

SPECIAL TOWN MEETING
COMMONWEALTH OF MASSACHUSETTS
Town of Southwick
April 6, 2005

Special Town Meeting, April 6, 2005 at 6:30 p.m. at the Town of Southwick Town Hall in the Auditorium at 454 College Highway, Southwick, Massachusetts.

HAMPDEN SS. To either of the Constables of the Town of Southwick in the County of Hampden:

GREETINGS:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the inhabitants of said town qualified to vote in elections and town affairs to meet and assemble at the **SOUTHWICK TOWN HALL AUDITORIUM** on April 6, 2005 at 6:30 p.m. then and there for the Special Town Meeting and to act on the following articles:

ARTICLE 1. To see if the Town will vote to appropriate and transfer from available funds and Water Salary Reserve the sum of \$75,080.00 for the following salary accounts

Selectmen's Administrative Assistant.....	\$1,600.00	Selectmen's Part Time.....	\$2,000.00	
Town Accountant.....	\$1,180.00	Asst. TownAccountant.....	\$975.00	
Asst. Assessor.....	\$2,840.00	Town Clerk/Treas./Collector.....	\$1,310.00	
Asst. Clerk/Treas./Collector.....	\$975.00	Conservation Admin.....	\$600.00	
Bldg./Grounds Supervisor.....	\$1,420.00	Custodial Salary.....	\$1,200.00	
Part Time Town Hall.....	\$2,300.00	Police Secretary.....	\$810.00	
Full Time Police.....	\$5,000.00	Police Part Time Records Clerk.....	\$200.00	
Police Overtime.....	\$5,000.00	Police Inservice Training.....	\$1,000.00	
DPW Engineer.....	\$1,000.00	Library Part Time.....	\$4,500.00	
DPW Director.....	\$1,600.00			Police Reserve Officer
Training.....	\$11,400.00			
Police Straight Time.....	\$1,000.00	Police-Holiday Pay.....	\$1,200.00	
Park & Recreation Part Time.....	\$500.00	Fire Clerical Salaries.....	\$2,500.00	
Police Incentive.....	\$3,000.00	Animal Control Salary.....	\$1,700.00	
Building Inspector.....	\$1,050.00	COA Part Time Staff	\$700.00	
COA Director.....	\$1,660.00	Water DPW Supervisor.....	\$1,000.00	
Water DPW Director.....	\$4,300.00			Board of Appeals DPW
Clerical.....	\$50.00			
Supervisor.....	\$1,200.00	Town Hall Maintenance Overtime.....	\$2,000.00	
Part Time Water.....	\$1,160.00	Fire Department Inspections.....	\$2,500.00	
Part Time Health Inspector.....	\$2,600.00			
Planning Board Clerical.....	\$50.00			

or to take any other action related thereto.

**Requested by Board of Selectmen
And Water Commissioners**

ARTICLE 2. To see if the Town will vote to appropriate and transfer from available funds the sum of \$64,450.00 from available funds for the following operation accounts:

Elections and Registration.....	\$ 3,050.00	Pub. Safety Bldgs.Utilities/Fuel.....	\$ 7,500.00
K-9 Unit Fence.....	\$ 3,800.00	Gas & Oil.....	\$20,000.00
Flag Pole for Town Common.....	\$ 1,300.00	Building Maintenance Repairs.....	\$ 7,000.00
Medical Shots for Police Dept.....	\$ 7,200.00	Traffic Light Replacement.....	\$ 2,500.00

Reserve Police Officers Uniforms..... \$ 2,100.00
 Town Hall Utilities/Fuel..... \$ 5,000.00

Water Equipment Surge Protector..... \$ 1,000.00
 Library Utilities/Fuel..... \$ 4,000.00

or to take any other action related thereto.

**Requested by Board of Selectmen
 And Water Commissioners**

ARTICLE 3. To see if the Town will vote to appropriate and transfer from Water Retained Earnings the sum of \$15,000.00 for Water Line Debt or to take any other action related thereto.

Requested by Water Commissioners

ARTICLE 4. To see if the Town will vote to appropriate and transfer from Fire Department Capital Line Item 01220-588012 SCBA Compressor the sum of \$7,090.00 for Water Filtration De-Ionization Line Item for the Fire Station or take any action thereto.

Requested by Fire Commissioners

ARTICLE 5. To act on the report of the Community Preservation Committee on the Fiscal Year 2005 Community Preservation Budget and to set up a budgeted reserve for later appropriation monies from the Community Preservation Fund annual revenues or available funds for the undertaking of Community Preservation Projects and all other necessary and proper expenses for the year, or take any action relative thereto.

