

## **ARTICLE 49. POLICE REGULATIONS**

*(Amended ATM 2018.)*

49.1. Trespassing. No person shall enter upon the premises of another in the Town for the purpose of committing any wanton or malicious act or with intent to invade the privacy of another by peeping into the windows of a house or spying upon any person or persons resident therein. Nothing contained in this section shall be construed to abridge or in any way limit the right of a police officer to enter upon private property in the performance of their official duties.

49.2. Use of Public Ways and Places. No person shall throw, place or cause to be placed in any public way or public place in the Town, any tree, bush or other planting, or any obstruction, or any garbage, fuel, building material, paper, cards, handbills, leaves, or rubbish of any kind, nor stones or rocks or other objects to act as curbing, except in such place and in such manner as shall be directed by the Select Board and except as hereinafter provided in Section 49.2A.

49.2A. Printed Matter Vending Machines in Public Ways and Places. No person shall place, install, use or maintain a vending machine for the purpose of distributing printed matter in a public way or place except according to regulations for the same as shall be promulgated by the Select Board. Said regulations may include but shall not necessarily be limited to dimensional and design criteria; siting requirements; insurance and indemnification; and administrative fees and review process. Whoever violates any provisions of this bylaw or the regulations promulgated by the Select Board under the authority hereof shall be liable for a fine of \$10.00 for each offense, each day any violation continues to constitute a separate offense.

### 49.2B Retail Hours of Operation.

- a. Subject to such other restrictions as may be applicable, no retail business establishment shall be open for business for the sale of goods or services to the public at retail, nor shall any retail business establishment sell any goods or services to the public at retail, between the hours of 11:00 o'clock p.m. and 6:00 o'clock a.m. unless both,
  - i. the floor area of such retail business establishment devoted to the display and sale to the public of retail goods or services contains 6,000 usable square feet or less; and
  - ii. the Select Board, upon such terms and conditions as they may deem appropriate, has granted to the owner and/or operator of such retail business establishment a license under this bylaw to remain open for such night-time hours in order to serve the public necessity or convenience.
- b. The Select Board shall not grant to the owner and/or operator of a retail business establishment a license under this bylaw to be open to the public for business between the hours of 11:00 o'clock p.m. and 6:00 o'clock a.m., unless the Select Board shall have made the following specific findings with respect to such establishment:
  - i. That such night-time hours of operation by such establishment will not cause unreasonable disruption, or disturbance to, or otherwise adversely affect, the customary character of any adjacent or nearby residential neighborhoods;
  - ii. That such night-time hours of operation are reasonably necessary to serve a public need or person to provide a convenience to the public that outweighs any increase in any of the following impacts on the adjacent or nearby residential neighborhood (or the character thereof) that are likely to result from such retail business establishment being open for such night-time hours: noise, lighting, vibration, traffic congestion, or volume of pedestrian or vehicular retail customer traffic; risk to pedestrian or vehicular safety, accident potential or other public safety impacts, or any other adverse safety impact.
- c. The Select Board may adopt rules and regulations to govern the administration of the licensing process, and in so doing may impose such terms and conditions upon granting such license as it may consider to be appropriate.
- d. This bylaw shall not be interpreted to prohibit emergency motor vehicle services from operating during such night-time hours or require any emergency vehicle services to obtain a license under this bylaw in order to be permitted to operate during such night-time hours.

- e. This bylaw shall not apply to, nor shall be interpreted to require a license under this bylaw for the operation during such night-time hours by, any of the following retail business establishments:
  - i. any restaurant or food service establishment engaged in the sale of food or alcoholic beverages to be consumed on the premises at which they are sold or to be consumed off the premises at which they are sold when such sale is by a licensed common victualler primarily engaged in the sale of food to be consumed on such premises.
  - ii. any retail business establishment that as of March 27, 1995 was regularly open to the public for retail sales between the hours of 11:00 o'clock p.m. and 6:00 o'clock a.m., provided however, that if from and after such date any such establishment (A) increases its hours of operation during such night-time hours beyond those hours of operation being conducted as of March 27, 1995, or (B) changes the manner of conduct of its retail business in any way that differs materially from the manner of conduct of such business as of March 27, 1995, and (C) the Select Board determines that as of a result of any such increase or change, the nature or character of the business conducted by such retail business establishment has become substantially more detrimental to the adjacent or nearby residential neighborhood than was the business being conducted by such retail business establishment as of March 27, 1995, then the Select Board shall be authorized to determine that the provisions of this bylaw shall apply to such retail business establishment, in which case such establishment shall be entitled to be open for business during such night-time hours only if it complies with the provisions of Section 49.2B(a) above. For purposes of determining whether any such increase or change has been "substantially more detrimental" the Select Board shall analyze such increase or change in light of the impacts described in Section 49.2B(b)(2) above.
- f. Whoever violates any provision of this bylaw shall forfeit and pay a fine of three hundred dollars (\$300) for each offense, and each calendar day on which any violation occurs shall constitute a separate offense.
- g. The Select Board may, in addition to imposing the fines provided herein, secure injunctive relief to prohibit any such operation not grandfathered or properly licensed as provided in Sections (b) or (e) hereof.

