

**WARRANT FOR  
SPECIAL TOWN MEETING  
October 28, 2013  
THE COMMONWEALTH OF MASSACHUSETTS**

**Worcester, ss.**

To any Constable of the Town of Lancaster in the County of Worcester,

**GREETINGS:**

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the inhabitants of the Town of Lancaster qualified to vote in the elections and Town affairs, to meet at **Mary Rowlandson Elementary School Auditorium, 103 Hollywood Drive, in said Lancaster on Monday, the twenty-eighth day of October 2013, at 7:00 o'clock in the evening,** then and there to act on the following Articles:

**ARTICLE 1  
Finance Committee  
Board of Selectmen**

To see if the Town will raise and appropriate or transfer from available funds the following sums of money, to be expended by the respective Departments or Officers indicated, for the capital projects and purchases itemized and described; or act in any manner relating thereto.

a. Fire Equipment Purchase	
Amount:	\$170,850
Funds to be expended by:	Fire Department
Purpose:	To purchase new SCBA Equipment for the Fire Department
Funding Source:	Raise and Appropriate

***The Finance Committee recommends passage of this article.***

**ARTICLE 2  
Finance Committee  
Board of Selectmen**

To see if the Town will vote to appropriate \$17,196,491 (Seventeen Million, One Hundred and Ninety Six Thousand Four Hundred and Ninety One Dollars) by taxation, by transfer from available funds, from the Water Enterprise Fund, by borrowing, by transfer from Overlay Surplus, by transfer from fund balance reserved for school debt, or any combination thereof; to defray the expenses of the Town for the Fiscal Year beginning July 1, 2013, or act in any manner relating thereto.

**The Budget for Fiscal Year 2014 will be available at Town Meeting**

***The Finance Committee recommends passage of this article***

**ARTICLE 3  
Board of Selectmen**

To see if the Town will vote, pursuant to General Laws Chapter 82, Section 21, to accept the alteration of the layout of South Bolton Road, a public way in the Town, as ordered by the Board of Selectmen and shown on a plan entitled "Layout Alteration Plan Showing Discontinuance and

Alteration of South Bolton Road Prepared for Town of Lancaster” by Beta Group Inc. dated August 2013, and, in accordance with said alteration, to discontinue as a public way a portion of South Bolton Road as shown on the plan, and further to transfer from the Board of Selectmen for roadway purposes to the Board of Selectmen for general municipal purposes, which shall include the purpose of conveyance, the land within the discontinued portion of South Bolton Road owned by the Town, if any, and to authorize the Board of Selectmen to release and convey any or all right, title and interest held by the Town in such land on such terms and conditions and for such consideration as the Board of Selectmen deems appropriate, or act in any manner relating thereto.

**ARTICLE 4**  
**Board of Selectmen**

To see if the Town will vote to accept the provisions of Massachusetts General Law Chapter 41 Section 19K, which entitles the Town Clerk to receive an additional \$1,000.00 (One Thousand Dollars) compensation annually for achieving the designation of Certified Massachusetts Municipal Clerk, or act in a manner relating thereto.

**ARTICLE 5**  
**Board of Selectmen**

To see if the Town will vote to accept the provisions of Massachusetts General Law Chapter 41 Section 108P, which entitles the Treasurer/Collector to receive an additional \$1,000.00 (One Thousand Dollars) compensation annually for achieving the designation of Certified Massachusetts Municipal Treasurer or Certified Massachusetts Municipal Collector, or act in a manner relating thereto.

**ARTICLE 6**  
**Board of Selectmen**

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow the sum of \$3,200,000 (Three Million, Two Hundred Thousand Dollars) for renovations and repairs, including design thereof, to the Prescott Building, also referred to as the old Center School; to authorize the Board of Selectmen to take any action and execute any agreements necessary to effectuate such renovations and repairs, and that to meet this appropriation, the Treasurer-Collector with the approval of the Board of Selectmen is hereby authorized to borrow said sum pursuant to the provisions of G.L. c. 44, Section 7, or any other enabling authority, and to issue bonds or notes of the Town therefor, said funds to be expended under the direction of the Board of Selectmen; or act in any manner relating thereto.

*The Finance Committee recommends passage of this article*

**ARTICLE 7**  
**Planning Board**

To see if the Town will vote to amend the Lancaster Zoning Bylaw to delete the strikethrough language and add the underlined language as follows, and to amend the Integrated Planning Overlay Districts map (220 Attachment 4) accordingly, and further that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of the Town of Lancaster, or act in any manner relating thereto.

