °K color temperature.

4) Other existing luminaire light sources shall not exceed 2,750 °K color temperature.

5) Existing floodlights or spotlights shall be of full-cutoff design.

6) New luminaires and replacement luminaires must be of full-cutoff design and their light sources shall not exceed 2,750 K color temperature.

7) Luminaires shall be oriented such that light trespass will not occur beyond all adjacent property lines.

d. **Compliance**

1. These regulations set forth in subsection C shall apply to all exterior residential luminaires.

2. Existing luminaires which are not in compliance with subsection C as of its effective date shall nevertheless be considered in compliance so long as said:

   a. floodlight and spotlight luminaires are fully shielded, and
b. other exterior luminaires conform with either of the following alternative requirements:
   (i) Remains extinguished between the hours of 11:00 P.M. and 5:00 A.M.
   (ii) Only operate for five (5) minutes maximum and only when triggered by a motion detector.
3. All new luminaires and replacement luminaires and light sources must comply with subsection C.”

E. SINGLE USE PLASTICS PROHIBITION (Added FTM 9-17-2018 Effective date 03-1-2019)

Section 1. Single Use Plastic Bag Prohibition

a. Purpose and Intent

The production and use of thin-film single-use plastic bags has significant impacts on the marine and land environment, especially in coastal communities, including but not limited to: contributing to the injury and potential death of marine animals through ingestion and entanglement, contributing to the pollution of the land environment and waterways, clogging storm drainage systems, creating a burden to solid waste collection and recycling facilities, and requiring millions of gallons of oil nationally in the manufacturing and distribution process. Plastic or bioplastic bags labeled as “biodegradable” lack sufficient information about the timeframe and composting facility required for biodegradation. “Biodegradable” bags are not necessarily compostable or recyclable. Thus, bags simply labeled as “biodegradable” for all intents and purposes have similar environmental impacts as thin-film single-use plastic bags aforementioned. “Biodegradable” bags of this type are therefore also subject to the requirements herein.

The goal of this bylaw is to conserve, protect, and enhance the natural beauty and health of the marine and land ecosystems in the Town of Rockport by eliminating the usage of thin-film single-use plastic bags at all retail establishments within the town.

b. Definitions

ASTM D6400 STANDARD: The testing standard to designate a bag as “compostable” developed by the American Society for Testing and Materials. This label is placed on plastics that are intended to be composted under aerobic conditions in municipal or industrial composting facilities.

COMPOSTABLE BAG: A bag that conforms to the current American Society for Testing and Materials (ASTM) D6400 Standard specifications for compostability, and is certified and labeled as such by a recognized verification entity.

RECYCLABLE PAPER BAG: A paper bag that meets all of the following requirements: (1) is one hundred percent (100%) recyclable overall and contains a minimum of forty percent (40%) post-consumer recycled material; (2) is capable of composting, consistent with the timeline and specifications of the American Society for Testing and Materials (ASTM) D6400 Standard.
RETAIL ESTABLISHMENT: Any commercial business facility that sells goods and/or services to the public including but not limited to grocery stores, pharmacies, bars, restaurants, markets, liquor stores, retail stores, and convenience stores.

REUSABLE BAG: A bag, with handles, that is specifically designed for multiple use and is made of thick plastic, cloth, fabric, or other durable materials.

THIN-FILM SINGLE-USE PLASTIC BAG: A bag, typically with handles, with a thickness of 4.0 mils or less, that is provided at the point of sale for transport of purchased products. This includes but is not limited to bags made of high-density polyethylene, low-density polyethylene, or “biodegradable” materials and which do not meet the ASTM D6400 standard specifications for compostable plastic.

c. Use Regulations

(i) Thin-film single-use plastic bags shall not be distributed to customers or sold at any retail establishment in the Town of Rockport.
(ii) Retail establishments may provide recyclable paper bags or compostable bags to customers.
(iii) Customers are encouraged to bring their own reusable or compostable bags to retail establishments. Retail establishments are strongly encouraged to make reusable bags available for sale to customers at a reasonable price.
(iv) Thin-film plastic bags, typically without handles, that are used to contain produce, meat, bulk foods, newspapers, dry cleaning, wet items, and other similar merchandise, are exempt from the provisions of this bylaw.

d. Administration and Enforcement

This bylaw shall be enforced by any officer of the Police Department and by the Board of Health or its agent.

If a violation has occurred, the offending retail establishment shall receive a warning notice for the initial violation from the enforcing agent.

If an additional violation of this bylaw has occurred within one year after a warning notice has been issued for an initial violation, the enforcing agent shall issue a notice of violation and shall impose a penalty against the retail establishment.