MOTION: To see if the town will vote to set up a budgeted reserve from Community Preservation Fund annual revenues the amounts recommended by the Community Preservation Committee in Fiscal Year 2005, with each item to be considered a separate reserve.

Proposed Fiscal Year 2005 Community Preservation Reserves

The Community Preservation Committee recommends that the following amounts be reserved from fiscal year 2005 Community Preservation Funds Revenues, unless otherwise specified, for Fiscal Year 2005 Community Preservation purposes.

- To reserve \$29,371.37 from FY2005 Community Preservation Fund revenues for Open Space
- To reserve \$29,371.37 from FY2005 Community Preservation Fund revenues for Historic Resources
- To reserve \$29,371.37 from FY2005 Community Preservation Fund revenues for Community Housing
- To reserve \$205,599.57 from FY2005 Community Preservation Fund revenues for FY2005 Community Preservation Fund General Unreserved Fund.

Reserves

- | | |
|----------------------|---------------------|
| • Open Space | 29,371.37 |
| • Historic Resources | 29,371.37 |
| • Community Housing | 29,371.37 |
| • General Unreserved | <u>205,599.57</u> |
| | \$293,713.68 |

**Requested by Community
 Preservation Committee**

ARTICLE 6. To see if the Town will appropriate and transfer the sum of \$4,145.00 from prior year (FY04) Community Preservation Fund General Unreserved Fund for the administrative and operating expenses of the Community Preservation Committee, or take any other action relative thereto.

**Requested by Community
Preservation Committee**

ARTICLE 7. To see if the Town will vote to accept the conservation restriction from Regal Homes and Development Corporation relative to property shown as "Area of Open Space Provided 10.8 +/- Acres" on a plan entitled "Whispering Pines" dated October 25, 2000 as revised on October 27, 2000 and January 11, 2001, by D. L. Bean, Inc. recorded in Book of Plans 322, Page 58 of the Hampden County Registry of Deeds, and to authorize the Board of Selectmen and Conservation Commission to execute the conservation restriction relative to the aforementioned property, a copy of the "Whispering Pines" plan and conservation restriction are available for inspection and review at the office of the Town Clerk, or take any other action relative thereto.

**Requested by Conservation
Commission**

ARTICLE 8. To see if the Town will vote to accept the following streets or portions thereof as public ways pursuant to Mass. Gen. Laws Chapter 82, Section 23, as laid out the Board of Selectmen according to plans on file with the Town Clerk:

Pearl Brook Road From the intersection with Vining Hill Road to the end of Pearl Brook Road, 1,824.64 feet, more or less, Southwesterly.

Hidden Place From the intersection with Pearl Brook Road to the end of Hidden Place, 558.92 feet, more or less, Northerly.

Including the acceptance of easement as show on said plans; or take any other action relative thereto.

**Requested by Board of
Selectmen**

ARTICLE 9. To see if the Town will vote to authorize the Board of Selectmen to take by eminent domain, purchase, or otherwise acquire easement in the following streets or portions thereof for public ways as laid out by the Board of Selectmen according to plans on file with the Town Clerk:

Pearl Brook Road From the intersection with Vining Hill Road to the end of Pearl Brook Road, 1,824.64 feet, more or less, Southwesterly.

Hidden Place From the intersection with Pearl Brook Road to the end of Hidden Place, 558.92 feet, more or less, Northerly.

Including the taking, purchase, or other acquisition of drainage easements as shown on said plans, and all water lines, pipes, conduits, basins, and their appurtenances installed or constructed in said streets; or take any other action relative thereto.

Requested by Board of Selectmen

ARTICLE 10 . To see if the Town will vote to amend Chapter 69 of the Code of the Town of Southwick Massachusetts as follows:

**Chapter 69
ANIMALS**

**ARTICLE 1
Dogs and Cats**

§ 69-1.	Authority	§ 69-12.	Enforcement of unleashed/at large dog
§ 69-2.	Definitions	§ 69-13.	Fee for Reclamation of Impounded Dog or Cat; Failure to Claim Impounded Dog or Cat
§ 69-3.	Licensing of Dogs	§ 69-14.	Removal of Dog or Cat Waste from Public Property or the Property of Others
§ 69-4.	Licensing Fees	§ 69-15.	Failure to Provide Adequate Food, Water, and Shelter
§ 69-5.	Vaccination of Dogs and Cats Against Rabies	§ 69-16.	Dangerous or Potentially Dangerous Dogs
§ 69-6.	Limit on Number of Dogs or Cats; Fine	§ 69-17.	Motor Vehicles; Striking, Injuring or Killing Dogs or Cats
§ 69-7.	Kennel Licenses	§ 69-18.	Enforcement
§ 69-8.	Kennel Inspection and Regulation	§ 69-19.	Severability
§ 69-9.	Barking Dogs		
§ 69-10.	Payments to Veterinarians for Emergency Treatment of Dogs or Cats Injured on Ways		
§ 69-11.	Dogs at Large Prohibited; Leashing Requirement; Fine		

