

Waltham Police Department

TRAFFIC ENFORCEMENT, INVESTIGATION, DIRECTION & CONTROL

CHAPTER 61

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POLICY:

It is the policy of the Waltham Police Department to attain safety goals through traffic law enforcement, investigation, direction, and control. Among these goals is the reduction of traffic collisions, fatalities, and injuries. Another goal is to facilitate the safe and expeditious movement of vehicular and pedestrian traffic, accomplished through the public's voluntary compliance with traffic regulations. It is the policy of this department to meet this goal through a combination of education, enforcement, engineering, and public support.

In an effort to limit the frequency of crashes, it is essential to understand the importance of crash investigation and reporting. Data gathered from crash reports are the prime source of information for crash prevention programs. It is therefore imperative that proper information be gathered for use in planning, evaluating, and implementing efforts to achieve highway safety goals. Officers of this department shall familiarize themselves with the correct procedures for both reporting and investigating traffic crashes.

PROCEDURES:

1. **ENFORCEMENT:** The Waltham Police Department is absolutely opposed to preferential treatment pertaining to adjudication of traffic cases in any manner by any agency, official, or person. Of particular concern is disparate adjudication based on gender, race or ethnicity, which will not be tolerated.

The ultimate objective of enforcement is to favorably alter the violator's future driving behavior, thus fostering a climate of safe driving throughout the community.

a. SELECTIVE ENFORCEMENT/ASSIGNMENT OF PERSONNEL:

1. **SELECTIVE ENFORCEMENT:** To ensure maximum reduction of crashes, enforcement pressure should be applied in proportion to the need and to the locations, and at the hours of greatest crash expectancy. Traffic laws will be enforced at a level sufficient to ensure the safe and expeditious movement of traffic. Enforcement activities will be conducted in a

consistent and uniform manner, and will not give preference to either local residents or non-residents. It should be directed against the violations, which cause the largest number of crashes and against the group of drivers who are responsible for the majority of the violations and constitute the greatest hazard to the community. [61.1.1] The ultimate goal of selective traffic enforcement is to reduce traffic collision frequency and severity. The procedures established herein will apply to members of the Traffic Division as well as Patrol officers.

2. **DEPLOYMENT:** The deployment of patrol and traffic unit personnel will be based on an analysis of traffic crashes and traffic-related services and activities. [61.1.1-2E] Community Services Division supervisors will work in conjunction with Patrol Division supervisors to assign units from either division to enforcement of specific violations at problem locations at appropriate times. [61.1.1-2E]
3. **ASSIGNMENT:** Assignment of traffic enforcement personnel will be based on principles of selective enforcement. Resources will be directed toward specific violations, in specific locations, based primarily on statistical data of traffic crash experience. Enforcement efforts shall be evaluated to ensure that enforcement action is reducing crash frequency and/or severity. [61.1.1-2D, E]
4. **DATA ANALYSIS:** Community Services Division Supervisors shall review traffic collision data as well as traffic enforcement data. [61.1.1- 2A, B] This data shall be compared and analyzed [61.1.1-2C] in order to guide the implementation of selective enforcement techniques and procedures, deployment of traffic enforcement personnel, as well as evaluate the effectiveness of selective enforcement activities. [61.1.1-2F] Selective enforcement techniques may include, but are not limited to radar/lidar units, speed signs, and unmarked cars. Specific guidelines for the use of this equipment are outlined in Sections J and K of this policy. [61.1.1] Analysis will include such variables as location, time, and violation factors.

Seasonal variations and fluctuations in traffic activity will also be considered. This analysis will be conducted annually to facilitate an expeditious and effective response to possible traffic trends and concerns. [61.1.1-2F] The data will be analyzed to create usable information that will be distributed to personnel to guide their selective enforcement activities. Such activities will be documented through CAD calls to ensure accurate data collection. When appropriate, Motor Vehicle Citation data may also be considered.

5. **OTHER INFORMATION:** At times, information from other sources may

provide additional insight to causative factors in crashes. Information may be garnered from citizen complaints, School Traffic Supervisors, the Traffic Commission and other parties living or working in the city. Observations by officers in their selective enforcement activities may also prove to be a valuable resource at providing insight to those factors that contribute to crashes at a given location.

b. MOTOR VEHICLE STOPS:

If a determination is made to stop a motor vehicle, great care must be exercised. This would apply for general traffic stops, unknown risk stops, and high risk stops. Many officers have been seriously injured, even fatally, in making vehicle stops. Every precaution should be taken in stopping a motor vehicle as described below:
[61.1.7 A, B]

1. Notify the dispatcher of the following:
 - a. Location of the stop
 - b. Description of the vehicle
 - c. If possible, a description of its occupants
2. Select a suitable location for making the stop, preferably a well-lit area.
3. In stopping the suspect vehicle guard against any evasive action by its operator.
4. Approach the vehicle with extreme caution after signaling the driver to stop.
5. Leave the emergency lights of the police vehicle flashing to warn traffic and to assist any back-up officers responding to the scene.

c. FELONY TRAFFIC STOPS: [61.1.7B]

The following are considered best practices and shall be used as a guideline only. Officers are reminded that each incident is independently driven by a variety of factors and ultimately the totality of the circumstances shall dictate how each stop is conducted.

1. Once an officer has spotted the vehicle of a suspected felon, the officer should notify the dispatcher of the type of felony the suspect has committed, giving the following information:
2. Identification of the involved police unit; The exact description, location

and direction of travel of the suspect vehicle; and if the observation and contact is made on information received from a BOLO, check to verify its validity;

3. If the vehicle does not stop at once, continue to broadcast the direction of travel, names of streets and have the dispatcher place other police units on emergency radio traffic only until the suspect is apprehended or the pursuit, if any, is terminated. Any pursuit shall be conducted in accordance with Departmental policies and procedures on Pursuit.

Note: It is always best on felony stops to follow the suspect's vehicle, giving backup units a chance to assist in stopping the vehicle.