49.2C Preparation and/or Retail Sale of Food or Beverage. (New section ATM 2006.)

- a. The Select Board may grant licenses to persons whose principal business is to prepare and sell food or beverage at retail who are not otherwise licensed as a common victualler. No person who is eligible for such license shall conduct said business without being so licensed. This bylaw shall not require the Select Board to grant said license if, in their opinion, the public good does not require it. For these purposes, in determining whether the public good is served, the Select Board shall ascertain whether the traveling public will be inconvenienced in its use of the public ways and sidewalks, whether the business has sufficient parking, and whether the public safety is protected. The fee for such license shall be determined from time to time by the Select Board after a public hearing. (Amended ATM 2013.)
- b. The Select Board may adopt rules and regulations to govern the administration of the licensing process, and in doing so may impose such terms and conditions upon granting such license as it may consider to be appropriate.

Provided, any person conducting said principal business as of the day this bylaw takes effect may continue to do so for up to 90 days, by the end of which time said business shall be discontinued unless a license has by then been issued. In entertaining an application the Select Board shall apply the standards set forth in Section 49.2C insofar as is practicable considering that the applicant has been operating prior to the Town enacting said bylaw.

49.3. Excavation in Streets and Sidewalks. No person except the Director of Public Works in the performance of their duties shall break or dig up or cause to be broken or dug up the pavement or ground in any public street or any sidewalk or ground or curbing in any public street without the permission in writing of the Board of Public Works, nor having obtained such permission, shall fail to comply with the conditions thereof. The Board of Public Works may give such permission on the first business day following the commencement of any excavation required by an emergency and made by a department of the Town or a corporation engaged in

the manufacture, transmission or distribution of gas, electricity, or intelligence transmitted by electricity. In this case, the rights granted by and conditions contained in such permission shall apply to all acts of such department or corporation in making the excavation. In addition to any penalty to which an excavator may be subjected under these bylaws for such failure, they shall also reimburse the Town for all expenses and damages which the Town may be compelled to pay by reason of such unauthorized use or any failure to comply with said conditions.

49.4. Fire on Streets. No person shall make any fire in any street in the Town except under the authority of the Director of Public Works and the Chief Engineer of the Fire Department.

49.5. Ice and Snow on Streets. No person shall plow or shovel, lay, throw or place, or cause to be laid, thrown or placed (either by one's own action or by the actions of a plowing contractor or other agent) any ice or snow on any street or sidewalk in the Town which has been cleared or plowed for travel. (Amended ATM 2006.)

49.6. Removal of Vehicles. The Director of Public Works, or other officer having charge of ways, for the purpose of removing or plowing snow, or removing ice, from any way, may remove or cause to be removed to some convenient place, including a public garage, any vehicle interfering with such work. The owner of such vehicle shall be liable for the reasonable cost of such removal and storage charges.

49.7. Playing in or Across Public Ways. No person shall throw stones, snowballs, sticks, or other missiles, or kick or throw a football, or play at any game in which a ball is used, or fly any kite or balloon, or shoot with or use a bow and arrow, gun, air-gun, or sling, in or across any public way in the Town.

49.8A. Mutilation of Plants. No person shall, without lawful authority, remove, cut, deface, mutilate or apply paint to any tree, bush, flower or plant growing on land held under the jurisdiction of any Town Board.

49.8B. Replacement of Public Shade Trees. Any person, firm, corporation or agency that in the course of construction or subdivision development wishes to remove any living Public Shade Tree with caliper 2 1/2" or greater in diameter at 5' above grade level shall, in accordance with G.L. c. 87, § 3, obtain a permit from the Natural Resources Commission as Tree Warden; and, if removal is permitted, shall at no cost to the Town, within the spring or fall months following completion of construction, replace in locations specified by the Tree Warden a number of smaller trees determined to be equivalent on the following basis:

The total caliper of all replacement trees shall equal or exceed the total caliper of all trees to be removed. Replacement trees shall be balled and burlapped and of caliper not less than 2 1/2" in diameter at 5' above grade level. Species, caliper and location of replacement trees shall be determined by the Tree Warden at the time of issuance of the permit.