1. Amend § 220-5 (A) Zoning Map as follows:
  - A. Basic District Map. The boundaries of the R, NB, HB, LO, LI, LI2 and GI Zoning Districts are defined and bounded on a map originally dated December 15, 1990, entitled

“Zoning Map, Lancaster, Massachusetts” as amended from time to time by Town Meeting vote, which, together with all boundaries, notations and other data shown thereon, is made part of this bylaw. That map, as amended, is on file in the office of the Town Clerk.

2. Delete § 220-8.1 (F) Major residential development.

F.	Major residential development	PB	PB	N	N	N	N	N	See § 220-20.
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Replace with the following:

F.	Flexible development	PB	N	N	N	N	N	N	See § 220-15.
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3. Amend § 220-39 (D) Establishment and delineation of Water Resource District, as follows:

“D. Establishment and delineation of Water Resource District. For the purpose of this district, there is hereby established within the Town of Lancaster certain groundwater protection areas, consisting of aquifers or recharge areas which are delineated on the map titled ~~“Town of Lancaster Official Zoning Overlay Map” (220 Attachment 3), dated 05-01-2009~~ “Lancaster, MA: Official Zoning Overlay Map,” (Section 220 Attachment 3), dated April 2011, as may be amended from time to time by Town Meeting vote under the recommendation of a registered professional engineer (civil or sanitary), hydrologist, geologist, or soil scientist. This map is hereby made a part of the Town of Lancaster Zoning Bylaw and is on file in the office of the Town Clerk.”

4. Amend 220 Attachment 4 “Integrated Planning Overlay District Map” with new text in the IPOD 2 section, as follows:

IPOD 2

Beginning at a point on the boundary line between the Town of Lancaster and the Towns of Lunenburg and Shirley said point also marking a point where the Towns of Lunenburg and Shirley meet, thence turning and running

Southerly along the westerly line of Assessors' Map 2, Lot 3, and Assessors' Map 5, Lot 13A and 15A to Fort Pond Road, thence turning and running

Easterly along the northern line of Fort Pond Road to the western line of Shirley Road thence turning and running

Northerly along the western line of Shirley Road to the northeast corner of Assessors' Map 5, Lot 54, ~~which is in the northern boundary of the Highway Business (HB) district~~, thence turning and running,

Generally westerly ~~along the northern boundary of the Highway Business (HB) District~~ to a point where the Residential and the ~~Limited Office Enterprise~~ Districts meet, thence turning and running,

Northerly along that zoning district boundary to a point in the town line between the Town of Lancaster and the Town of Shirley, thence turning and running

Westerly along said town line to the point of beginning.

And replace the 220 Attachment 4 map entitled “Lancaster, MA: Integrated Planning Overlay Districts” dated April 2009, with a new 220 Attachment 4 map entitled “Lancaster, MA: Integrated Planning Overlay Districts” dated May 2013, to reflect previous amendments to the Zoning Bylaw replacing the Light Industry, Limited Office and Highway Business zoning districts with the Enterprise Zoning District (EZ) and EZ-A Retail Sub-District.

***The Planning Board will issue a report from the floor***

<p style="text-align: center;"><b>ARTICLE 8</b> <b>Planning Board</b></p>
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To see if the Town will vote to amend the Lancaster Zoning Bylaw by deleting the strikethrough language and adding the underlined language as follows, and further that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of the Town of Lancaster, or act in any manner relating thereto.

1. Amend § 220-34 (A) to expand the application of site plan review, as follows:
  - A. Applicability. Applications for building permits or certificates of use and occupancy involving creation of, addition to, or substantial alteration of a parking area, ~~shall be subject to site plan review~~ if either it serves a nonresidential principal use or if it serves only a residential use and has 10 or more parking spaces, or if there is a change in use on a site, shall be subject to site plan review.

***The Planning Board will issue a report from the floor***

<p style="text-align: center;"><b>ARTICLE 9</b> <b>Board of Selectmen</b></p>
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To see if the Town will vote to adopt the Sex Offender Residency Bylaw as included herein, or act in any manner relating thereto.

***SEX OFFENDER RESIDENCY BYLAW***

**Section 1. Determinations and Intent.**

A. It is the intent of this by-law to protect the Town’s interest to promote and protect the public health, safety and welfare of the inhabitants of the Town of Lancaster by creating areas around locales where children and the elderly regularly congregate and wherein certain sex offenders are prohibited from establishing temporary or permanent residence.