4. Pick a safe location for felony stops away from alleys, vacant lots and other easy escape areas. The officer should stop approximately fifteen to twenty feet behind the suspect's vehicle.
5. The officer should step out of the police vehicle, staying behind the vehicle doors, and then using the Public Address system or a loud clear command voice order the suspect to turn off the motor and throw the keys out the driver's door window. The contact officer should be the only officer verbalizing commands. That officer should then order the suspect and any other occupants to do one of the following:
 - a. Place their hands on their head.
 - b. Place their hands on the dashboard.
 - c. Place their hands out of the vehicles window so that they can be seen.

Any of these positions may be used at the discretion of the officer. The situation will indicate the method to be employed.

6. Keep all occupants in the vehicle until a backup unit arrives to assist. Upon arrival of the backup unit, inform the officer of the situation. Inform the suspect in a loud clear command voice to exit the vehicle.
7. Remove the suspect(s) from the vehicle one at a time. If appropriate, the officer should keep his issued department weapon in the ready position. Inform the suspect to slowly exit the vehicle, keeping their hands in plain view. When the suspect is out of the vehicle, have the suspect turn completely around in order to make observations for weapons.
8. The suspect should be instructed to walk backwards towards the officers to a

position where they can be placed into a prone position, handcuffed and searched safely.

9. Officers should be reminded that once any and all suspects are in custody, the motor vehicle shall be cleared.
10. Officers are reminded of the inherent risk involving foot pursuits or officer ambushes, in the event of suspect(s) fleeing on foot. Officers are also reminded to utilize containment, perimeter, K-9, or other assets.

d. **PROCEDURES FOR DEALING WITH VIOLATORS: [61.1.8]**

All sworn officers shall exercise their good judgment and discretion by taking appropriate enforcement action for each violation of the law witnessed or reported to them. [41.4.5] Officers should keep in mind that once they have stopped the violator and are about to communicate with him, officer/violator relations are activated. Officers should conduct themselves in a professional manner, keeping in mind use of proper language, bearing, and emotional stability. Many individuals for their perceptions of law enforcement based on brief encounters with officers during motor vehicle stops. Therefore, officers should adopt a customer service approach when dealing with motorists. Officers should:

1. Introduce themselves and the law enforcement agency that they work for.
2. Specify the reason for making the vehicle stop and solicit the necessary documents.
3. Be courteous and respectful.
4. Use command presence as compared to an aggressive or condescending approach, tone of voice, or facial expressions.
5. Provide the motorist with any information deemed appropriate to educate rather than lecture them about the infraction.
6. Ask if there are any questions concerning court dates and similar issues.

Traffic enforcement action will be taken without regard for such factors as attitude, intent, or frivolous excuse. Additionally, enforcement activities shall be consistent with regards to race, gender, and ethnicity. Enforcement activities shall not be based on biases, they should be violation driven without regards to race, gender, and ethnicity.

Upon completion of the required forms, officers must ensure that the violator

safely re-enters the flow of traffic. All enforcement actions will be accomplished by using one of the following four methods: [41.4.5]

- a. **VERBAL WARNINGS:** [41.4.5] A verbal warning is appropriate when the violator commits an act, which may be due to ignorance of a particular law. Examples of this type could be where the operator approaches a stop sign and, instead of coming to a complete stop, slows to a speed slower than walking. If such movement is made with reasonable safety and the driver is accustomed to driving in those jurisdictions where this action is permissible, a verbal warning may be feasible. Similarly, a verbal warning is appropriate for equipment failure (i.e., license plates not illuminated) of which the driver was unaware. **HOWEVER, A WRITTEN WARNING SHOULD USUALLY BE USED INSTEAD OF A VERBAL WARNING BECAUSE IT EXERTS A MORE EFFECTIVE INFLUENCE ON THE DRIVER.** [61.1.2C]
- b. **WRITTEN WARNINGS:** [41.4.5] A written warning is a proper alternative by officers in response to a minor traffic infraction. It is also appropriate for those violations, which occur within the tolerances generally allowed by the courts. These tolerances would include speeds in excess of the legal limit, but less than a speed for which a citation or arrest would result. If used properly, warnings can effectively be used as a means of educating the public because they involve less emotional stress, and are also considered to be an effective public relations tool. However, the excessive use of warnings should be avoided; otherwise, it could create a feeling of lack of commitment by the police department to enforce motor vehicle safety within the community. [61.1.2C]
- c. **CITATIONS:** Citations are the backbone of the police traffic enforcement effort. An officer's discretion plays a big part in the decision to take punitive action against a violator. However, this discretion should be based on a combination of experience, training, and common sense. The traffic citation, or notice to appear, should be issued to all violators who jeopardize the safe and efficient flow of vehicular and pedestrian traffic, including hazardous moving violations, multiple violations (multiple violations consist of infractions listed on the same citation), violations of new laws and/or regulations, and operating unsafe and/or improperly equipped vehicles. The citation issued would not be a warning in these cases. [61.1.2B], [41.4.5]

Note: All warnings and citations are maintained digitally using the QED System with hard copies kept in compliance within the records retention schedule. [61.1.2]

ARREST: Officers may affect the physical arrest of any person in violation of those traffic laws allowing an arrest, and shall affect an arrest of any law mandating such. Whenever an arrest results from the issuance of a motor vehicle citation, the "Arrest" box on the citation shall be checked.

The arrestee's vehicle shall be inventoried and secured in one of the city's designated tow companies lots when circumstances warrant that the vehicle be towed. **[61.1.2A]**

d. **ISSUANCE OF CITATIONS:**

Whenever legally and practically possible, officers of this department shall issue citations where circumstances dictate the creation of deterrents to unsafe conduct by users of the roadway. Before releasing the traffic violator, the officer should make him/her aware of the nature of the charges, correct procedures for filing appeals or paying fines, administrative action, and optional or mandatory nature of court appearances, etc. It is essential officers fully explain the motorist's rights and requirements upon arrest or issuance of a citation. **[61.1.4-1], [2-A, B, C]**

1. **NON-RESIDENTS:** Enforcement activities shall be consistent and in a uniform manner, that does not give preference to local residents or non- residents. **[61.1.3A]**
2. **JUVENILES:** There are no special procedures dealing with juvenile offenders of the traffic laws and in the issuance of citations. Special procedures come into play only if there is an arrest of a juvenile. When this occurs, officers are to be guided by the policies and procedures outlined in Chapter 44 (Juveniles) of the Waltham Police Department Manual. **[61.1.3B]**
3. **STATE LEGISLATORS:** The Massachusetts Constitution (Part 2, Chap. 1, Sec. 3, Article 10) stipulates that state legislators while attending, going to, or returning from a session of their respective houses shall be exempt from physical arrest. **[61.1.3C]**
4. **DIPLOMATIC AND CONSULAR OFFICERS:** These officials should be accorded their respective privileges, rights, and immunities as directed by international law and federal statute. These officials should be treated with the courtesy and respect that befit their distinguished positions.