The Tree Warden may require a bond, escrow account, irrevocable letter of credit, or other surety to ensure Public Shade Tree replacement. Such surety may be held for one year from the date of planting to ensure survival of the replacement trees. At the option of the applicant, the Town may, upon payment of an agreed upon sum, replace said trees according to the standards herein set forth.

49.9A. Use of Firearms and Air-Guns. No person shall fire or discharge any firearm or air-gun in or across any street in the Town, or on any property of the Town, or on any private property in the Town without the written permission of the owner or tenant of such private property, but in no event shall such firearm or air-gun be fired or discharged within 500 feet of a public street or a dwelling or other occupied building other than a dwelling or building owned or occupied by the person entitled to give such permission. This section shall not apply to the use of such weapons in the performance of a legal duty or military exercise or in the lawful defense of the person, family or property of any citizen. (Amended ATM 2018.)

49.9B. Use of Traps. No person shall use, set, place or maintain any type of leghold, steel-jaw, Conibear, or padded jaw trap within the limits of any highway, street, park, or other public property of the Town, or on any private property except with the written consent of the owner or legal occupant or person having the right of control thereof.

49.9C. Any person violating this Section shall be subject to a fine of not less than three hundred dollars (\$300) for each offense, and each trap in violation of Section 49.9B shall constitute a separate offense.

49.10. Nude Bathing. No person in the nude shall bathe or swim in any of the lakes, ponds or rivers within the Town.

49.11. Obstructions on Streets and Sidewalks. No person shall use any portion of any street which the Town is obligated to keep in repair for the purpose of placing building materials or rubbish or moving a building on either the sidewalk or roadway without a permit from the Board of Public Works and approval of the Chief of Police. (Amended ATM 2002.) No person to whom such a permit is issued shall fail to comply with the conditions thereof. Application for such permit shall be made to the Board of Public Works. The Board of Public Works may by vote grant such permit to be in force for a period they may designate, not exceeding ninety days, upon condition that during the whole of every night, from sunset until sunrise, warning lights shall be so placed as to warn travelers of the presence of the obstruction and upon such further conditions as the Board of Public Works may by vote determine. The Board of Public Works may require that a bond be furnished to secure the performance of the provisions of this section. A copy of said vote certified by the Secretary or Clerk of the Board of Public Works shall forthwith be transmitted to the Chief of Police.

49.11A. Regulation of Utility Poles/Replacement of Existing Poles. (New Section ATM 2000.)

- a. A distribution company or a telephone company engaging in the removal of an existing pole and the installation of a new pole in place thereof shall, in accordance with G.L. c. 164, § 34B, complete the transfer of wires, all repairs, and the removal of existing pole from the site within 90 days from the date of installation of the new pole; provided, however, that for any approved commercial or industrial construction project, the completion of which is expected to take longer than one year, said company shall be required to remove such pole within six months from the date of installation of the new pole. The utility responsible for setting the new pole shall notify in writing all other users and also the Select Board and the Manager of the Municipal Light Plant of the starting date of such removal and installation work at least 48 hours prior to the commencement of such work. Said utility shall also require all other users to remove their wiring and other attachments from the poles within 30 days of such notice, and all other users shall comply.
- b. Any distribution company, telephone company or user violating this section shall be subject to a fine of not less than Three Hundred Dollars (\$300.00) for each offense, each day constituting a separate offense.
- c. The Select Board, or its designee, shall be the enforcement officer of this section. Upon the making of any complaint that a violation of this Section has occurred, the Select Board shall within 14 days, or such longer or shorter time as the board shall determine, convene a hearing to determine whether a complaint shall be sought in District Court (or whether the provision for non-criminal disposition in Article 52 shall be implemented). At said hearing, the Select Board shall also determine the date when the violation first occurred, for purposes of establishing the date of offense, each subsequent day constituting a separate offense, so that the fine as set forth in subsection (b) above may be correctly computed.

49.12a. Use of Town Water System. No person shall open a hydrant or turn off or turn on the water in any water main, service pipe, hydrant, water post, drinking fountain, or other fixture or appurtenance not on their own premises connected with the water system of the Town, nor make any opening into or connection therewith, without authority from the Director of Public Works, except in case of fire.

49.12b. Restrictions on the Use of the Town's Water Supply. (New Section ATM 2003.)

49.12b.1 Authority. This Bylaw is adopted by the Town under its police powers pursuant to the Home Rule Amendment of the Massachusetts Constitution, Article LXXXIX, to protect public health and welfare and its powers under G.L. c. 40, § 21 et seq. and implements the Town's authority to regulate water use pursuant to G.L. c. 41, § 69B. This bylaw also implements the Town's authority under G.L. c. 40, § 41A, conditioned upon a declaration of water supply emergency issued by the Massachusetts Department of Environmental Protection (DEP).