**ARTICLE II
Waterfowl Control**

§ 69-20.	Definitions
§ 69-21.	Feeding and baiting prohibited
§ 69-22.	Enforcement and penalties
§ 69-23.	Severability

or take any other action relative thereto.

Requested by the Animal Control Officer

ARTICLE 11. To see if the Town will vote to amend, in its entirety, Chapter 69, Article 1 of the Code of the Town of Southwick by deleting the provisions currently enacted and replacing them with the following provisions:

“§69-1. Authority

The Town of Southwick may create by-laws and ordinances relating to dog and cat licensing and related companion animals and fees pursuant to M.G.L. c. 140, §147A.

§69-2. Definitions

“Owner” means any person possessing, harboring, keeping, having an interest in, or having control or custody of an animal. If a person under the age of 18 owns the animal, that person’s custodial parent(s) or legal guardian(s) shall be responsible for complying with all requirements of this bylaw.

“Companion Animal” or **“Pet”** means any dog or cat, and shall also mean any other domesticated animal normally maintained in or near the household of the Owner or person who cares for such other domesticated animal. **“Pet”** or **“Companion Animal”** shall not include a **“farm animal”** as defined in this section.

“Farm Animal” as used in this article means any poultry, ungulate, species of cattle, sheep, swine, goats, llamas, equine, or other fur-bearing animal which are raised for commercial or subsistence purposes.

“Adequate Shelter” means a structure that is large enough for the animal to stand naturally, turn around and lay down inside of the structure without being exposed to the elements of weather. During cold weather a moveable flap shall be placed over the entrance to a dog shelter to preserve the dog’s body heat.

“Severe injury” means any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or corrective or cosmetic surgery.

“Kennel” means one pack or collection of dogs on a single premises, whether maintained for breeding, boarding, sale, training, hunting or other purposes, and including any shop where dogs are on sale, and also including every pack or collection of five (5) or more dogs three (3) months of age or older, owned or kept by a person on a single premises irrespective of the purpose for which they are maintained.

“Kennel, Commercial” means any premises maintained for the boarding or breeding or in-residence training of dogs, or day care, or where ten (10) or more dogs three (3) months of age or older are kept.

“Kennel, Residential” means any premises where an Owner or keeper maintains five (5) up to and including nine (9) dogs three (3) months of age or older.

“At Large” Any dog which is off the owner’s or keeper’s property and not under control of the owner or keeper, and any cat off the owner or keeper’s property and not under control of the owner or keeper.

“Potentially Dangerous Dog” as used in this article means:

- (1) Any dog which, unprovoked, chases or approaches a person in a menacing fashion or apparent attitude of attack upon the streets, sidewalks or any public or private property.
- (2) Any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury, or to otherwise threaten the safety of human beings or Companion Animal, Pet or Farm Animal.
- (3) Any dog, which, unprovoked, has killed, seriously bitten, inflicted injury, or otherwise caused injury attacking a Companion Animal, Pet or Farm Animal off the property of the Owner of the dog.

- (4) Any dog which, unprovoked, bites a person causing a less than Severe injury.

“Dangerous Dog” as used in this article means:

- (1) Any dog which, unprovoked, in an aggressive manner, inflicts severe injury upon or kills a human being.
- (2) Any dog which, unprovoked, on two separate occasions within the prior 12 month period has killed, seriously bitten, inflicted injury, or otherwise caused injury attacking a Companion Animal, Pet or Farm Animal off the property of the Owner of the dog.
- (3) Any dog previously determined to be and currently listed as a Potentially Dangerous Dog, which, after its Owner or keeper has been notified of this determination, continues the behavior that caused it to be listed as a Potentially Dangerous Dog, or is found to be in violation of orders placed upon it in a previous hearing.
- (4) Any dog that has been used for the purpose of dog fighting or a dog trained for dog fighting.