[61.1.3D]

- a. **DIPLOMATIC OFFICERS**, their families, official staff and servants are protected by unlimited immunity from arrest (except for the commission of a felonious crime where public safety is endangered), detention, or prosecution with respect to any civil or criminal offense.
- b. **CONSULAR OFFICERS** are entitled to limited immunity and are not liable to arrest or detention pending trial, except, as above, for the commission of a grave crime. Family members of consular officers do not enjoy the same privileges and immunities with respect to the civil and criminal jurisdictions, as do consular officers. However, they should be accorded appropriate courtesy and respect. In regards to moving traffic violations by a Consular Officer, mere issuance of a traffic citation does not constitute arrest or detention in the sense referred to above.
- c. Immunity from physical arrest shall also apply to United States **SENATORS AND REPRESENTATIVE** of Congress while attending, going to, or returning from a session of their respective houses.

- 5. **MILITARY PERSONNEL**: When dealing with military personnel and a physical arrest is made the investigating officer's supervisor shall cause the liaison officer of the nearest armed forces investigative headquarters division to be notified. **[61.1.3E]**

- e. **OPERATING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS - ENFORCEMENT PROCEDURES**: **[61.1.5J], [61.1.11], [41.4.5]**

Many traffic crashes, particularly those involving a fatality or personal injury, are directly attributable to persons driving under the influence of alcohol and/or drugs. In all contacts with violators, the officer should be aware of the possibility the driver may be under the influence alcohol or drugs. If the officer determines that the operator is under the influence of alcohol or drugs, appropriate enforcement action shall be taken.

Appropriate enforcement action consists of immediate arrest or, if in the officer's *opinion*, the circumstances do not allow for an arrest, issuance of a citation; for example, if an operator is admitted to a hospital and the officer has no means to affect an arrest. **Officers should be aware, though, that arrest should be a priority for this offense. [41.4.5]** The department will ensure that sworn officers are trained in all aspects of driving under the influence of alcohol or drug enforcement procedures, and will cooperate fully with other agencies and community groups to reduce and control this problem. The following conditions shall also be met in regards to those arrested for driving under the influence of alcohol or drugs:

1. **BREATHALYZER OPERATION:** Breathalyzer operation shall be administered by a trained and certified operator. Examinations shall be according to departmental procedure and Massachusetts law on persons arrested for operating a motor vehicle under the influence of intoxicating liquor. A blood alcohol reading of .05% or below mandates that the arrestee shall be released from custody forthwith. If the reading is above .05% but less than .08% there shall be no presumption, and if the reading is .08% or above there shall be a presumption that the person is under the influence of intoxicating liquor.

When dealing with a person under 21 years of age, the Breathalyzer operation remains the same regarding the percentages of alcohol. If a person under the age of 21 has a reading of at least .02%, his driver's license shall be taken by the arresting officer and said person shall be processed according to law.

When dealing with a person who has a CDL (Commercial Driving License) operating a CDL vehicle, and has said person a reading of .04%, this shall be sufficient to establish a violation of operating under the influence of alcohol. The arresting officer shall take said person's license, and said person shall be processed according to law.

2. **BLOOD ALCOHOL TESTS:** Blood alcohol tests shall conform to Mass. Gen. Law, Chap. 263, Sec. 5A, as well as departmental guidelines. A Prima Facie Certification Form C in accordance with (Mass. Gen. Law, Chap 90, Sec. 24 (1)(f)(2) shall be used.
3. **CHEMICAL TEST REFUSAL:** If the subject refuses a Chemical Breath Test, the Breath Test Operator will complete the refusal through the BATS (Breath Alcohol Testing Systems) machine and the Operator's license will be immediately suspended. In accordance with "**Melanie's Law**" the Police Officer administering

the test will arrange for the vehicle being driven by the operator to be impounded for a period of 12 hours after the operator's refusal, with all the cost for the towing, storage and maintenance of the vehicle to be borne by the operator. Consequently, it is the obligation of the arresting Officer or the Officer administering the BAT, if different, to ensure that the car operated by an OUI suspect who refuses the BAT is not released to the operator, owner, or any other person, until the statutory time has passed. [61.1.11]

4. OUI-DRUGS: [61.11] As with OUI Alcohol, once an officer has established Probable Cause that an operator of a m/v is under the influence of drugs, the priority is to make an arrest, unless the operator is transported to a medical facility. If an arrest is made:

- a. Arrestee party is brought to the station to be booked for OUI Drugs. There is no implied consent in Massachusetts for this offense.
- b. The booking officer may ask if the arrested party would voluntarily submit to a urine and a blood exam at a medical facility; however, there is no administrative punishment if they decline.
- c. If they accept to be examined, they should be transported to a medical facility where both urine and blood should be obtained. Once obtained, the samples should be immediately transported to the State Police Crime Lab for processing, or if after hours, the samples should be brought back to the police station and placed into the Evidence Room Refrigerator for transport to the lab the following business day.

NOTE: If the party is transported to the hospital and is not under arrest and blood and/or urine is taken per the course of normal hospital procedure, then the appropriate course would be to issue a criminal application for OUI Drugs to the operator and to subpoena the hospital records for court proceedings.

When investigating a call for OUI Drugs, the officer must determine the impairment is a result of Marijuana, Narcotic Drugs, Depressants or Stimulant substances, or glue. The charge shall specify which substance (or combination of substances, and/or alcohol, is impairing the operator.