49.12b.2 Purpose. The purpose of this bylaw 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 DEP.

49.12b.3 Definitions.

- a. Agriculture shall mean farming in all its branches and agriculture, as defined at G.L. c. 128, § 1A.

- b. Outdoor Watering shall mean any residential, municipal, industrial, or commercial watering of non-agricultural lawns, trees or shrubbery.
- c. Person shall mean any individual, corporation trust, partnership, agency, authority association, or other entity and any officer, employee, group or agent of such persons.
- d. State of Water Supply Emergency shall mean a State of Water Supply Emergency declared by the DEP under G.L. c. 21G, §§ 15-17.
- e. State of Water Supply Conservation shall mean a State of Water Supply Conservation declared by the Town pursuant to Section 4 of this bylaw.
- f. 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.

49.12b.4 Declaration of a State of Water Supply Conservation. The Town, through the Board of Public Works, may declare a State of Water Supply Conservation upon a determination by a majority vote of the Board of Public Works 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 bylaw before it may be enforced.

49.12b.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.

- a. Outdoor Watering Hours: Outdoor water use is permitted only during daily periods of low demand, at night or early morning, to be specified in the declaration of a State of Water Supply Conservation and public notice thereof.
- b. Alternate Day Outdoor Water Use: Outdoor water use by water users with odd numbered addresses is restricted to Tuesdays, Thursdays and Saturdays. Outdoor water use by water users with even numbered addresses is restricted to Wednesdays, Fridays and Sundays.
- c. Outdoor Water Method Restriction: Outdoor Watering is restricted to bucket, can or hand held hose watering. The use and operation of automatic or unattended irrigation systems (in-ground or hose-connected) is prohibited.
- d. Car Washing: Washing of a car or vehicle is prohibited.
- e. Filling Swimming Pools: Filling of swimming pools is prohibited.
- f. Outdoor Water Use Ban: Outdoor water use is prohibited.

49.12b.6 Public Notification of a State of Water Supply Conservation and State of Water Supply Emergency; 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 a 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. Notification of a State Water Supply Emergency declared by the DEP shall be provided by furnishing a copy of the Notice to radio and television stations serving the area served by the public water system as soon as possible, but no later than 48 hours after the public water system receives notice of the DEP's declaration. Any restriction imposed under Section 5 or in the DEP declaration of emergency or Order shall not be effective until such notification is provided. Notification of the State of Water Supply Conservation shall also be simultaneously provided to the DEP at the same time that notification is given.

49.12b.7 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 Public Works, upon a determination that the water supply shortage no longer exists. Public notification of the termination of a State of Water Supply Conservation shall be given in the same manner required by Section 6.

49.12b.8 State of Water Supply Emergency; Compliance with DEP Orders. Upon notification to the public that the DEP has issued a State of Water Supply Emergency, no person shall violate any provision, restriction,

requirement, condition of any order approved or issued by the DEP intended to bring about an end to the State of Emergency. The notice prescribed by this section shall be in writing and shall be published once in a newspaper of general circulation within the Town. The notice shall summarize the provisions of the Declaration of Water Supply Emergency and the requirements and conditions thereof. Notice as prescribed by this section shall be sufficient for enforcement of the requirements of such a Declaration on and after the date following newspaper publication.

49.12b.9 Violation and Penalties. Any person violating this bylaw shall be liable to the Town in the amount of \$50.00 for the first violation, and \$100 for each subsequent violation which shall inure to the Town for such uses as the Board 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 G.L. c. 30, § 21D. For purpose of non-criminal disposition, the enforcing person(s) shall be any police of the Town of Wellesley. Each day of violation shall constitute a separate offense.

49.12b.10 Severability. The invalidity of any portion or provision of this bylaw shall not invalidate any other portion or provision thereof.

49.12b.11 Exemptions. The Board of Public Works may grant exemptions for the following uses:

- a. Water to sustain animal life;
- b. Swimming pools used as a primary means of exercise, therapy or rehabilitation located at a medical or rehabilitation facility; and
- c. Commercial car or vehicle washing facilities; provided the user demonstrates:
  - i. that the water will be used efficiently, and
  - ii. that any additional eligibility criteria established by the Board of Public Works are being met.

Requests for exemptions shall be made in writing to the Board of Public Works.

49.13. Internal Combustion Engines on Morse's Pond. The operation or use of any internal combustion engine in or upon that portion of Morse's Pond situated in the Town is prohibited. The provisions of this Section shall not apply to the Commonwealth of Massachusetts or to any political subdivision thereof.