B. It is determined that this by-law is the most narrowly crafted means of restricting to the fullest extent possible the opportunity for registered sex offenders to approach or interact with children and the elderly where they routinely and naturally congregate and that the protections of the health and safety of our children is a compelling public and governmental interest.

C. This by-law is intended to create a civil nonpunitive regulatory scheme in order to protect children and the elderly to the greatest extent possible under the circumstances of public welfare protections and not as a punitive measure of any kind.

D. Registered sex offenders pose a clear threat to children and the elderly as vulnerable groups residing in or visiting the Town. Because registered sex offenders are more likely than any other type of offender to re-offend for another sexual offense, the Town desires to impose safety precautions in furthering the public purpose of protecting these groups. The purpose of this by-law is to mitigate the potential risk of harm to children and the elderly of the Lancaster

community by deterring the ability for registered sex offenders to be in contact with unsuspecting individuals in locations that are primarily utilized by such groups. The Town desires to add location restrictions on such offenders where state law is silent.

## **Section 2. Definitions**

1. "Park" means public land designated for active or passive recreational or athletic use by the Town of Lancaster, the Commonwealth of Massachusetts or other governmental subdivision, and located within the Town of Lancaster.
2. "School" means any public or private educational facility that provides services to children in grades kindergarten - 12.
3. "Day care center" means an establishment, whether public or private, which provides care for children and is registered with and licensed pursuant to the laws of the Commonwealth of Massachusetts by the Office of Child Care Services.
4. "Elderly housing facility" means a building or buildings on the same lot containing four or more dwelling units restricted to occupancy by households having one or more members fifty-five years of age or older.
5. "Place of worship" means a structure used for religious worship or religious education purposes on land owned by, or held in trust for the use of, any religious organization.
6. "Sex offender" means a person who resides, works or attends an institution of higher learning in the commonwealth and who has been convicted of a sex offense or who has been adjudicated as a youthful offender or as a delinquent juvenile by reason of a sex offense or a person released from incarceration or parole or probation supervision or custody with the Department of Youth Services for such a conviction or adjudication or a person who has been adjudicated a sexually dangerous person under G.L. c. 123A, §14, as in force at the time of adjudication, or a person released from civil commitment pursuant to section 9 of said chapter 123A, whichever last occurs, on or after August 1, 1981.
7. "Sex offender registry" means the collected information and data that is received by the criminal history systems board pursuant to Sections 178C to 178P, inclusive, as such information and data is modified or amended by the sex offender registry board or a court of competent jurisdiction pursuant to said Sections 178C to 178P, inclusive.
8. "Permanent residence" means a place where a person lives, abides, lodges, or resides for five (5) or more consecutive days or fourteen (14) or more days in the aggregate during any calendar year.
9. "Temporary residence" means a place where a person lives, abides, lodges, or resides for a period of less than five (5) consecutive days or fourteen (14) days in the aggregate during any calendar year, which is not the person's permanent address or place where the person routinely lives, abides, lodges, or resides and which is not the person's permanent residence.
10. "Establishing a residence" means to set up or bring into being a dwelling place or an abode where a person sleeps, which may include more than one location, and may be mobile or transitory, or by means of purchasing real property or entering into a lease or rental agreement for real property (including a renewal or extension of a prior agreement whether through written execution or automatic renewal).

### **Section 3. Sexual Offender Residence Prohibition; Penalties; Exceptions**

a. It is unlawful for any sex offender who is finally classified as a level 2 or 3 offender pursuant to the guidelines of the Sex Offender Registry Board, to establish a permanent residence within two thousand (2,000) feet of any school, day care center, park, elderly housing facility or place of worship, if, after notice and a hearing before the Police Chief and/or his designee, the Police Chief and/or his designee determines that the sex offender poses a risk to the public and, therefore, residency should be limited in accordance with this section.

b. For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent residence to the nearest outer property line of a school, day care center or park, elderly housing facility or place of worship.

c. Notice to move. Any registered level 2 or level 3 sex offender who establishes a permanent residence within two thousand (2,000) feet of any school, day care center, park, elderly housing facility or place of worship shall be in violation of this section and shall, within thirty (30) days of receipt of written notice of the sex offender's noncompliance with this chapter, move from said location to a new location, but said location may not be within two thousand (2,000) feet of any school, day care center, park, elderly housing facility or place of worship. It shall constitute a separate violation for each day beyond the thirty (30) days the sex offender continues to reside within two thousand (2,000) feet of any school, day care center, park, elderly housing facility or place of worship. Furthermore it shall be a separate violation each day that a sex offender shall move from one location in the Town of Lancaster to another that is within two thousand (2,000) feet of any school, day care center, park, elderly housing facility or place of worship.