NOTE: When practical to do so, and depending on the seriousness of the offense, the use of a DRE (Drug Recognition Expert) would be the most useful investigative tool available.

f. **OTHER ENFORCEMENT VIOLATIONS:**

1. **SPEED VIOLATIONS:** Speed is one of the main causes of crashes. Officers shall take appropriate enforcement action for speeding violations. Officers shall use the verbal warning, written warning, and citation, to have motorists voluntarily comply with traffic laws and regulations to ensure maximum reduction of crashes. Speeding citations should be a clearly convictable speed in court, and may to some extent depend on location of violation (congested area, downtown, school zone, etc.). **[61.1.5C]**
2. **SAFETY BELT VIOLATIONS:** **[61.1.5A]** Studies have shown that a properly worn lap-shoulder belt reduces the risk of fatal or serious occupant injury by between forty and fifty percent. Further, one third to one half of the medical costs associated with persons hospitalized for automobile collisions are absorbed by the taxpayer. Despite the combined efforts of the state's public safety agencies, seatbelt use in the Commonwealth declined over the past year. Statistics for 2008 indicate that Massachusetts ranks as the lowest state in the nation for seatbelt compliance at only 67% while the national average was 83%. Based on this, a "zero tolerance" approach on the aggressive enforcement of seatbelt laws and child passenger restraint statutes will be taken.

When an officer makes a motor vehicle stop for a primary violation, he/she should take particular note of the occupant's compliance with the seat belt law. When an individual is found to be non-compliant, a written citation is the preferred response. It should be remembered that violations of Massachusetts General Law Chapter 90 Section 13A and Chapter 90 Section 7AA are not deemed to be a conviction of a moving violation for the purpose of assessing insurance surcharge premiums.

3. **EQUIPMENT VIOLATIONS:** Equipment required on motor vehicles is covered under Mass. Gen. Law, Chap. 90, Sec. 7. When a vehicle is found to be in violation, officers should consider issuance of a citation for any essential equipment defects. Whenever a fixture is missing and it is obvious that the owner is aware of the defective equipment, a citation should generally be issued even though this may be the only violation on the vehicle. Example of

this would be horn removal, parking brake disconnected, light fixture removed, etc. [61.1.5B]

4. **PUBLIC CARRIER/COMMERCIAL VEHICLE VIOLATION:** Particularly in the downtown area, consider the congestions, lack of parking, and carrier needs for delivery access. Repetitive violators should be cited. [61.1.5E]
5. **OTHER NON-HAZARDOUS VIOLATIONS:** With other non-hazardous violations of law, ordinances, or regulations affecting the use or protection of streets or highways, but not enacted primarily to regulate safe movement of vehicles and pedestrians, consider warnings unless repetitive or flagrant. [61.1.5]
6. **MULTIPLE VIOLATIONS:** Generally, one citation will be issued, however additional citations may be required in the case of related multiple, non-hazardous violations stemming from the same operation. [61.1.5D]
7. **NEWLY ENACTED LAWS AND/OR REGULATIONS:** These cases should be treated on a case-by-case basis depending on the severity and nature of the offense. [61.1.5L]
8. **OTHER HAZARDOUS MOVING VIOLATIONS:** A hazardous moving violation shall mean violation of any law, ordinance, or regulation affecting the use or protection of streets or highways enacted primarily to regulate safe movement of vehicles and pedestrians. There are two general types: [61.1.5K]
 - a. **UNSAFE BEHAVIOR:** An action or omission in traffic, which is hazardous even when vehicles, streets or highways, and people involved are in legal condition.
 - b. **UNSAFE CONDITION:** Causing or permitting an illegal and possibly hazardous condition of a driver or pedestrian in traffic, streets or highways used by traffic, or vehicle used in traffic.
9. **PROCEDURES FOR ISSUANCE OF CITATIONS FOR USE OF FALSE IDENTIFICATION, VIOLATION OF DRUG OFFENSES, AND/OR SALE OF DRUGS WITHIN A SCHOOL ZONE:** Any police officer who makes an arrest or a request for a criminal complaint to be issued relative to the above offenses SHALL, along with the criminal complaint application, submit a written citation with the defendant's information recorded

on it.

EXAMPLE: NAME, DATE OF BIRTH, ADDRESS, LICENSE NUMBER, DATE OF EXPIRATION OF LICENSE.

Also recorded on the citation shall be the offense and its chapter and section. The officer will keep his copy of the citation, and the Police Department copy will be submitted to the District Court.

The District Court, upon a guilty finding, will submit the officer's citation to the Registry of Motor Vehicles, who will in turn suspend the defendant's Motor Vehicle License.

10. **COLLEGE CAMPUS POLICE ISSUANCE OF CITATIONS - ASSISTANCE BY MEMBERS OF THE WALTHAM POLICE DEPARTMENT:** Members of the Waltham Police Department will cooperate and assist college campus police departments in meeting a common goal of public safety. Campus police will at times need our assistance when issuing motor vehicle citations and processing driving under the influence arrests. The following steps will be taken to assist campus police departments:

- a. If requested by a campus police department, an officer will respond to the scene of the incident.
- b. The responding officer will furnish a citation to the campus officer and assist him as to the appropriate violation and manner of filling out the citation.

It should be remembered that campus police officers cannot issue citations on public ways, which run through their campuses.

- c. The responding officer must submit a report regarding actions taken at the scene of the incident and the issuance of the citation for the purposes of accountability.
- d. When dealing with Chapter 90 arrests by campus police, the Waltham Police Department will cooperate fully, assisting in the issuance of citations, arrest, transportation, and booking of the arrested person(s).

- g. **HANDLING LICENSE SUSPENSIONS/REVOCATIONS: [61.1.5I]** Officers shall familiarize themselves with the correct procedures for handling motorists suspected of operating vehicles after suspension or

revocation of their licenses.

1. **VERIFIED:** If the officer is certain of the suspension/revocation and observes operation, he should affect a physical arrest.

a. If the operator of the vehicle is the owner and the sole occupant in the vehicle, the vehicle will be towed and the plates confiscated. An affidavit will be sent to the Registrar, along with the confiscated plates.

b. If the operator of the vehicle is the owner and there is another licensed occupant who is fit to operate, the owner will have the option of letting the other occupant drive the vehicle or having the vehicle towed. If the owner chooses to have the occupant drive the vehicle, an affidavit will be filled out. If the vehicle is towed, the license plate will be confiscated and an affidavit filled out.

c. If the operator of the vehicle is not the owner, the plates will not be removed and an affidavit will be filled out.