§69-3. Licensing of Dogs

Any person who at the commencement of a license period (April 1st through March 31st) is, or who during any license period becomes the Owner or keeper of a dog six (6) months old or over, shall cause the dog to be licensed within thirty (30) days. The Town Clerk or Animal Control Officer shall issue dog licenses and tags on a form prescribed and furnished by the Town. Subject to the approval of the Board of Selectmen, the Town may provide licensing to be conducted through the mail.

The license record shall include the name, address, phone number and date of birth of the Owner or keeper of the dog, and the name, license number, breed, color, age, sex, and the rabies expiration date of each dog and indicate whether the dog has been spayed or neutered. The license tag shall include the license number, the name of the Town and the year of issue.

The Owner or keeper shall cause each dog to wear around its neck or body a collar or harness to which he shall securely attach the license tags. In the event that any tag is lost, defaced or destroyed, a substitute tag shall be obtained by the Owner or keeper from the Town Clerk or Animal Control Officer at the cost of one dollar. Such monies shall be transmitted to the Town of Southwick's General Fund in the same manner as license fees. The Town Clerk or Animal Control Officer shall not issue a license for any dog unless the Owner or keeper provides the Town Clerk or Animal Control Officer with a veterinarian's certificate verifying that the dog is currently vaccinated against rabies.

The Town Clerk or Animal Control Officer shall not grant such licenses for any dog unless the Owner thereof provides either a veterinarian's certificate that such dog has been vaccinated in accordance with M.G.L. c. 140, §145B, or has been certified from such provision as provided in M.G.L. c. 140 et seq., or has been certified exempt from such provision as hereinafter provided, or a notarized letter from a veterinarian that a certificate was issued.

§69-4. Licensing Fees

The following is a list of licensing fees for dogs to be licensed in the Town of Southwick:

Male Dog	\$25.00
Female Dog	\$25.00
Spayed Female Dog	\$10.00
Neutered Male Dog	\$10.00

Exceptions: If the Owner or keeper of any dog has a written statement from a veterinarian indicating that because of age, infirmity or other physical condition spaying or neutering is deemed inadvisable and presents said written statement to the Town Clerk or Animal Control Officer, the licensing fee shall be ten (\$10.00) dollars.

No fee shall be charged for a license for a dog specifically trained to lead or serve a blind, deaf or handicapped person upon presentation to the Town Clerk or Animal Control Officer of a certificate of such training.

Late fee: The Town Clerk or Animal Control Officer shall collect a late fee of fifteen (\$15.00) dollars for every dog license issued after the thirty-day period, as defined in §69.3.

No license fee or part thereof shall be refunded because of subsequent death, loss, spaying, or removal from the Commonwealth or other disposal, of the dog.

Any Owner or keeper of a dog who moves into the Town of Southwick and has a valid dog license for his/her dog from another city or town in the Commonwealth shall, within thirty (30) days obtain a dog license for a fee of one (\$1.00) dollar upon producing evidence of the previous license.

Any person who violates the provisions of §69-3 or 4, shall receive a written warning for the first offense, and for each subsequent offense shall be liable for payment of a fine of forty five (\$45.00) dollars, which shall be paid to the Town of Southwick General Fund.

§69-5. Vaccination of Dogs and Cats Against Rabies

The Owner or keeper of a dog or cat in the Town of Southwick six (6) months of age or older shall cause such dog or cat to be vaccinated against rabies by a licensed veterinarian using a licensed vaccine according to the manufacturers directions and approved by the Massachusetts Department of Public Health. Unvaccinated dogs and cats acquired or moved into the Commonwealth shall be vaccinated within thirty (30) days after the acquisition or arrival into the Town of Southwick or upon reaching the age of six (6) months, whichever last occurs. Such Owner or keeper shall procure a veterinarian's certificate that such animal has been so vaccinated, setting forth the day of such vaccination and the duration of immunity, or a notarized letter from a veterinarian that a certificate was issued.

The veterinarian shall issue a tag with each certificate of vaccination. The tag shall be secured by the Owner or keeper of such dog or cat to a collar or harness made of suitable material to be worn by the dog or cat; provided however, the Owner of a cat may choose not to affix a tag to his cat, but shall have the tag and certificate available for inspection upon demand by Animal Control Officers, Police Officers or other such authorized officials of the Town of Southwick.

Vaccinated animals, dog or cat, shall be revaccinated periodically in accordance with the rules and regulations adopted by and promulgated by the Mass. Department of

Public Health.