d. Penalties. Violation of this bylaw, or of any regulations adopted hereunder, may be enforced through any lawful means in law or in equity by the Board of Selectmen, the Town Administrator, or their duly authorized agents, or any police officer of the Town of Lancaster including, but not limited to, enforcement by non-criminal disposition pursuant to G.L. c. 40, §21D. Each day a violation exists shall constitute a separate violation. The penalties shall be as follows:

i. First Offense: Notification to offender that he/she has thirty (30) days to move, if, after notice and a hearing before the Police Chief and/or his designee, the Police Chief and/or his designee determines that the sex offender poses a risk to the public and, therefore, residency should be limited in accordance with this by-law.

ii. Subsequent Offense: This shall be apply to any offender served or supplied with a notification of a first offense and a hearing that has failed to comply with all requirements of the notification within the thirty (30) day period. Non-criminal fine pursuant to Article XXV of the General By-laws and notification to the offender's landlord, parole officer and/or probation officer and the Commonwealth's Sex Offender Registry Board that the person has violated a municipal ordinance. Such a subsequent offence constitutes a breach of the peace for which the offender is also subject to immediate arrest.

e. Exceptions. A person residing within 2,000 feet of any school, day care center, park, playground, elderly housing facility or place of worship does not commit a violation of this section if any of the following apply:

i. The person established the permanent residence and reported and registered the residence prior to the effective date of this by-law.

ii. The person was a minor when he/she committed the offense and was not convicted as an adult.

iii. The person is a minor.

iv. The school, day care center, park, elderly housing facility or place of worship within 2,000 feet of the personal permanent residence was established after the person established the permanent residence and reported and registered the residence pursuant to the Sex Offender Registry Law.

v. The person is required to serve a sentence at a jail, prison, juvenile facility, or other correctional institution or facility.

vi. The person is admitted to and/or subject to an order of commitment at a public or private facility for the care and treatment of mentally ill persons pursuant to G.L. c. 123.

vii. The person is a mentally ill person subject to guardianship pursuant to G.L. c. 201, §6 or a mentally retarded person subject to guardianship pursuant to G.L. c. 201, §6A, residing with his or her guardian or residing within a group residence that is professionally staffed and supervised 24 hours a day.

<p style="text-align: center;"><b>ARTICLE 10</b> <b>Board of Selectmen</b></p>
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To see if the Town will vote to delete the existing bylaw entitled “Animals” designated as Chapter 10 of the Town’s bylaws in its entirety and insert in place thereof as Chapter 10 the bylaw entitled “Animal Control” as included herein, or act in any manner relating thereto

§ 10-1 Definitions.

As used in this bylaw the following terms mean:

**ABUSED ANIMAL**

Any animal which:

- A. Is mistreated, beaten, tormented or teased, or
- B. Is deprived of water or food or shelter, or
- C. Is kept under unsanitary conditions, or
- D. Is abandoned, or
- E. Is trained for fighting other animals.

**ANIMAL**

For the purpose of this bylaw, animal shall mean any type of animal.

**ANIMAL CONTROL OFFICER**

An officer appointed by the Board of Selectmen and authorized to enforce sections 136A to 174E, inclusive, of Chapter 140 of the General Laws and this bylaw.

**ANIMAL SHELTER**

Facility designated or recognized by the Town of Lancaster for the purpose of impounding and caring for animals.

**AT LARGE**

Any animal shall be deemed to be at large when off the property of the owner and not under restraint.

**DANGEROUS DOG**

A dangerous dog shall be as defined by MGL c. 140, §136A.

**HEARING AUTHORITY**

For purposes of this bylaw and Massachusetts General Laws, Chapter 140, section 157, the

Animal Control Commission shall be the hearing authority.

#### HUMANE MANNER

Care of an animal to include, but not be limited to, adequate heat, ventilation and sanitary shelter, wholesome food and water, consistent with the normal requirements and feeding habits of the animal's size, species, and breed.

#### KENNEL

A kennel shall be as defined by MGL c. 140, §136A.

#### KENNEL LICENSE

An annual license permitting a kennel to operate within the Town which shall be issued to a kennel which has demonstrated compliance with the requirements of Chapter 140 of the General Laws and this bylaw.