The penalty for each violation that occurs after the issuance of the warning notice shall be as follows:

i. $50.00 for the first offense
ii. $100.00 for the second offense and each subsequent offense. Each day or portion thereof shall constitute a separate offense.

All fines shall be payable to the Town of Rockport.

Section 2. Single Use Straw and Stirrer Prohibition
a. Purpose and Intent

The use and disposal of plastic straws and stirrers has significant negative impacts on the marine and land environment. It has been found that:

1. Plastic straws and stirrers are rarely recycled.
2. Rockport proximity to the ocean means that plastic straws and stirrers that are not disposed of properly have a high chance of ending up on the beaches and in the sea.
3. Plastic straws and stirrers take up to 200 years to degrade and are never fully absorbed by the planet.
4. The degradation of plastic straws and stirrers releases chemicals toxic to wildlife, humans, and the environment.
5. The United States uses and disposes of an estimated 500 million plastic straws every day.

The Town of Rockport has a duty to protect the natural environment, the economy, and the health of its citizens. This Bylaw aims to uphold these duties by banning the sale or dispensing of single-use plastic straws and stirrers within the Town of Rockport.

b. Definitions

ASTM D6400 STANDARD: The testing standard to designate a plastic as “compostable” developed by the American Society for Testing and Materials. This label is placed on plastics that are intended to be composted under aerobic conditions in municipal or industrial composting facilities.

BEVERAGE PROVIDER: Any business, organization, entity, group, or individual located in the Town of Rockport that offers liquid, slurry, frozen, semi-frozen, or other forms of beverages to the public for consumption.

COMPOSTABLE PLASTIC STIRRER: A stirrer designated as compostable as it meets the American Society for Testing and Materials (ASTM) D6400 Standard.

COMPOSTABLE PLASTIC STRAW: A straw designated as compostable as it meets the American Society for Testing and Materials (ASTM) D6400 Standard.

FOOD ESTABLISHMENT: An operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption. Any establishment requiring a permit to operate in accordance with the State Food Code, 105 CMR 590.000, et. seq., shall be considered a “Food Establishment” for purposes of this ordinance.

PLASTIC STIRRER: A device that is used to mix beverages, intended for only one-time use, and made from plastic materials including but not limited to polyethylene, polypropylene, and polystyrene.

PLASTIC STRAW: Any single-use plastic straw including but not limited to those made from polyethylene, polypropylene, and polystyrene.

RETAIL ESTABLISHMENT: Any commercial business facility that sells goods directly to consumers.
including but not limited to grocery stores, pharmacies, liquor stores, convenience stores, retail stores and vendors selling food, clothing, and personal items, dry cleaning services, and theaters.

c. Use Regulations

a. No food establishment, retail establishment, or beverage provider within the Town of Rockport shall use, provide, distribute, or sell plastic straws and/or stirrers.
b. Nothing in this section precludes food establishments, retail establishments, or beverage providers from using or making non-plastic alternatives, such as those made from paper, Compostable Plastic, sugar cane, or bamboo, available to customers. Non-plastic alternative straws and/or stirrers shall only be provided upon request by the customer.
c. It shall not be a violation of this bylaw for a food establishment, retail establishment or beverage provider to provide a plastic straw or stirrer to an individual requesting one due to a disability or other physical condition that makes the use of alternative straws or stirrers unfeasible or unduly impractical.

d. Administration and Enforcement

Enforcement of this bylaw is the responsibility of the Police Department and the Board of Health or its Agent.

Any establishment which violates any provision of this Bylaw shall be subjected to the following penalties:

I. warning for the first offense

II. $100.00 fine for the second offense

III. Each day or portion thereof constitutes a separate offense.

All fines shall be payable to the Town of Rockport.

Chapter 14, Environment Protection and Public Health
CHAPTER 16. REPEAL AND TRANSITION

GENERAL

Section 1. Repeal and Transition
All by-laws or provisions thereof heretofore adopted which are inconsistent with the provisions of this Code of By-Laws are hereby repealed and annulled, but the provisions of this Code of By-laws, insofar as they are the same as the provisions of by-laws heretofore adopted, shall be construed as a continuation thereof and not new enactments.

Section 2. Action Taken Under Prior By-laws Preserved
The repeal of any by-law or portion thereof heretofore adopted shall not be construed to revoke, invalidate, or otherwise alter acts done, ratified, or confirmed in compliance therewith or under authority thereof, or any right accrued or established, or any action, suit, or proceeding commenced or had in any case, nor shall any such repeal affect any punishment, penalty, or forfeiture incurred under any such prior by-law.