49.14. Interference with Fire and Police Department Apparatus. No unauthorized person shall handle or in any way interfere with apparatus, machinery or fixtures belonging to the Fire or Police Department, or with any signal-box, wire, pole, or other thing connected with the fire alarm or police signal system.

49.15. Interference with Passage of Fire Apparatus. No person shall leave any vehicle unattended within the limits of any private way furnishing means of access for fire apparatus to any building so as to interfere with or restrict the passage of such apparatus.

49.16. Buildings Occupied by Fire or Police Department. No person shall enter into or remain in any building occupied by the Fire or Police Department without the permission of the officer having charge of such building, unless for some lawful purpose.

49.17. Interference with Hose Pipe. No person shall drive any vehicle upon or over any hose pipe lawfully placed in a street, or in use at a fire, except with the consent of the person in charge thereof.

49.18. Interference with Town Property. No person shall enter into, climb on or remain in any building or structure belonging to the Town without authorization from the department, board or official having custody of the building or structure. No unauthorized person shall handle, injure, remove, tamper with, or interfere with any seal, switch, wire, light, pole, fixture, apparatus, machinery or equipment belonging to the Town.

49.19. Possession and Use of Alcoholic Beverages. Drinking or possession of any alcoholic beverage, as defined in G.L. c. 138, while in or upon any Wellesley Public Schools building or grounds, or Town owned grounds, is prohibited. Drinking or possession of any alcoholic beverage while in a Town building is prohibited, except insofar as may be allowed by temporary license issued by the Select Board to a nonprofit organization; provided, however, that any license so issued shall be conditioned on the licensee's compliance with the requirements of G.L. c. 138 s and Chapter 635 of the Acts of 1982 and the Select Board's Rules and Regulations Governing Alcoholic Beverages. (Amended ATM 2018.)

No person shall consume any alcoholic beverage, as defined above, on any public way or way to which the public has a right of access as invitees or licensees, including any person in a motor vehicle while it is in, on, or upon any public way or any way to which the public has a right of access as aforesaid, within the limits of the Town; and no person shall consume any alcoholic beverages, in, on, or upon any private land or place without the consent of the owner or person in control of such private land or place.

Any person who violates this section may be arrested by a police officer without a warrant.

All alcoholic beverages being used in violation of this sentence may be seized and held until final adjudication of the charge against any such person or persons has been made by the Court.

Whoever violates the provisions of this section shall be punished by a fine not exceeding fifty dollars (\$50) for such offense.

49.19A. Consumption of Marijuana Prohibited. No person shall smoke, ingest, or otherwise use or consume marijuana or tetrahydrocannabinol (as defined in G.L. c. 94C, § 1, as amended) while in or upon any street, sidewalk, public way, including any person, in a motor vehicle while it is in, on or upon any public way or any way to which the public has right of access within the limits of the Town, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, schoolhouse, school grounds, cemetery, parking lot, or any area owned by or under the control of the Town, or in or upon any bus or other passenger conveyance operated by a common carrier within the Town, or in any place to which the public has a right of access.

Violation of this Section is punishable by a fine of \$300. If said fine is unpaid through the non-criminal disposition process as outlined under Article 52, such payment shall be enforceable through indictment or on complaint before a district court. Any penalty imposed under this bylaw shall be in addition to any civil penalty imposed under G.L. c. 94C, § 32L. (New section ATM 2013.)

49.20. Licensing of Vehicles for Hire. Except as otherwise provided by law, the Select Board, upon such terms and conditions as they may deem expedient, may grant licenses to owners of vehicles to use such vehicles for the conveyance of persons or property for hire, and may designate stands and locations upon the streets of the Town where such vehicles may stand or wait for employment. Every such license shall be granted to expire on the last day of March next ensuing after the date of its issue and it may be revoked at any time for cause satisfactory to said Board. Each license may cover one or more vehicles belonging to the same owner, shall bear upon its face the date of its issue, the date of its expiration, the name and address of the owner of the vehicle or vehicles to whom the license is issued, and a description of each vehicle so licensed sufficient for its identification. The fee for each license shall be twenty-five dollars for each vehicle covered thereby and no license shall be transferred except with the approval of the Select Board duly endorsed thereon. No person shall hold themselves out as the owner, driver or operator of any vehicle used for the purposes mentioned in this section, unless such vehicle is duly licensed as provided in this section.

49.21. Licensing of Junk Dealers. No person shall collect, deal in, or keep a shop for the purchase, sale or barter of junk, old metals or second hand articles within the limits of the Town, unless licensed by the Select Board under such rules and regulations as they shall prescribe.