#### LICENSING AUTHORITY

The Town Clerk of the Town of Lancaster or any designated representative thereof charged with administering the issuance and/or revocation of licenses under the provisions of this bylaw.

#### NEUTERED

Rendered permanently incapable of reproduction.

#### NUISANCE DOG

A nuisance dog shall be as defined by MGL c. 140, §136A.

#### OWNER

A person (or in the event of a minor, the legal guardian) having the right of property or custody of an animal or who keeps or harbors an animal or knowingly permits an animal to remain on or about any premises occupied by that person.

#### PERSON

Any individual, corporation, partnership, organization, or institution commonly recognized by law as a unit.

#### PUBLIC AREAS

Public areas shall include, but not be limited to Town beach, Town green, commons, parks, playing fields, school property, greenways, Town buildings and grounds, cemeteries, public ways and walks.

#### RESTRAINT

An animal shall be considered under restraint if it is within the real property limits of its owner or keeper or on the premises of another person with the knowledge and express permission of such person, or secured by a leash, lead, or under the direct control of the owner.

#### § 10-2 Licensing and rabies vaccination.

A. Except as provided in § 10-3, no person shall own, keep, or harbor any dog six months of age or over within the Town of Lancaster unless such dog is vaccinated, or exempt from said vaccination requirement pursuant to MGL c.140, §145B, and licensed. Dogs between six and 12 months of age at the time of the initial vaccination must be revaccinated 12 months after the initial vaccination and every three years thereafter. The provisions of this section do not apply to animals owned by a licensed research facility or held in a veterinary medical facility or government operated or licensed animal shelter.

B. All dogs, cats and ferrets shall be vaccinated against rabies by a licensed veterinarian, unless exempt from said vaccination requirement pursuant to MGL c.140, §145B in accordance with the latest "Compendium of Animal Rabies Vaccines and Recommendations for Immunization"



published by the National Association of State Public Health Veterinarians, as well as Massachusetts state law.

C. A certificate of vaccination shall be issued to the owner of each animal vaccinated on a form recommended by the Compendium. Each owner shall also obtain a durable vaccination tag indicating the year in which it was issued.

D. Application for a license must be made within 30 days after obtaining a dog over six months of age, except that this requirement will not apply to a nonresident keeping a dog within the Town of Lancaster for no longer than 60 days. The licensing period is the calendar year. Application for a dog license shall be made to the Town Clerk and shall include the name and address of the owner and the name, breed, color, age, and sex of the dog. Applicants also shall pay the licensing fee prescribed below in Section 10-13 and provide proof of current rabies vaccination.

E. The licensing period shall be for one calendar year. License renewal may be applied for within 60 days prior to the expiration date and must be completed by March 31 or within 30 days of establishing residence.

F. A license shall be issued after payment of a fee. Persons who fail to obtain a license as required within the time period specified in this section will be subjected to a fine as set forth in subsection G below.

G. Whoever violates Sections 137, 137A, 137B, or 138 of Chapter 140 of the General Laws and/or the provisions of this section shall be assessed an initial penalty of \$50 pursuant to MGL c. 140, § 141 and shall be assessed an additional penalty of \$10.00 per month thereafter if such violation continues.

H. License fees shall be waived for service animals as defined by the Americans with Disabilities Act or regulations promulgated thereunder, for government-owned dogs used for law enforcement, or for a dog owned by a person aged 70 years or over. All other licensing provisions shall apply.

I. Upon acceptance of the license application and fee, the Town Clerk shall issue a durable license tag including an identifying number, year of issuance, town, and state. Both rabies and license tags must be attached to the collar of the dog. Tags must be worn at all times and are not transferable. The Town Clerk shall maintain a record of all licenses issued, and such records shall be available to the Animal Control Officer.

### § 10-3 Kennel regulations.

[Amended 10-24-2005 STM by Art. 6]

A. No person shall operate a kennel within the Town without first obtaining a kennel license from the Animal Control Commission in accordance with the provisions of this bylaw and all applicable state and local laws. The following requirements shall at all times apply to a kennel:

B. The location and operation of the kennel shall be appropriate for housing the number of animals allowable under this bylaw and will not be detrimental to the health and safety of the animals or persons;

C. The kennel shall be operated in a safe, sanitary and humane manner;

D. The kennel shall not keep more than 25 animals on the premises at any time (animals which are on the premises for grooming but not for overnight boarding, for medical or surgical treatment or observation, or for boarding for recovery from medical or surgical treatment or observation shall not be counted in this number);

E. The kennel shall not contract with security dog firms or other businesses to board on the premises protection or security dogs or protection or security dogs in training, other than a security dog kept on the premises for the kennel's own security purposes;

F. Under the provisions of this bylaw, no permit fee shall be required of any animal shelter holding federal nonprofit status. All other provisions shall apply. Any change in the category under which a permit is issued shall be reported to the Town Clerk within 60 days, whereupon reclassification and appropriate adjustment of the permit fee shall be made.