2. **NOT VERIFIED:** If the officer is unsure of the actual status, a written citation for operation without license in possession should be issued to the violator, with consideration of future complaint amendment.

h. **SPECIAL ENFORCEMENT:** The primary responsibility for the enforcement of traffic laws and regulations rests with the patrol division. However, all sworn officers, while on duty, shall take appropriate enforcement action for violations of traffic laws and regulations they observe.

1. **BICYCLES:** In those areas where traffic flow is minimal, visibility is unobstructed, and traffic crash experience is low, officers should exercise discretion in the application of those laws regarding the safe operation of bicycles. Conversely, where congestion and the frequency of crash experience involving bicycles have been high, those laws pertaining to the safe operation of bicycles shall be strictly enforced. Mass. Gen. Law, Chap. 85, Sec. 11B (and Waltham City Ordinance, Chap. 710, of the Acts of 1941) regulates the use of bicycles, and Mass. Gen. Law, Chap. 90, Sec. 1B and 1C regulates the use of mopeds. [1.2.7], [61.1.5H]

2. **PEDESTRIANS:** The City of Waltham Traffic Rules and Regulations, Article VIII, Sec. 1, provides Pedestrian Control

Regulations in accordance with the provisions of Mass. Gen. Law, Chap. 90, Sec. 18A. All officers shall enforce these pedestrian control regulations. [61.1.5G]

3. **RECREATIONAL AND SNOW VEHICLES:** Officers shall take appropriate enforcement action against operators of off-road recreational vehicles (e.g., snowmobiles, dirt bikes, minibikes) committing violations that are either observed by them or reported to them. All rules pertaining to Recreational and Snow Vehicles can be found in Mass. Gen. Law, Chap. 90B, Sec. 20-34 inclusive.

i. **ENFORCEMENT ACTION/CRASHES: [61.1.5F]**

1. **GENERAL ACTION:** Officers are expected to take enforcement action whenever their traffic crash investigation or reporting activities produce probable cause to believe that a violation of law or ordinance has occurred.
2. **SPECIFIC ACTION:** Enforcement action arising from traffic crash investigation or reporting (e.g., physical arrest, citation, written warning, etc.) will be consistent with the nature of the alleged violation and with all of this department's written directives concerning traffic law enforcement.
3. **VIOLATIONS NOT WITNESSED BY AN OFFICER:** Violations that the officer has not personally witnessed must be established through investigation, which may include but not be limited to:
 - a. Statements or admissions made by the alleged violator.
 - b. Statements of witnesses.
 - c. Crash scene measurements.
 - d. Physical evidence.
4. **CRASHES OCCURRING ON PRIVATE PROPERTY - NO RIGHT OF ACCESS:** Crashes occurring on private property which is not normally open to the public, such as a private residence, involving injury or excessive property damage will require a complete report of the incident.
5. **CRASHES OCCURRING ON PRIVATE PROPERTY - PUBLIC HAS RIGHT OF ACCESS:** Crashes occurring on private

property where the public has a right of access and meeting the reporting requirements of Chap. 90, Sec. 26 will be processed as if they had occurred on a public street and the necessary forms completed.

6. **GENERATED REVENUES:** Traffic law enforcement will not be used as a means to generate revenue for the department or the City of Waltham.

7. **EVALUATION OF TRAFFIC ENFORCEMENT EFFORTS:** The number of citations issued by an officer shall not be the sole basis of determining an officer's traffic enforcement efforts. The quality of the citations, i.e., crashes and injury-causing types of violations and other elements, will also be considered in an overall evaluation. The number of citations issued will only be one part of the total picture that goes to the overall evaluation. Responsibility for evaluation of the quality and quantity of an officer's citations issued remains with the officer's immediate supervisor.

- j. **RADAR/LIDAR:** [61.1.9] Officers using speed measuring devices (Radar/Lidar) shall be fully trained and certified before being authorized to use such devices for traffic law enforcement. This training shall be coordinated through the department training supervisor, or his designee. Maintenance and calibration records of Radar units shall be kept by the supervisor of maintenance, or his designee, and Lidar units by the authorized officer located in the Community Services Division.

1. **PLACEMENT:** The placement of Radar/Lidar equipment at fixed posts shall be determined through both selective enforcement data analysis and prior knowledge.
2. In cases where conventional traffic enforcement (marked visible cruisers) is unsuccessful, unmarked units should be utilized. Unmarked vehicles may be used where specific violations must be addressed, such as passing school buses, speeding vehicles, stop sign violations, etc. Covert enforcement should be utilized where overt enforcement has failed and as determined by the Commanding Officer - Platoon on Duty, the Commanding Officer - Patrol Division, or the Commanding Officer - Community Services Division.

- k. **USE OF SPEED MEASURING DEVICES IN TRAFFIC LAW ENFORCEMENT:** All members of this department shall adhere to the following guidelines, which govern the use of speed measuring devices in traffic law enforcement: [61.1.9]

1. **EQUIPMENT SPECIFICATIONS:** Members of this department shall use mobile traffic Radar/Lidar units. Specific information on these units may be found in the operator's manual, which accompanies each unit. [61.1.9a]
2. **OPERATIONAL PROCEDURES:** The operational procedures for these units concerning (if applicable) stationary mode, moving mode, range control, interference, audio and squelch, tracking, and locking display readings shall be adhered to as provided in the operator's manual for this unit. [61.1.9b]
3. **PROPER CARE AND UPKEEP:** All officers using the Radar/Lidar units of this department are responsible for the proper care and upkeep of the unit(s) they use. Such care and upkeep shall be done in accordance with the directions given them during their original training in the use of the equipment. [61.1.9c]
4. **PROGRAMMED MAINTENANCE:** The Commanding Officer - Patrol Division, or his designee, shall schedule maintenance inspections of each Radar unit at least as often as the units are calibrated. A record of all maintenance on each Radar unit shall be maintained by the Commanding Officer - Patrol Division. The Commanding Officer - Community Services Division is responsible for the maintenance of Lidar units. [61.1.9d]
5. **MAINTENANCE AND CALIBRATION RECORDS:** Each Radar unit shall be calibrated as needed, and at least once a year. Each officer shall check the calibration of the Radar unit each time it is used during his tour of duty. A record of all such calibrations shall be kept by the Commanding Officer - Patrol Division. If calibration of Lidar units is necessary, it will be coordinated by the Commanding Officer - Community Services Division, or his designee. [61.1.9d]
6. **OPERATOR TRAINING AND CERTIFICATION:** All members of the Patrol Division, and any other officer wishing to use the Radar/Lidar equipment, shall receive the full training outlined by the department's Training Supervisor, or his designee, prior to using the equipment. The training standards shall be equivalent to the model standards promulgated by the National Highway Traffic Safety Administration (NHTSA). Said training shall include the requirement that all persons must demonstrate their competence with each device under varying conditions unsupervised field performance tests. [61.1.9e]