Any person who violates the provisions of §69-5, shall receive a written warning for the first offense, and for each subsequent offense shall be liable for payment of a fine of forty five (\$45.00) dollars, which shall be paid to the Town of Southwick General Fund.

§69-6. Limit on Number of Dogs or Cats; Fine

- A. No person shall keep more than six (6) cats being over the age of six (6) months, at any single-family residence within the Town of Southwick. No person shall keep more than four (4) dogs being over the age of six (6) months located in any zone set forth in Chapter 185, of the Zoning Bylaws of the Town of Southwick (except Agriculture and Conservation District AC). Owners or keepers of dogs located in an Agricultural and Conservation District AC Zone under the Zoning Bylaws may be keepers of more than four (4) dogs only upon the issuance of a kennel license after a public hearing before the Board of Selectmen. Those persons who kept more than four (4) dogs or six (6) cats at there premises as of the date of the enactment of this bylaw, may keep said animals in excess of the aforesaid limit, but said animals may not be replaced so as to exceed the four (4) dogs and six (6) cats limit.
- B. Any person who violates the provisions of §69-6, shall receive a written warning for the first offense, and for each subsequent offense shall be liable for payment of a fine of fifty (\$50.00) dollars for each day in violation of this section, which shall be paid to the Town of Southwick General Fund.

§69-7. Kennel Licenses

Any person or business maintained for the boarding or breeding or day care of in-residence training of dogs shall obtain a kennel license. Any Owner or keeper of five (5) up to and including nine (9) dogs three (3) months of age or older, being maintained at a premises, shall secure a Residential Kennel license. The Town Clerk or Animal Control Officer shall not issue a Residential Kennel license unless the Owner or keeper provides the Town Clerk or Animal Control Officer with a veterinarian's certificate verifying that each dog three (3) months of age or older is currently vaccinated against rabies.

Any Owner or keeper of ten (10) or more dogs, three (3) months of age or older, or of a premises maintained for the boarding or breeding or day care or in-residence training of dogs, shall obtain a Commercial Kennel license.

Issuance of a Residential or Commercial Kennel license shall be contingent upon inspection and approval by the Animal Control Officer to ensure that basic standards of cleanliness and proper care and confinement of said dogs exist on the premises.

Such license shall be in a form prescribed by the Town Clerk. Such license shall be in lieu of any other license for any dog while kept at such kennel during any portion of the period for which such kennel license is issued. The holder of a license for a kennel shall cause each dog kept therein to wear a collar or harness of leather or other suitable material, to which shall be securely attached a tag upon which shall appear the number of such kennel license, the year of issue and the inscription "SOUTHWICK".

The fee for each license for a kennel shall be fifty (\$50.00) dollars for a Residential Kennel license and one hundred fifty (\$150.00) dollars for a Commercial Kennel

license.

The name and address of the Owner of each dog kept in any kennel, if other than the person maintaining the kennel, and a veterinarian's certificate verifying that each dog three (3) months of age or older is currently vaccinated against rabies, shall be kept on file thereat and available for inspection by the Animal Control Officer or any authorized person.

The Town Clerk or Animal Control Officer shall, upon application, issue without charge a kennel license to any domestic charitable corporation, incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse, and for the relief of suffering among animals. A veterinary hospital shall not be considered a kennel unless it contains an area for the selling, breeding or boarding of dogs for other than medical purposes, in which case it shall apply for a kennel license.

The license period for a kennel license shall be from April 1st to March 31st, inclusive.

For purposes of these By-laws, any business which is currently and legally operating prior to the adoption of these By-laws which would be considered a Residential Kennel or Commercial Kennel as defined herein, shall not be considered an illegal use or in violation of the Town Zoning Code Section 185-11 which requires a Commercial Kennel to be located within the Agriculture and Conservation District AC Zone. Notwithstanding the foregoing, any business which is legally and currently operating which would be considered a Residential Kennel or Commercial Kennel as defined herein shall be required to adhere to all the provisions pertinent to the operation of a Residential or Commercial Kennel as set forth in these By-laws.

Any person who violates the provisions of §69-7, shall receive a written warning for the first offense, and for each subsequent offense shall be liable for payment of a fine of fifty (\$50.00) dollars for each day in violation of this section, which shall be paid to the Town of Southwick General Fund.

§69-8. Kennel Inspection and Regulation

The Animal Control Officer or any agent authorized by the Town of Southwick may, at any time during normal business hours, inspect or cause to be inspected any kennel or property holding a kennel license, Residential or Commercial.