G. The kennel shall at all times keep and maintain on its premises accurate records of the identities of all animals kept on the premises and the number of animals on the premises on each day.

§ 10-4 Issuance and revocation of kennel licenses.

[Amended 10-24-2005 STM by Art. 6]

A. Application. The Town Clerk shall provide a kennel license application, in a form prescribed by the Town Clerk, which shall be completed by any person seeking a kennel license or renewal thereof. The application shall include a statement that the applicant acknowledges receipt of a copy of this bylaw and agrees to comply with all applicable provisions.

B. License renewal application. Any application for a renewal of a kennel license must be submitted to the Town Clerk not later than November 1 of each year.

C. Inspection and report. Upon receipt of a completed application, the Town Clerk shall so notify the Animal Control Officer who shall forthwith conduct an inspection of the applicant's kennel. Upon receipt of the kennel inspector's report, the Town Clerk shall submit the completed application and such report to the Animal Control Commission for its consideration and review.

D. Review by Animal Control Commission. Upon its review of the kennel application and inspection report, the Animal Control Commission shall determine whether the kennel is in compliance with the requirements of this bylaw, and if so, shall authorize the Town Clerk to issue a kennel license to the applicant; or, if the kennel is found to not be in compliance with the requirements of this bylaw, the Commission shall deny the application and state the reasons therefor.

E. Inspections. Kennels shall be subject to periodic inspections by the Animal Control Officer and/or at the request of the Animal Control Commission. If, in the judgment of the Commission, the kennel is not in compliance with all applicable requirements of this bylaw, the Commission may by order revoke or suspend the kennel license.

F. Reinspection. In the event a kennel license application or renewal application is denied, the applicant may request a reinspection to demonstrate to the Animal Control Officer that it has brought the kennel into compliance with the requirements of this bylaw. The Animal Control Officer shall then, as soon as is practicable, reinspect the kennel and report his/her findings to the Animal Control Commission which shall, within a reasonable time, review the application. The applicant will be assessed a reinspection fee.

G. Kennel license review hearings. In accordance with MGL c.140, §137C, any group of 25 citizens of the Town may file a complaint with the Animal Control Commission setting forth that they are aggrieved, or annoyed to an unreasonable extent, by one or more animals at a kennel maintained in the Town, because on or more animals is a nuisance or dangerous animal as defined in MGL c.140, §136A, or because of other conditions connected with such kennel constituting a public nuisance. Within seven days after the filing of a resident's complaint, the Animal Control Commission shall give notice to all parties in interest of a public hearing to be held within 14 days after the date of such notice. Within seven business days after the public hearing, the Animal Control Commission shall make an order either dismissing the petition, revoking or suspending the kennel license, or otherwise regulating the kennel.

H. Inspection and review after suspension. In the event a kennel license is suspended, upon the expiration of such suspension period and after the license holder has reasonably demonstrated to the Animal Control Officer that it has brought the kennel into compliance with the requirements of this bylaw or otherwise acted in accordance with an order of the Animal Control Commission, the Animal Control Officer shall then, as soon as is practicable, reinspect the kennel and report his/her findings to the Animal Control Commission which shall, within a reasonable time, review the application. The applicant will be assessed a reinspection fee.

I. Appeal to district court. Pursuant to the provisions of MGL c. 140, § 137C, the kennel license holder may, within 10 days after the entry of such order, bring a petition in the local district court praying that such any order issued above be reviewed by the court.

J. Fees. Fees for kennel license applications and annual renewal applications are as set forth in Section 10-13 below.

K. Severability. The invalidity of any part or parts of this bylaw shall not affect the validity of the remaining parts.

## § 10-5 Owner's responsibilities.

A. It shall be the duty of every owner of an animal, or anyone having an animal in their possession or custody, to exercise reasonable care and to take all necessary steps and precautions to prevent any animal from being a nuisance and to protect people, property, and animals from injuries or damage which might result from their animal's behavior, regardless of whether such behavior is motivated by mischievousness, playfulness, or ferocity. In the event that the owner or keeper of any animal is a minor, the parent or guardian of such minor shall be responsible to ensure that all provisions of this bylaw are complied with.