49.22. Possession and Use of Inflammable Substances. Except as otherwise provided in G.L. c. 148, no person shall keep, store, use, manufacture, sell or otherwise handle petroleum products, fuel oil, gasoline or inflammable fluids or compounds or any substance having such properties that it might spontaneously or acting under the influence of any contiguous substance, or of any chemical or physical agency, ignite or inflame or generate inflammable or explosive vapors or gases to a dangerous extent without registering so to do and obtaining a license therefor. The fee for such license shall be fifty dollars (\$50.00) and the annual Public Safety Certificates shall be twenty-five dollars (\$25.00). This section shall not apply to permits issued by the Chief Engineer of the Fire Department pursuant to the authority granted under G.L. c. 148, § 10A.

49.23. Clearance Areas at Intersections. At each intersection of public or private streets or ways in the Town there shall be a clearance area consisting of the triangular area formed by the side lines of the intersecting streets or ways and a line joining each side line at a point twenty (20) feet distance from the point of intersection or, in case of rounded corners, from the point at which the side lines would intersect if projected. In case of uncertainty as to a point of intersection of such projected side line the Town Engineer shall certify to the Select Board the clearance area drawn as nearly as may be in accordance with the foregoing provisions and having due regard for the safety of the public. No fence or other structure, shrubbery, foliage, hedge,

tree or the like, which unreasonably interferes with sightlines across such clearance areas and thereby is hazardous to the safety of the public shall be erected, planted, maintained or allowed to exist within a clearance area. This section shall not apply to buildings which are not in violation of the Zoning Bylaws.

49.24. Fire Lanes. The Board of Fire Engineers is authorized to designate Fire Lanes on any property within the Town to allow for unimpeded access of firefighting apparatus. Fire Lanes shall be designated and posted as such. No person shall obstruct or park a vehicle in any Fire Lane.

49.25. Mechanical Protection Devices. Except as approved in writing by the Fire Department and/or Police Department pursuant to regulations adopted by them, no person shall install a mechanical protection device that is automatically keyed to and/or activates the telephone (numbers) lines controlled by and/or listed to the Fire Department and/or Police Department; all devices installed before the effective date of this section shall be removed within sixty days of said effective date, unless so approved. For the purposes of this section a mechanical protection device shall be defined as an electrically operated instrument composed of sensing apparatus and related hardware which automatically sends over regular telephone lines, by direct connection or otherwise, a pre-recorded voice alarm upon receipt of a stimulus from the sensing apparatus that has detected a physical force or condition inherently characteristic of a fire or unauthorized intrusion.

Notwithstanding compliance with the foregoing paragraph, no persons shall maintain any protection device designed to emit an audible alarm upon detection of a physical force or condition inherently characteristic of an unauthorized intrusion on property which continuously or intermittently sounds for a period of time in excess of twenty (20) minutes. All such devices installed before the effective date of this Section shall be brought into compliance hereof or shall be removed within sixty (60) days of said effective date. Any person violating this Section shall be subject to a fine of not less than twenty (\$20) dollars for each offense.

The Board of Fire Engineers shall enact regulation requiring that any person having installed an electric or mechanical fire protection device in a lodging house, shall, in addition to such other requirements as shall be required in the license for such, take such steps as said regulations shall specify to preserve the integrity and safety of the device against vandalism or other improper use. Said regulations shall include, among other things, that there be posted in a conspicuous place on each floor copies of the General Laws making it a crime to interfere with firefighting operations and the causing of a false fire alarm. Said regulations may also govern lodgers and visitors, and may include penalties for the violation of the same, which may be enforceable under the procedure for non-criminal disposition set forth in Article 52.

The Select Board shall enact regulations requiring that any person having installed an electric or mechanical police alarm device shall, in addition to such other requirements as shall be required by law, or deemed to be in the Town's best interest, take such steps as said regulations shall specify to preserve the integrity and safety of the device against improper or negligent use. Said regulations shall include penalties for the violation of the same, which may be enforceable under the procedure for non-criminal disposition set forth in Article 52.

49.26. Handicapped Parking.

- a. Any person having lawful control of a public or private way or of improved or enclosed property used as off-street parking areas for businesses, shopping malls, theaters, auditoriums, sporting or recreational facilities, cultural centers, residential dwellings, or for any other place where the public has a right of access as invitees or licensees shall, if said area contains more than 15 parking spaces, reserve, identify and locate parking spaces in said off-street parking areas for any vehicle owned and operated by a disabled veteran or handicapped person pursuant to G.L. c. 40, § 21(23).
- b. The leaving of any unauthorized vehicle within parking spaces designated for use by disabled veterans or handicapped persons as authorized and required by this bylaw, or in any manner as to obstruct a curb ramp designed for use by handicapped persons as a means of egress to a street or public way, is hereby prohibited. Whoever violates any provisions of Section 49.29(b) shall forfeit and pay for each offense the fine established for the same in Section 10-1 of Article X of the Town Traffic Regulations, as the same may from time to time be amended; and for each subsequent offense, the vehicle may be removed according to the provisions of G.L. c. 266, § 120D. (Amended STM 2001.)