If, in the judgment of the Animal Control Officer or any agent authorized by the Town of Southwick, after inspection, determines in their judgment, the kennel is not being maintained in a sanitary and humane manner, or if records are not properly kept as required by law, the Selectmen may, by order, revoke or suspend, and in case of suspension may reinstate, such license.

Upon written complaint from the Animal Control Officer or a Southwick resident, filed with the Selectmen, setting forth that they are aggrieved, annoyed to an unreasonable extent, by one or more dogs at the kennel, because of the excessive barking or vicious disposition of said dogs or other conditions connected with such kennel constituting a public nuisance, the Selectmen, within seven (7) days after the filing of such petition, shall give notice to all parties in interest of a public hearing to be held within fourteen (14) days after the date of such notice.

Within seven days after such public hearing said Board of Selectmen shall make an order either revoking or suspending such kennel license or otherwise regulating said kennel, or dismissing said petition.

The holder of such license aggrieved by any decision rendered by the Board of Selectmen may appeal such decision in accordance with M.G.L. c. 140, §137C.

Any person maintaining a kennel after the license has been so revoked, or while such license is so suspended, may be punished by a fine of fifty (\$50.00) dollars, which shall be paid to the Town of Southwick General Fund, for each day in violation of said revocation or suspension.

§69-9. Barking Dogs

No person owning or keeping or otherwise responsible for a dog shall allow or permit said dog to annoy another person's reasonable right to peace or privacy by making loud and continuous noise, where such noise is plainly audible at a distance of one hundred fifty (150) feet from the building, premises, vehicle or conveyance housing said dog, and such noise is continuous in excess of fifteen (15) minutes. The fact that such noise is plainly audible at said distance and continuous in excess of fifteen (15) minutes shall be prima facie evidence of a violation.

Any person who violates this provision shall receive a written warning for the first offense, and shall be liable for payment of the following fines: thirty (\$30.00) dollars for the second offense; fifty (\$50.00) dollars for the third offense, and one hundred (\$100.00) dollars for the fourth offense and each subsequent offense. Said fine shall be paid to the Town of Southwick General Fund.

§ 69-10. Payments to Veterinarians for Emergency Treatment of Dogs or Cat Injured on Ways

Any veterinarian registered under the provisions of section 55 or 56A of Chapter one hundred twelve of the Massachusetts General Laws who renders emergency care or treatment to or disposes of a dog or cat that is injured on any way within the Town of Southwick, and brought to a veterinarian by the Animal Control Officer or Police personnel, shall receive payment from the Owner of such dog or cat, if known, or if not known, from the dog fund of the Town of Southwick, in an amount not to exceed one hundred (\$100.00) dollars for such care, treatment or disposal; provided, however, such emergency care, treatment or disposal shall be for the purpose of maintaining life, stabilizing the animal or alleviating suffering until the Owner or keeper of such dog or cat is identified or for a period of twenty-four (24) hours, whichever is sooner.

Any veterinarian who renders such emergency care or treatment to, or disposes of, such dog or cat shall notify the Animal Control Officer and upon notification, said Animal Control Officer shall assume control of such dog or cat.

§ 69.11. Dogs at Large Prohibited; Leashing Required; Fine.

- A. Any person owning, keeping or being responsible for a dog shall not allow nor permit said dog to run at large on any of the streets or public places in the Town of Southwick or upon any private property, unless the Owner or lawful occupant of such property grants permission therefore.
- B. No dog shall be allowed or permitted in any public place or street within the Town of Southwick unless it is effectively restrained and controlled by a chain or other form of leash that is sufficient to hold the dog, or unless it is under the immediate and effective voice control of a handler, or unless it is within and confined to a motor vehicle.
- C. In any prosecution hereunder the presence of such dog at large upon premises other than the premises of the Owner or keeper of such dog shall be prima facie evidence that such knowledge and permission was not had.

- D. The Owner or keeper of a dog who has violated any of the provisions of this § 69-11 shall be punished by a written warning for the first offense, a fine of seventy-five (\$75.00) dollars for the second offense, a fine of one hundred (\$100.00) dollars for the third offense and two hundred (\$200.00) dollars for the fourth and each subsequent offense.**

§ 69-12. Enforcement of unleashed/at large dog (or cat)

It shall be the duty of the Animal Control Officer, and any assistant Animal Control Officer appointed by the Board of Selectmen, to apprehend any dog/cat found running at large and to impound such dog/cat in the Southwick animal shelter or other boarding facility.

The Animal Control Officer or impounding officer shall keep a register and make a complete record of each impounding.