B. While on owner's property. It shall be the duty of every owner of any animal, or anyone having any animal in his possession or custody, to ensure that the animal is kept under restraint and that reasonable care and precautions are taken to prevent the animal from leaving, while unattended, the real property limits of its owner, possessor, or custodian, or the real property limits of another person with the knowledge and express permission of the owner of such property. Suggested methods to restrain an animal include the following: it is securely and humanely enclosed within a house, building, fence, pen, or other enclosure out of which it cannot climb, dig, jump, or otherwise escape on its own volition, and such enclosure be securely locked at any time the animal is left unattended; it is securely and humanely restrained by chain, cable and trolley or other tether of sufficient strength to prevent escape in accordance with MGL c.140, §174E; or it is on a leash and under control of a competent person, or is off leash and is obedient to that person's commands and that person is present with the animal any time it is not on a leash.

C. While off owner's property or at large. It shall be the duty of every owner of any animal or anyone having an animal in their possession to keep the animal under restraint and control at all times while the animal is off the real property limits of the owners, possessors or custodian. For the purpose of this section, an animal is deemed under control when it is securely confined within a vehicle, parked or in motion; it is properly confined within a secure enclosure with permission of the owner of the property where the enclosure is located; it is securely restrained by a leash or other device held by a competent person. The animal owner, possessor, or custodian is required to immediately remove any solid waste left by their animal(s) on public or private property beyond their real property limits.

[Added 10-24-2005 STM by Art. 6]

D. Abandonment or abuse of animals. It shall be a violation of this bylaw for anyone to knowingly abandon or abuse any domesticated animal. Each person who does abandon or abuse knowingly, or willingly permits this abandonment or abuse or aids in the abandonment or abuse of any domesticated animal shall be reported to the proper authority.

D. Penalties for violation and repeat offenders. Any person violating the terms of this section or rules and regulations promulgated pursuant thereto shall be subject to fines as described in § 10-11.

[Amended 5-5-2008 ATM by Art. 13]

## § 10-6 Impoundment.

A. Any animal found in violation of § 10-5 shall be impounded by the Animal Control Officer in an animal shelter and confined in a humane manner. Immediately upon impounding an animal, the Animal Control Officer shall make every reasonable effort to notify the owner and inform such owner of the conditions whereby custody of the animal may be regained. Animals not claimed by their owners within a period of 7 days shall be disposed of in accordance with Chapter 140 of the General Laws.

B. When an animal is found in violation of § 10-5 and the Animal Control Officer verifies its ownership, the appropriate Officer may exercise the option of serving the owner with a notice of violation in lieu of impounding the animal.

C. In the event that the Animal Control Officer finds dogs or cats to be suffering, he/she shall

have the right forthwith to remove or cause to have removed any such animals to a safe place for care at the owner's expense or to euthanize them when deemed necessary by a licensed veterinarian, to prevent further suffering. Return to the owner may be withheld until the owner shall have made full payment for all expenses so incurred.

D. Disposal of an animal by any method specified herein does not relieve the owner of liability for violations and any accrued charges.

#### § 10-7 Redemption.

A. Any animal impounded may be redeemed by the owner thereof within ~~40~~ 7 days upon payment of an impoundment fee. Payment of impoundment fees is not considered to be in lieu of any fine, penalty or license fees.

B. Any animal confined for rabies quarantine involving a bite to a human may be redeemed by the owner upon release by the Animal Control Officer. Any animal confined for rabies quarantine (for reason other than a human bite), evidence, or other purpose may be redeemed by the owner upon release by the Animal Control Officer.

[Amended 5-5-2008 ATM by Art. 13]

C. No animal required to be licensed or vaccinated under this bylaw may be redeemed until provisions for such licensing have been fulfilled.

#### § 10-8 Animal Control Commission.

*Editor's Note: For provisions regarding other boards, committees and commissions, see Ch. 17.*

A. An Animal Control Commission ("Commission") is hereby established.

B. This Commission shall be charged with evaluating animal control problems by collecting necessary data, hearing expert opinion, holding public hearings, and other activities in order to make recommendations to resolve such problems. The Commission will provide support in the recruitment, hiring, and training of the Animal Control Officer. The Commission may also promulgate appropriate rules and regulations for the care and control of animals and facilities covered by the bylaw, and prepare budgets for animal control activities. The Commission shall also review, approve or deny kennel license applications.