- l. REPORTS:** Accurate, timely, and complete reports are fundamental to the department's efficient and effective operation, as these form the basis for prosecution and ultimate adjunction of traffic offenses. Officers shall therefore complete all traffic citations and reports (when necessary), as well as arrest reports, to the best of their ability, and submit them through the proper channels as quickly as possible.
- m. ACCOUNTABILITY OF CITATIONS:** Traffic citations are received from the Registry of Motor Vehicles, and each book number is recorded in the Community Services Division before issuance to individual officers. These citations are accounted for from the point of issuance to the time they are recorded and sent to the Registry or court for disposition. **[82.3.3B]**

 - 1. CITATIONS:** Motor vehicle citation books are kept in the Community Services Division under lock and key and are issued to officers as needed. **[82.3.3A]** All civil citations will be placed in a lock box located in the hallway between the Operations Division and Community Services Division after issuance. A representative from the Community Services Division has key access to the lockbox to retrieve Citations for processing. All criminal citations are attached to the criminal report and kept with the OIC of Patrol until such time as they are processed by the court prosecutors. All citations are kept within the CS division in locked filing cabinet. These citations are kept for a period of three years **[82.3.3C]**

When the Community Services Division is closed, access to vehicle citation books shall be made available by the Commanding Officer - Platoon on Duty, who will have a key to the locked drawer.
 - 2. CITATION INDEX LOG:** A motor vehicle citation index log is also kept in the Community Services Division where the officer shall record his name, date of issue, and number of the citation book issued.
 - 3. ACCOUNTING OF CITATIONS:** This Agency can account for completed citations through the QED Computer System in two different ways. The system allows for a search of citations by officer as well as by citation book number. A search can be conducted by entering the beginning citation number of a signed-out book and an ending citation number, to determine which citations have been completed. The RMV provides a monthly Traffic Citation Statement to the Community Services Division. **[82.3.3B]**
 - 4. LOST CITATIONS:** Officers shall write a report concerning lost citations or when requesting that a citation be voided. In the case of

voiding citations, the violator should be given the corrected copy. The original citation shall be signed and turned in to the Community Services Division with the report for correct administrative disposal by Community Services Division personnel.

5. **AMENDMENTS TO CITATIONS:** Amendments to citations or dismissal of charges shall be processed by the prosecutor's office.

- n. **INTERFERING WITH THE CITATION PROCESS:** The State Ethics Commission has ruled that requests by police officers for consideration or dismissal of traffic citations based on the violator's personal connection with a police officer violate the conflict-of-interest law.

The Commission has addressed what they believe is a widespread practice of police departments arranging for the dismissal of traffic citations as an accommodation to fellow police officers.

The State Ethics Commission has ruled that ticket fixing is an unwarranted privilege that violates Mass. Gen. Law, Chap. 268A, Sec. 23, the Conflict Law. They have stated that the ability of a police officer to seek special treatment for somebody because of that person's relationship to a police officer is the kind of conduct that offends and troubles people. It demonstrates that there is one standard for the public, but a different standard for those with private connections to the police. In the area of law enforcement, the standards must be clear and be administered in an evenhanded way.

Section 23 of the conflict law prohibits public employees from using their official position to secure substantial privileges for themselves or anyone else, and also prohibits employees from acting in a manner that would cause an objective observer to conclude they would act biased in their official capacity.

Members of this department are hereby informed that this activity is unlawful.

2 **TRAFFIC CRASH INVESTIGATIONS:** [82.2.1]

- a. **CRASHES REQUIRING POLICE RESPONSE, INVESTIGATION, AND REPORTS:** Some reports will require more detailed investigation. The following types of crashes shall require preliminary investigative police response and reporting measures to be completed [61.2.1A, B]:

1. All those involving death or personal injury.

2. All hit and run crashes which involve personal injury, and those hit and run property damage crashes where investigative techniques can be applied.
3. Those involving operator impairment due to alcohol or drugs, **[61.2.2c]**
4. Those involving any vehicle carrying materials, which could ordinarily be considered hazardous or dangerous (i.e., vehicles carrying toxic liquid or gaseous material, gasoline, or other combustible product^{1e}), **[61.2.2D, H]**
5. Those which appear to have been caused by a flagrant moving violation on the part of one or more of the operators, or by defective equipment on or in a vehicle, or by any other circumstances which impeded the safe operation of a vehicle
6. Those, which appear to have been caused by the incompetence of an operator

b. DUTIES OF THE FIRST OFFICER ON THE SCENE - MOTOR VEHICLE CRASHES: [61.2.2A], [61.3.2A]

1. **ON ARRIVAL:** The first officer arriving shall secure and protect the scene, be attentive to proper cruiser placement and light activation, and placement of traffic flares if necessary, and also the following: **[61.2.3a]**
 - a. If necessary, request assistance of other patrol units, emergency medical personnel, and/or the fire department
 - b. Determine the extent of injuries, if any, and treat the most serious until assistance arrives. **[61.2.2C], [61.2.3b]**
 - c. In the event of hazardous material incidents, officers shall isolate the hazard area and evacuate nonessential personnel. The officers shall then be responsible for preliminary hazard identification (spill, leak, fire) and identification of vehicle and container placards, as stipulated in the Special Operations Hazmat Policy, until the arrival of the fire department. **[61.2.3c]**
 - d. Officers will arrange for the removal of damaged vehicles from the roadway, when it will not impede or interfere with the investigation (such as cases when the Reconstruction Team is assigned). When officers are required to handle crash victims' personal property (such as for identification purposes), they shall do so, whenever possible, in the presence of witnesses, who shall be identified in the officer's report. If property is to be held, it shall be turned into the property officer with a full report. **[61.2.3f]**