The record shall contain the following information: breed, color, sex, of each dog or cat, whether or not the dog is licensed, the license number, if any; the name and address of Owner, if known; the date and place of apprehension and the location where the dog or cat is being kept.

The Owner of an impounded dog or cat, when known, shall be notified verbally or in writing of such impoundment or if the Owner is unknown, written notice shall be posted with the Police Department.

Notice shall contain a description of the dog or cat, date and place of apprehension and location where the dog or cat is being kept.

The Owner, or keeper or responsible person may reclaim the dog or cat so impounded upon payment of the license fee, if unpaid and proof of rabies vaccination in the form of a rabies vaccination certificate from a certified veterinarian, and the payment of impoundment and boarding fees and the cost relevant to such impoundment.

§ 69-13. Fee for Reclamation of Impounded Dog or Cat; Failure to Claim Impounded Dog or Cat

- A. An Owner or keeper of a dog or cat reclaiming an impounded dog or cat shall pay into the Town General Fund an administrative fee of twenty-five (\$25.00) dollars plus ten (\$10.00) dollars for each day the animal has been impounded. These charges are in addition to any fines levied under these bylaws.**
- B. Any dog or cat whose Owner or keeper fails to claim said dog or cat within 10 days from the day of impounding shall be subject to the provisions set forth in M.G.L. c. 140, § 151A.**

§ 69-14. Removal of Dog or Cat Waste From Public Property or The Property of Others

No person owning or having the care, custody or control of any dog or cat shall permit such dog or cat to soil or defile or commit any nuisance upon any sidewalk, street, thoroughfare, wetland, in or upon any public property or in or upon the property of persons other than the Owner or persons having the care, custody or control of such dog or cat, unless said person picks up any such waste and disposes of same in a sanitary manner.

Any person found in violation of § 69-14 by the Animal Control Officer or Assistant Animal Control Officer shall be liable for payment of a fine of twenty-five (\$25.00)

dollars for each offense, which shall be paid to The Town of Southwick General Fund.

§ 69-15. Failure to Provide Adequate Food, Water and Shelter

Any person owning, keeping or otherwise responsible for a Companion Animal or Pet who confines that animal to his property by tethering, fencing, or other means shall provide for that animal access to Adequate Shelter from the elements of weather such as rain, cold or sun. Water and food must be available to the animal.

Any person who violates the provisions of § 69-15 shall receive a written warning for the first offense, and for each subsequent offense shall be liable for payment of a fine of fifty (\$50.00) dollars, which shall be paid to the Town of Southwick General Fund, for each day in violation of said bylaw.

§ 69-16. Dangerous and Potentially Dangerous Dogs

A. Procedure for Determining a Potentially Dangerous or Dangerous Dog:

Based upon receipt of a written complaint by a citizen requesting a determination that a dog is potentially dangerous or dangerous, or on the initiative of an Animal Control Officer based on information received by such Officer or the Board of Selectmen may make an investigation and determination that a dog is potentially dangerous or dangerous. The investigation and determination shall be in accordance with the provisions of this ordinance and shall be consistent with the procedures delineated in M.G.L. c. 140, § 157.

B. When a dog is determined to be Potentially Dangerous or Dangerous, the Board of Selectmen may Order Any or All of the Following:

1. Spaying or neutering;
2. Microchip identification, tattooing or other means of permanent identification;
3. Behavior training and behavioral assessment; and
4. Any other order concerning the keeping, restraint, removal from the town, humane euthanasia, or disposal; of such dog as may be deemed necessary, in accordance with M.G.L. c. 140, § 157.

Such orders may include:

- (i) **Requirements at Home for Dogs That Have Been Determined to be Potentially Dangerous or Dangerous:** While on the Owner's or keeper's property, a dog that has been determined to be potentially dangerous or dangerous may be ordered securely confined indoors or in a security enclosed and locked pen or structure of a type meeting standards established by the Animal Control Officer, suitable to prevent the entry of young children and designed to prevent the dog from escaping. Such pen or structure must have a minimum dimension of 12 feet by 12 feet by 6 feet high, with a solid floor to prevent the dog from digging out and a top to prevent the dog from climbing out. If the pen has no solid floor secured to the sides, the sides must be embedded into the ground no less than 2 feet to prevent the dog from digging out. The enclosure must provide the dog with adequate shelter from the elements of nature. The Owner shall conspicuously display a sign with a

symbol warning children who cannot read of the presence of a dangerous dog.