Section 3. Severability
The provisions of this Code of By-Laws, as amended from time to time, are severable. If any provisions of this Code of By-Laws, or any amendment thereto, is held invalid, the other provisions of this code of By-Laws shall not be affected thereby. If the application of such provisions, or any amendment thereto, is held invalid, the application of such provision to other persons and circumstances shall not be affected thereby.

Section 4. Specific Provisions Prevail
To the extent that any specific provision of this Code of By-laws these By-Laws, as amended from time to time, shall conflict with any provision expressed in general terms, the specific provision shall apply.

Section 5. Continuation of Existing Rules, Regulations and Town Meeting Votes
All prior Town Meeting votes and all rules and regulations of or pertaining to the Town or any Town agency which are in force when this Code of By laws takes effect and which are not specifically or by clear implication repealed hereby, shall continue in full force and effect until amended or rescinded by due course of law or until they expire by their own limitation. In the event of any inconsistency between the Code of By-laws, any such Town Meeting vote, rule or regulation, this Code of By-laws shall be deemed controlling.
CHAPTER 17.  ADMINISTRATION

Section 1  Enforcement
Unless otherwise provided by the Charter, bylaw or general or special law, the provisions
of these bylaws shall be enforced by the following Town Officials:

Chapter 9A  Harbormaster, with assistance from the Police Department as requested.
Chapter 10A  Police Department (Amended 03/21/98)
Chapter 10(A) Section 2b* 7(b). Principals of the High School, Middle School
and Elementary School with the assistance from the Police Department and Building
Inspector as required.

Section 2c. *7(c) Building Inspector with the assistance from the Police Department as
necessary. (*7b & 7c added 03/21/98)

Chapter 10B  Animal Control Officer with the assistance from the Police
Department as requested.

Chapter 10C  Department of Public Works with assistance from Police
Department as requested (Added 09/11/00)

Chapter 11  Police Department except § 5, which is enforced by the Building
Inspector.

Chapter 12  Police Department

Chapter 13(A)  Building Inspector with the assistance from the Police Department
as requested.

Chapter 13B&C  Police Department
Chapter 14A  Conservation Commission, with the assistance from Town Counsel
and the Police Department as requested

Chapter 14B  Police Department
Chapter 14B 15B  Police Department
Chapter 14D 15C  Police Department and Harbormaster
Chapter 14D 16D  Section 1. Police Department

Section 2  Penalties

a. Criminal (Misdemeanor) Unless a specific penalty is otherwise provided in these by-
laws or by law, whoever violates any provision of this by-law laws shall be
punished by a fine not exceeding three hundred ($300.00) dollars for each violation

b. Non-Criminal Disposition
i) Any person taking cognizance of any violation of a specific bylaw, rule or regulation which they are empowered to enforce, hereinafter referred to as the enforcing person, as an alternative to initiating criminal proceedings may, pursuant to G.L. c. 40 § 21D give the offender written notice of the offense. Such notice shall be in triplicate and shall contain the name and address, if known, of the offender, the specific offense charged, and the time and place for required appearance. Such notice shall be signed by the enforcing person, and shall be signed by the offender whenever practicable in acknowledgment that such notice has been received.

The enforcing officer shall, if possible, deliver to the offender a copy of said notice at the time and place of the violation. If it is not possible to deliver a copy of the notice to the offender at the time and place of the violation, said copy shall be mailed or delivered by the enforcing person, or by their commanding officer or the head of their department or by any person authorized by such commanding officer or department head to the offender's last known address within fifteen (15) days after said violation.

Such notice as so mailed shall be deemed a sufficient notice, and a certificate of the person mailing such notice that it has been mailed in accordance with this section shall be prima facie evidence thereof.

(ii) Where the by-laws specify a fine for a particular violation, that fine shall be assessed for each violation.

(iii) the by-laws provides for a fine up to a maximum amount of three hundred dollars ($300), fines shall be assessed as follows:

<table>
<thead>
<tr>
<th>Offense</th>
<th>Fine</th>
</tr>
</thead>
<tbody>
<tr>
<td>First offense</td>
<td>$100.00</td>
</tr>
<tr>
<td>Second offense</td>
<td>$200.00</td>
</tr>
<tr>
<td>Third &amp; subsequent offenses</td>
<td>$300.00</td>
</tr>
</tbody>
</table>

Each act or anything relative thereto in violation of these by-laws shall constitute a separate offense.

End of the Bylaws of the Town of Rockport.