49.27. Disabled, Dismantled, Inoperative and/or Unregistered Motor Vehicles. No person in charge or control of any property in any part of the Town, whether as owner, tenant, occupant, lessee or otherwise, shall allow



any partially dismantled, inoperative, wrecked, junked or unregistered motor vehicle to remain on such property longer than thirty (30) days, unless said vehicle:

- a. Is enclosed within a building or, if not enclosed,
- b. Is parked or stored other than in the front yard of the property, and is screened from view from all public or private ways and no unsightly condition is visible from adjacent property is created or,
- c. Is stored or parked on land or premises located in any business district, by a licensee authorized by the Select Board to sell or lease motor vehicles pursuant to G.L. c. 140, § 59.

The right to park or store such a vehicle under subsection (b) shall be restricted to no more than one such vehicle on the property at the same time.

49.28. Recreational Trailers or Vehicles. No person shall keep, store or park a recreational trailer or vehicle unless said trailer or vehicle:

- a. Is enclosed within a building or, if not enclosed,
- b. Is stored or parked on property being used for residential purposes, is located thereon other than in the front yard of the property, as defined in the Zoning Bylaw, is screened from view from all public or private ways, and is used solely for intermittent recreational, non-commercial use by the resident(s) living on the property, or
- c. Is stored or parked on premises by a licensee authorized by the Select Board to sell or lease motor vehicles pursuant to G.L. c. 140, § 59.

The right to park or store such a vehicle or trailer shall be unrestricted for a period of not more than forty-eight (48) hours for loading or unloading purposes. In no case shall any such trailer or vehicle be occupied on any property for an aggregate total of more than thirty (30) days in any one year.

For purposes of this section, a recreational trailer or vehicle is defined as a vehicular, portable unit designed for travel, camping or recreational use, including but not limited to the following:

- a. Travel Trailer - A vehicular, portable dwelling unit built on a chassis, being of any length provided its gross weight does not exceed 4500 pounds, or being of any weight provided its overall length does not exceed 28 feet.
- b. Pick-Up Camper - A portable dwelling unit, designed to be mounted on a pick-up truck or chassis, whether or not so mounted.
- c. Motorized Camper - A portable dwelling designed and constructed as an integral part of a self-propelled vehicle.
- d. Tent Trailer - A folding structure, constructed of canvas, plastic or similar water repellent material, designed to be mounted on wheels to be used as a temporary dwelling.
- e. Boat Trailer - A vehicle without motive power, designed to be drawn by a motor vehicle and designed for the hauling or storage of a boat, aircraft, snowmobile or other recreational vehicle.
- f. Boat - Any vehicle for recreational use on water having an overall length of 16 or more feet.

49.29. Scenic Roads. Whoever violates the provisions of G.L. c. 40, § 15C governing Scenic Road designations, or the Town of Wellesley Scenic Road Regulations, shall forfeit and pay for each offense a fine not exceeding three hundred (\$300) dollars.

49.30. Temporary and Transient Vendors. The Select Board shall enact regulations governing the licensing and manner of conducting business of persons engaging in a temporary or transient business activity, whether or not for profit, in the Town. Said regulations may include penalties for the violation of the same, which may be enforceable under the procedure for non-criminal disposition set forth in Article 52.

49.31. Restrictions on Hours of Certain Commercial Activity. Except in an emergency, and except as permitted by statute or the Chief of Police as herein provided, no person shall undertake or perform any outdoor commercial activity involving construction, earth moving, yard maintenance, home improvement, or the delivery or pick up of equipment or supplies for use therein, except during the following periods of time:

Monday through Friday:	7 a.m. until 7 p.m.
Saturday and state observed holidays:	8 a.m. until 7 p.m.
Sunday:	Prohibited.

The foregoing regulated activity includes, but is not limited to, the use of equipment powered by electric or internal combustion engines.

Upon application, the Chief of Police or their designee may issue permits for the conduct of necessary commercial outdoor activity which could not be performed during the otherwise permitted times without serious suffering, loss, damage, or public inconvenience.

This bylaw shall not apply to snow removal operations. (*New Section ATM 2009.*)

49.32. Penalty for Violation. Whoever violates any provisions of Article 49.31 shall, in cases not otherwise provided for, forfeit and pay for each offense a fine not exceeding fifty (\$50) dollars.