- (ii) **Requirements Outside of the Home for Dogs That Have Been Determined to be Potentially Dangerous or Dangerous:** While off the Owner's or keeper's premises a dog that has been determined to be potentially dangerous or dangerous must be restrained by a lead approved by the Animal Control Officer not exceeding 6 feet in length and must be under the direct physical control of a responsible, able bodied adult. No dog designated as a potentially dangerous or dangerous dog shall be permitted at public festivals, carnivals, parades or similar events. The dog may be required while outside of the home to wear a muzzle designed to prevent the dog from biting. The muzzle must prevent injury to the dog and must not interfere with the dog's vision or respiration.

The Owner or keeper of a dog that has been determined to be potentially dangerous or dangerous must immediately notify the Animal Control Officer if the dog (a) is loose or unconfined, (b) bites a person or attacks another animal, (c) is sold, given away or dies, (d) has been moved to another address, and the location of the new address.

C. Exemptions:

No dog may be declared dangerous if the threat, injury or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the Owner or keeper of the dog, or was teasing, tormenting, abusing, or assaulting the dog or has in the past been observed or reported to have teased, tormented, abused or assaulted the dog or was committing or attempting to commit a crime.

The provisions of this article shall not apply to dogs owned by law enforcement agencies or law enforcement officers in the performance of police work.

D. Penalties:

Any person owning or harboring such dog that has been deemed potentially dangerous or dangerous who fails to comply with an order of the Board of Selectmen, or its agents, in accordance with this section, shall be punishable by a fine of one hundred fifty (\$150.00) dollars for the first offense and three hundred (\$300.00) dollars for a subsequent offense, or by imprisonment for not more than thirty (30) days for the first offense and not more than sixty (60) days for a second or subsequent offense, or both.

If said animal is found on property not owned or controlled by its Owner or keeper, or is found to be not restrained in a secure area, or is found to be in violation of any order issued by the Board of Selectmen said dog may be subject to further restriction, including an order of removal from the Town of Southwick or humane euthanasia, in accordance with the laws of the Commonwealth of Massachusetts.

Each day there exists a violation of any of the provisions of this by-law shall constitute and be punishable as a separate offense.

A dog that has been determined to be potentially dangerous or dangerous shall not be considered legally licensed, pursuant to M.G.L. c 140 § 137 and §147 unless the Owner or keeper is in full compliance with this bylaw.

§ 69-17. Motor Vehicles; Striking, Injuring or Killing Dogs or Cats

The operator of a motor vehicle that strikes and injures or kills a dog or cat on the by ways of the Town of Southwick shall forthwith report such an accident to the Owner or keeper of said dog or cat or to a police officer or Animal Control Officer. A violation of this section shall be punished by a fine of seventy-five (\$75.00) dollars to be paid to the Town of Southwick General Fund.

§69-18. Enforcement

These bylaws may be enforced through and pursuant to the noncriminal disposition procedure set forth in Chapter 1, §1-6 of these Bylaws.

§ 69-19. Severability

These rules and regulations are adopted with the intent that each of them shall have force and effect separately and independently of each other, except insofar as by express reference or necessary implication any rule or part of any rule is made dependent upon another rule or part thereof.

or take any other action relative thereto.

Requested by the Animal Control Officer

ARTICLE 13:

To see if the Town will vote to amend, Chapter 1, Article II, of the Code of the Town of Southwick by deleting the provisions currently enacted and replacing them with the following provisions:

Dog kennels*

For 5 to 9 dogs (Residential Kennel)	\$ 50.00
For 10 or more dogs (Commercial Kennel)	\$150.00

***Dogs under 3 months of age are not to be counted**

Dogs

Male or Female	\$ 25.00
Spayed Female or Neutered Male	\$ 10.00
Seeing eye dogs	No Fee

or take any other action relative thereto.

Requested by the Animal Control Officer

Given under our hands at said Southwick this 21st day of March, the year of the Lord two thousand and five.

BOARD OF SELECTMEN

_____ Fred B. Arnold, II, Chairman

_____ Arthur G. Pinell, Vice-Chairman

_____ David A. St. Pierre, Clerk

HAMPDEN SS.,

Pursuant to the within warrant I have notified and warned the inhabitants of the Town of Southwick by posting up attested copies of the same three (3) public places in said Town fourteen (14) days before the date thereof, as within directed.

Constable of Southwick, MA

Roger Cataldo

**A TRUE COPY
ATTEST:**

TOWN CLERK, SOUTHWICK, MA

Paul A. Nowicki, Town Clerk

POSTED: TOWN HALL, POST OFFICE, AND LIBRARY