Ordinance to Amend the Town of Bolton
Motor Vehicle Ordinance

The Selectboard of the Town of Bolton hereby ordains:

Section 1 Enactment.

This ordinance is enacted pursuant to the provisions of 23 V.S.A. § 1008. This ordinance shall be a civil ordinance.

Section 2 Prohibition.

No person shall park or leave standing any motor vehicle (as defined in 23 V.S.A. §4 as presently enacted and as amended from time to time) at any time:

a. On any Town Highway or road within fifteen (15) feet of the curb line of another Town Highway or road.

b. On the traveled portion of any Town Highway or road.

c. In violation of any of the provisions of 23 V.S.A. § 1104 as presently enacted or as from time to time hereinafter amended. This reference to 23 V.S.A. § 1104 is not to constitute any duplication of said statute but is included for informational purposes only.

d. On any street between the hours of 12 o'clock midnight and 8 o'clock a.m. during the period from December 1 of each year to April 1 of the following year in such a manner as to interfere with the prompt and orderly removal or plowing of snow, or the sanding and salting of the highways or roadways.

e. On Town Highway #3, the Bolton Access Road, on either side of Town Highway #3 from the intersection of Town Highway #3 (Bolton Access Road) and U.S. Route 2 north for two (2.0) miles measured along Town Highway #3.

f. In the fire lane, as so designated, at the Smilie School.

g. On any highway or road so as to block any designated roadway, driveway or part thereof.

Section 3 Removal of Unlawfully Parked Vehicles

The Town Clerk, Fire Chief, Town Constable, Selectboard member or any Vermont State Police officer is hereby authorized to remove or cause to be removed motor vehicles parked in violation of Section 2 of this ordinance at the expense of the registered owner of the vehicle in an amount not to exceed that permitted by the Vermont statutes as presently enacted and as from time to time hereinafter amended, providing signs indicating that vehicles may be towed away at the owner's expense shall be conspicuously posted. The fact that a vehicle which is illegally parked is registered in the name of a person shall be considered prima facie proof that such person was in control of the automobile at the time it was parked in violation of this ordinance. The parking or leaving any motor vehicle in violation of this ordinance is hereby declared to be a public nuisance.

Section 4 Record of Removal

The Town Clerk, the Town Constable and the owner of any garage to which a vehicle is removed shall keep a record of each vehicle so removed by manufacturer's trade name or make, registration number or motor number if the vehicle is not registered, registered owner if the vehicle bears a Vermont registration, such other descriptive matter as may be necessary to identify such vehicle, and the name and address of any claimant thereof. The Town Constable shall, in addition, keep a record showing the date of such removal, the place to which such removal is made and the reason for such removal. All such records shall be open to public inspection.

Section 5 Notice of Removal

The Town Constable or Town Clerk shall, within seventy-two (72) hours of the removal of any motor vehicle pursuant to this ordinance, send written notice by certified mail, return receipt requested, to the last known address of the registered owner of such vehicle, if such vehicle is registered. If such vehicle is not registered, the Town Constable or Town Clerk shall send such notice to the owner of the vehicle, if known. If the owner of the vehicle is not known, the Town Constable or Town Clerk shall cause the notice to be published in a newspaper in general circulation in the Town within ten (10) days following the date

of removal. The notice required by this section shall contain the following:

a. A description of the vehicle involved, including registration information, if available.

b. Statement of the circumstances requiring removal.

c. Statement of the procedures to reclaim the vehicle and the required charges.

d. Statement of appeal rights.

Section 6 Right to Appeal Removal

A person whose vehicle has been removed pursuant to this ordinance may appeal the legality of such removal and the associated charges as follows:

a. Appeal Prior to Reclaiming Vehicle

Within five (5) days following the removal of a vehicle pursuant to this ordinance, the owner of such vehicle shall be entitled to a hearing before a Hearing Examiner appointed by the Selectboard to review the facts and circumstances surrounding the removal. The owner shall make a request for such hearing by filing a written notice of appeal with the Town Clerk. The notice of appeal shall contain a brief statement of the facts regarding the removal and an explanation of why such removal is believed to be unlawful. The Hearing Examiner shall conduct a hearing at which the vehicle owner, the Town official or Vermont State Police officer authorizing the removal of the vehicle, and other individuals with knowledge of the removal shall have an opportunity to present relevant evidence. Within 24 hours of the conclusion of the hearing, the Hearing Examiner shall issue a brief written decision which shall be final.

b. Appeal After Reclaiming Vehicle

The owner of a vehicle removed pursuant to this ordinance may reclaim his/her vehicle as provided in Section 7 below and thereafter appeal to the Hearing Examiner by filing a written notice of appeal with the Town

Clerk within ten (10) days of the date of removal. The notice of appeal shall contain a brief statement of the facts regarding the removal and an explanation of why such removal is believed to be unlawful. The Hearing Examiner shall conduct a hearing at which the vehicle owner, the Town official or Vermont State Police officer authorizing the removal of the vehicle, and other individuals with knowledge of the removal shall have an opportunity to present relevant evidence. Within fifteen (15) days following the conclusion of the hearing, the Hearing Examiner shall issue a brief written decision which shall be final.