C. If matters brought before the Commission are not satisfactorily resolved, the Commission may recommend the issue be brought to the Select Board for further review and action.

D. The Commission shall consist of not less than five nor more than seven members who shall be appointed by the Select Board. Membership should include a cross section of the community and include individuals with professional knowledge pertinent to the member's responsibilities, (i.e., an attorney, veterinarian, police officer, humane society representative, etc.).

E. When the Commission is first established, the terms of the members shall be for such length, not exceeding three years, and so arranged that the terms of approximately 1/3 of the members will expire each year, and their successors shall be appointed for terms of three years each.

F. Any member of the Commission may be removed for cause after a public hearing.

G. A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term in the same manner as an original appointment.

#### § 10-9 Severability.

If any section, sentence, clause or phrase of this bylaw is, for any reason, held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of these sections.

#### § 10-10 Findings; purpose.

The Town of Lancaster hereby finds, determines and declares that this bylaw is necessary for the

immediate preservation of the public health, safety and welfare of the Town of Lancaster and the inhabitants thereof.

#### § 10-11 Violations and penalties.

A. Whoever violates any provision of this bylaw may be penalized by a noncriminal disposition process as provided in MGL c. 40, § 21D and/or MGL c. 140, § 173A, and as enforced by the Animal Control Officers and assigned agents. If noncriminal disposition is elected, then any person who violates any provision of this bylaw shall be subject to fines under Article I, Noncriminal Disposition, of Chapter 1, General Provisions, of the Code of the Town of Lancaster, in the amounts set forth in Chapter 1, Article II, Fines. Each day or portion thereof shall constitute a separate offense. If more than one violation of this bylaw exists, each such violation shall constitute a separate offense.

B. Whoever violates any provision of this bylaw may be penalized by indictment or on complaint brought in the District Court. Except as may be otherwise provided by law and as the District Court may see fit to impose, the maximum penalty for each violation or offense shall be as set forth in Chapter 1, General Provisions, Article II, Fines. Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

C. In the alternative or in addition to the above, the Town may employ any other means available at law or in equity to enforce this bylaw.

#### § 10-12 Nuisance and/or Dangerous Dogs.

A. Any person may file a written complaint with the Animal Control Commission that any dog owned or kept in the Town of Lancaster is a nuisance or dangerous dog as those terms are defined by MGL c. 140, § 136A. The Animal Control Commission shall investigate or cause to be investigated such complaint, including an examination under oath of the complainant at a public hearing in the municipality to determine whether the dog is a nuisance dog or a dangerous dog, and shall make such order concerning the restraint or disposal of such dog as provided in MGL c.140, § 157. Violations of such orders shall be subject to the enforcement provisions of G.L. Chapter 140, §§ 157 and 157A, which, upon conviction, may include: for a first offense, a fine of not more than \$500 or imprisonment for not more than 60 days in a jail or house of correction, or both, and for a second or subsequent offense by a fine of not more than \$1,000 or imprisonment for not more than 90 days in a jail or house of correction.

#### § 10-13 Fees.

A. The licensing fees for dogs and kennels shall be as follows:

Dogs: Intact \$20.00; Spayed/Neutered \$10.00

Kennels: per dog as set forth above.

And you are directed to serve this Warrant by posting up attested copies thereof at the South Lancaster Post Office, the Center Post Office, the Fifth Meeting House and the Town Hall, in said Town seven days at least before the time for holding said meeting. Hereof fail not and make due return of the Warrant with your doings thereon to the Town Clerk at the time and place of meeting aforesaid.

***SELECTMEN OF LANCASTER***

\_\_\_\_\_

**Jean M Syria, *Chairwoman***

\_\_\_\_\_

**Susan E. Smiley, Vice-  
Chairwoman/*Clerk***

\_\_\_\_\_

**Stanley B. Starr, *Member***

\_\_\_\_\_

**Date of Execution**

***CONSTABLE'S CERTIFICATION***

*I hereby certify under the pains and penalties of perjury that I posted an attested a copy of this Warrant at the South Lancaster Post Office, the Center Post Office, the Fifth Meeting House, and the Town Hall on the date attested. I further certify that this Warrant was posted in accordance with the By-laws of the Town of Lancaster and the provisions of M.G.L. c.39, § ☐10.*

***Attest:***

*Constable*

\_\_\_\_\_

***Date:***

\_\_\_\_\_

**The full text of the Warrant is available in the Town Hall and Thayer Memorial Library.  
The Warrant will also be available at Town Meeting.**