- e. The assigned investigating officer shall be in charge of the scene unless relieved, [61.2.2B], [61.2.3a] and shall conduct a thorough investigation of the crash by interviewing operators, passengers, and/or any witnesses. When appropriate, he shall contact the Reconstruction Team. **THE RECONSTRUCTION TEAM SHALL BE CALLED IN ALL CASES INVOLVING: FATALITIES; SERIOUS PERSONAL INJURY WHICH MAY RESULT IN DEATH; OR, IF IN THE OPINION OF THE OFFICER ON SCENE, THE EXPERTISE OF THE RECONSTRUCTION TEAM IS NECESSARY.** [61.3.2C] The crash investigator/senior officer or supervisor on the scene shall make this decision. In all cases of serious crashes, a supervisor shall be assigned to the scene and shall take charge, which shall include protecting the scene [61.2.2F], until the Reconstruction Team arrives on site.
- f. In cases where the ambulance service has transported an injured person to the hospital, the officer will respond to local Boston area hospitals when a statement is needed from an injured party.
- g. Take measurements, photographs, etc., in an attempt to determine cause or fault.
- h. File a complete report upon completion of the investigation. In addition to above-mentioned situations, this department shall also assign officers to respond to traffic crashes involving any of the following circumstances:

2. **OTHER CRASH CIRCUMSTANCES REQUIRING A RESPONSE:**

In addition to above-mentioned situations, this department shall also assign officers to respond to traffic crashes involving any of the following circumstances:

- a. Damage to public vehicles or property. [61.2.2G]
- b. Disturbances between principals. [61.2.2I]
- c. Major traffic congestion because of the crash. [61.2.2J]
- d. Damage to any vehicle that requires it to be towed. [61.2.2L]
- e. When any person advises the station via telephone or other means that a crash has occurred at a certain location.

c. **CRASH REPORTING: DATA AND CRASH FORMUSE:**

1. **CRASH DATA:** Provides information to both the Community Services Division and Patrol Division Commanders, which will allow them to utilize enforcement procedures for the purpose of reducing crashes within the community. The analyzed information should be based on crash data by:
 - a. Location.
 - b. Time and violation factors.
 - c. Fluctuations caused by seasonal variations that result in increases or decreases in traffic volume.
 - d. Injuries.
2. **CRASH INVESTIGATION FORM:** Whenever an officer investigates a crash in which there is personal injury and/or property damage in excess of one thousand dollars to any one vehicle, or any other [61.2.2G] property damage in excess of one thousand dollars, the officer shall be required to complete a Commonwealth of Massachusetts Motor Vehicle Crash Police Report. When an officer is in doubt as to the extent of property damage or the possibility of injury, the Commonwealth form shall also be used. (**In this case the report shall be noted For Department Use Only.**) If a crash is minor in nature and no further information will be needed at a later date, officers may so advise the Communications Dispatcher in lieu of a written report.
3. **SUPPLEMENTAL REPORT FORM:** A supplemental report form shall be attached when appropriate (such as when a citation is issued or when the officer feels it is necessary to further explain actions taken).
4. **ROUTE 128:** When an officer is assigned to a crash on Route 128 and State Police have begun an investigation, the officer shall assist the State Police as needed. A supplemental report shall be submitted if any action is taken stating the extent of assistance rendered and the following information: [2.1.2]
 - a. Location of crash.
 - b. Name of State Police or another agency officer investigating. If no Waltham Police action is taken and the State Police investigated, the dispatcher shall record this information in the CAD System: [2.1.2]
 1. Location of crash.

2. Name of State Police or another agency officer investigating.
5. **RECORDING AT-SCENE INFORMATION:** As soon as reasonably possible under the circumstances, a preliminary investigation shall be conducted and the following actions taken:
- a. Interview principals and witnesses.
 - b. Examine and Record Vehicle damage.
 - c. Examine and Record effects of crash on the roadway.
 - d. Take Measurements, as appropriate.
 - e. Take Photographs, as appropriate.
 - f. Collect and preserve evidence.
 - g. Collect and record operator and vehicle information for report and exchange among principals.
 - h. Complete the Commonwealth of Massachusetts Motor Vehicle Crash Police Report.
6. **FOLLOW-UP CRASH INVESTIGATION:** The department shall perform follow-up traffic crash investigation services in support of on-going or anticipated criminal prosecution whenever necessary. The discretionary authority of a supervisor or prosecutor generally activates the use of this type of investigation. [61.2.1C], [61.2.4]
- a. When warranted, this follow-up information should include, but not be limited to:
 - b. Collecting off-scene data. [61.2.2E]
 - c. Obtaining/recording formal statements from witnesses and suspects.
 - d. Reconstructing crashes.
 - e. Preparing formal reports to support criminal charges arising from the crash.
7. **EXPERT AND TECHNICAL ASSISTANCE:**
- a. The department maintains a number of officers who receive special

training in follow-up crash investigation techniques. The unit is called the Reconstruction Team. Members of the unit shall be assigned to carry out follow-up investigations when necessary and appropriate.

b. **RECONSTRUCTION TEAM:**

The Reconstruction Team shall:

1. Be able to compute speed from skid marks and vehicle crush damage.
2. Establish positions of vehicles and pedestrians.
3. Determine which occupant was driving.
4. Determine how road, driver, and vehicle conditions contributed to the crash.
5. Compute energy losses and momentum exchanges in stopping vehicles.
6. Analyze movements of vehicles and bodies in collisions.

From time to time, follow-up crash investigations may require special skills and technical assistance beyond that available from department personnel. When necessary, the department shall utilize outside expert and technical assistance (i.e., photographers, surveyors, mechanics, physicians, and crash team specialists). The Commanding Officer - Reconstruction Team shall make the decision when to call in an outside crime scene specialist.