Section 7 Recovery of Motor Vehicle

Before the owner shall be permitted to reclaim a vehicle which has been removed pursuant to this Ordinance, he/she shall:

(a) Furnish satisfactory evidence to the Town Clerk and to the owner or person in charge of the garage of his/her identity and of his/her ownership of such vehicle;

(b) Pay to the Town Treasurer all charges for violation of this ordinance and all charges for the mailing or publication of the required notice;

(c) Pay to the owner or person in charge of the garage all charges for removing said vehicle and all charges for the storing thereof;

(d) Sign a written receipt acknowledging delivery of said vehicle.

Section 8 Charges for Removal and Hearing Examiners

(a) The Selectboard shall, from time to time, by resolution, establish reasonable charges for the removal and storing of vehicles pursuant to this ordinance.

(b) The Selectboard shall annually appoint three hearing examiners who shall perform the duties established by this ordinance and they shall be compensated on an hourly basis at a rate approved by the Selectboard.

Section 9 Lien on Motor Vehicle

Any and all expenses incurred by the Town under and by virtue of Sections 3, 4, 5, and 7 of this Ordinance shall be and become a lien upon the motor vehicle removed as herein authorized, and such lien may be foreclosed in accordance with the procedure provided in the law relating to foreclosure of artisan's liens.

Section 10 Expenses not a Fine

No charges made or incurred under Sections 3, 4, 5, and 7 of this ordinance shall be considered to be a fine, penalty or forfeiture. The removal and storage of any vehicle under this ordinance shall not be a bar to the institution and prosecution of civil proceedings against the owner or operator of such vehicle.

Section 11 Violation of Ordinance

The Town Constable and any responding Vermont State Police officer may issue a "Parking Ticket" for any motor vehicle found to be parked in violation of this Ordinance which shall set forth the fine to be paid for such violation. The Town Constable shall maintain a copy of all parking tickets and shall deliver a copy to the Town Clerk.

Section 12 Waiver Fee

Any person who declines to contest a parking ticket may pay a waiver fee to the Town Clerk within fifteen (15) days of issuance of the ticket as follows:

First Offense	$50
Second offense	$75
Third offense	$100
Fourth offense	$125
Fifth and subsequent offenses	$150

Offenses shall be counted on a calendar year basis.

Section 13 Civil Fine for Ordinance Violation

Any person who fails to timely pay the waiver fee provided for in Section 12 above shall be required to pay a parking fine

in the amount set forth below which may be recovered by the Town in an enforcement action commenced in District Court:

First offense	$100
Second offense	$150
Third offense	$200
Fourth offense	$250
Fifth and subsequent offenses	$300

Offenses shall be counted on a calendar year basis.

Section 14 Appeal of a "Parking Ticket"

Any person who received a "Parking Ticket" may appeal the legality of the ticket and the associated fine by appealing the "Parking Ticket" to a Hearing Examiner appointed by the Selectboard within fifteen (15) days of the date of the Parking Ticket with an appeal fee equal to the appropriate parking fine under Section 13 of this ordinance. The notice of appeal shall contain a brief statement of the facts regarding the ticket, an explanation of why such ticket is believed to be unlawful and shall be delivered with the appeal fee to the Town Clerk. The Hearing Examiner shall conduct a hearing, to be held within thirty (30) days of the date of the ticket, at which the person receiving the "Parking Ticket" and the Town or State official issuing the "Parking Ticket" shall have an opportunity to present relevant evidence. Within fifteen (15) days following the conclusion of the hearing, the Hearing Examiner shall issue a brief written decision.

Any person who wishes to contest or challenge the Hearing Examiner's decision may appeal the decision to the Selectboard within fifteen (15) days of the date of the Hearing Examiner's decision. The notice of appeal shall contain a brief statement of the facts regarding the removal, an explanation why such ticket is believed to be unlawful, and shall be delivered with the appeal fee, which shall equal the appropriate parking fine under Section 13 of this ordinance, to the Town Clerk. The Selectboard shall conduct a de novo hearing on the appeal within thirty (30) days of the date of the notice of appeal. The person receiving the "Parking Ticket" and the Town or State official issuing the "Parking Ticket" shall have the opportunity to present relevant evidence. Within thirty (30) days following the conclusion of the hearing, the Selectboard shall issue a brief written decision which shall be final.

The Waiver Fee as provided in Section 12 of this ordinance may not be assessed as a fine in any appeal proceeding before the Hearing Examiner or the Selectboard, and the fine for a "Parking Ticket" that is upheld on appeal shall be as provided in Section 13 hereof.

Section 15 Severability

If any portion of this ordinance is held unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected.

Section 16 Effective Date

This ordinance shall become effective sixty (60) days after its adoption by the Town of Bolton Selectboard. If a petition is filed under 24 V.S.A. § 1973, that statute shall govern the effective date of this ordinance.

Section 17 Repeal of Article A of Town of Bolton Motor Vehicle Ordinance

Article A of the Town of Bolton Motor Vehicle Ordinance adopted November 1, 1993 is hereby repealed in its entirety, and is no longer in force and effect from the date of adoption of this Ordinance.

Text to be added is underlined and text to be deleted is shown in brackets.

ADOPTED this 18 day of June, 2012.

SELECTBOARD

Ron Lafrenier, Chair

Gene Armstrong

Daniel Champney

David Parot

Rod Wheelock

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