49.33 Fingerprint-Based Criminal Record Background Checks. (*New Section STM 2011.*)

49.33.1 Purpose and Authorization. In order to protect the health, safety, and welfare of the inhabitants of the Town, and as authorized by G.L. c. 6, § 172B ½ as enacted by Chapter 256 of the Acts of 2010, this bylaw shall require a) applicants for certain Town licenses permitting the engagement in specific occupational activities within the Town as enumerated in Section 49.36.2 below to submit to fingerprinting by the Police Department, b) the Police Department to conduct criminal record background checks based on such fingerprints, and c) the Town to consider the results of such background checks in determining whether or not to grant a license.

The Town authorizes the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Systems (DCJIS), and the Federal Bureau of Investigation (FBI) as may be applicable to conduct on the behalf of the Town and its Police Department fingerprint-based state and national criminal record background checks, including of FBI records, consistent with this by-law. The Town authorizes the Police Department to receive and utilize FBI records in connection with such background checks, consistent with this by-law.

49.33.2 Applicant's Submission to Fingerprinting by the Wellesley Police Department. Any applicant for a license to engage in any of the following occupational activities within the Town shall submit a full set of fingerprints taken by the Police Department within ten (10) days of the date of the application for a license for the purpose of conducting a state and national criminal record background check to determine the suitability of the applicant for the license:

- Manager of Alcoholic Beverage License
- Hawker and Peddler
- Owner or Operator of Public Conveyance
- Dealer of Second-Hand Articles
- Ice Cream Truck Vendor

At the time of fingerprinting, the Police Department shall notify the individual fingerprinted that the fingerprints will be used to check the individual's FBI criminal history records.

49.33.3 Police Department Processing of Fingerprint-Based Criminal Record Background Checks and Communication of Results. The Police Department shall transmit fingerprints it has obtained pursuant to Section 49.36.2 to the Identification Section of the Massachusetts State Police, DCJIS, and/or the FBI as may be necessary for the purpose of conducting fingerprint-based state and national criminal records background checks of license applicants specified in Section 49.36.2.

The Police Department shall provide the applicant with a copy of the results of their fingerprint-based criminal record background check and supply the applicant the opportunity to complete or challenge the accuracy of the information contained in it, including in the FBI identification record. The Police Department shall also supply applicants with information regarding the procedures for obtaining a change, correction, or updating of a criminal record, including a copy of 28 C.F.R. Part 16.34 pertaining to FBI identification records. The Police Department shall not utilize the fingerprint-based criminal record background check pursuant to the

paragraph below until it has taken the steps detailed in this paragraph and otherwise complied with the Town's policy applicable to Town licensing-related criminal record background checks.

The Police Department shall communicate the results of fingerprint-based criminal record background checks to the applicable licensing authority within the Town. The Police Department shall indicate whether the applicant has been convicted of, or is awaiting final adjudication for, a crime that bears upon their suitability, or any felony or misdemeanor that involved force or threat of force, controlled substances or a sex-related offense.

49.33.4 Reliance on Results of Fingerprint-Based Criminal Record Background Checks. Licensing authorities of the Town shall utilize the results of fingerprint-based criminal record background checks for the sole purpose of determining the suitability of the subjects of the checks in connection with the license applications specified in Section 49.36.2. A Town licensing authority may deny an application for a license on the basis of the results of a fingerprint-based criminal record background check if it determines that the results of the check render the subject unsuitable for the proposed occupational activity. The licensing authority shall consider all applicable laws, regulations and Town policies bearing on an applicant's suitability in making this determination. The licensing authority shall not deny a license based on information in a criminal record unless the applicant has been afforded a reasonable time to correct or complete the record or has declined to do so.

49.33.5 Compliance with Law, Regulation, and Town Policy. Implementation of this bylaw and the conducting of fingerprint-based criminal record background checks by the Town shall be in accordance with all applicable laws, regulations, and Town policies, including, but not limited to, the Town's policy applicable to licensing-related criminal record background checks which shall include record retention and confidentiality requirements. The Town shall not disseminate the results of fingerprint-based criminal background checks except as may be provided by law, regulation, and Town policy. The Town shall not disseminate criminal record information received from the FBI to unauthorized persons or entities.

49.33.6 Fees. The fee charged by the Police Department for the purpose of conducting fingerprint-based criminal record background checks shall be one hundred dollars (\$100). A portion of the fee, as specified in G.L. c. 6, § 172B 1/2, shall be deposited into the Firearms Fingerprint Identity Verification Trust Fund, and the remainder of the fee may be retained by the Town for costs associated with the administration of the fingerprinting system.