8. **HIT AND RUN INVESTIGATION:** The objective of a hit and run investigation is to determine responsibility for the collision and to identify both the offender and the vehicle involved. This is often a difficult task because the very elements of the crime include flight from the scene. Hit and run crashes may involve property, persons, or both. As the circumstances are more serious when a human life is involved, these procedures are primarily directed at hit and run investigations involving persons.

- a. **HIT AND RUN - ELEMENTS:** The defendant goes away having operated a motor vehicle upon any way, or in any place to which the public has a right of access, or any place to which members of the public have access as invitee or licensee, after knowingly colliding

with, or otherwise causing, injury to any person, or injury to any other vehicle or property, without stopping and making known his name, residence, and the registration number of his motor vehicle.

b. ON-SCENE DUTIES: Shall be in accordance with Section 2B of this Chapter; Duties of first officer on scene of motor vehicle crashes. In addition to this, officers shall also:

1. Obtain the best possible description of the operator and the vehicle from the victim and available witnesses. The following information about the vehicle is important:

- a.** Make.
- b.** Model.
- c.** Year.
- d.** Color.
- e.** Extent and location of damage.
- f.** License plates (including partial numbers or letters).
- g.** Unusual markings or equipment (including school, fraternal, or organizational signs or stickers).
- h.** Direction of travel before and after collision.
- i.** Number of passengers, if any, and their descriptions.
- j.** Descriptive information shall immediately be communicated to the dispatcher.
- k.** Officers shall search the area around the scene of the crash, the automobile or other property which was struck, and the clothing of any victim for physical evidence including:

1. Personal property left behind by the offender.

[61.2.2K]

2. Glass fragments or paint chips; in the event a pedestrian is struck and injured, officers

should meet the ambulance at the hospital, if possible, to secure any such evidence which may have dislodged from the victim's clothing during transport. Also, hospital personnel should be requested to give the victim's clothing and any associated paint chips or glass fragments to the officer.

3. Pieces of chrome or grillwork.
 4. Hub caps.
 5. Tire marks.
 6. Oil, gas, or water marks leading away from the scene.
 7. Mud or dirt dislodged on impact.
- l.** Photographs and measurements shall be taken at the scene when required.
 - m.** Officers shall examine the person and clothing of the victim. Particular areas of importance are traces of paint or parts of the vehicle. If necessary, any officer may take and preserve articles of clothing or other samples of evidence, such as hair, blood, etc. Outer clothing should be examined for indentations left by impact points of the suspect auto, as these may serve to identify the vehicle. If such indentations exist, the clothing should be carefully preserved to prevent their obliteration.
 - n.** Officers should be observant for persons at the scene who are behaving in a suspicious manner.
 - o.** Where appropriate, officers should conduct a door-to-door canvas of residences and businesses in the vicinity of the hit and run scene. Often persons who did witness some aspects of the incident are reluctant to come forward and must be sought.
 - p.** A preliminary search for the suspect car and driver shall be conducted as soon as possible. Because of the great distance a fleeing vehicle can travel even in

a short time, all police on patrol, the State Police, and neighboring police departments should be notified and given as complete a description as is available, also utilizing the BAPERN NETWORK. If an investigating officer feels this crash could result in a motor vehicle homicide charge, or if the victim is in critical condition, the Waltham Police Department Reconstruction Team shall be notified, and the Commanding Officer - Reconstruction Team shall make the decision if a crime scene specialist should be called. A decision will also be made to possibly contact the District Attorney's office and the media to alert the public and enlist their aid in locating the suspect vehicle and operator.

c. HIT AND RUN-FOLLOW UP INVESTIGATION:

- 1.** In-depth or follow-up investigation shall be conducted upon the direction of proper authority, either by the investigating officer, Community Services Division, or other individual assigned.
- 2.** The follow-up investigation, if any, shall include the following types of activity:
 - a.** Checks and records of stolen cars.
 - b.** Communication of information relative to the description of the offender and vehicle to other members of the department, to police departments in surrounding communities, and the State Police.
 - c.** A second search of the crash scene covering a wider area.
 - d.** Repeated visits to and surveillance of the scene at the same time of day that the crash occurred.
 - e.** Visits to garages, auto parts dealers, auto glass dealers, car dealers, auto body repair shops, car wash facilities, etc.
- 3.** If the vehicle involved is located, it shall be carefully examined.

- a. Dents and body damage should be measured as to width, depth, and pattern, taking photographs if possible.
- b. Obtain samples of paint chips, broken glass, pieces of clothing, dirt, evidence of blood, hair, flesh, etc.
- c. Inspect the interior for personal articles that may identify the offender.
- d. Observe and note any signs of recent repair or any broken or missing parts.

NOTE: The above steps must be taken in accordance with the departmental policy and procedure regarding search and seizure. In the event a search warrant is sought, the vehicle should be kept under surveillance until a warrant is obtained.

- 4. The identity of any persons attempting to enter the vehicle or to destroy evidence should be established.
- 5. If the operator of the suspect vehicle is located, he should be questioned promptly. If applicable, the Miranda procedures must be followed. Prompt interrogation of the suspect driver is important. For example, if he cannot provide an alibi or if he provides an alibi that is later discredited, these will be critical factors contributing to a successful prosecution.
- 6. In conducting a hit and run investigation, it should be noted that a hit and run driver is not necessarily the operator responsible for the crash, but he may be fleeing from the scene of a crime, there may be a warrant for his arrest, he may be intoxicated, he may not have a valid driver's license, or his license may be revoked. It is also not unusual for a hit and run driver to abandon his vehicle as soon as possible and then report it to the police station as stolen in order to escape his responsibility for the crash.
- 7. A full and complete report shall be made of the crash and the particulars of any follow-up investigation in accordance with departmental procedures.

- d. **INCOMPETENT OPERATOR:** Routine enforcement, crash reporting, and investigation activities frequently lead to the discovery of drivers who have suspected incompetence's which

include but are not limited to medical conditions. These incompetence's may prevent the person from exercising reasonable and ordinary care over a motor vehicle. In addition to reports concerning the original incident, it is incumbent upon the officer to notify the Registry of Motor Vehicles regarding the removal/re-examination of that person from the roadway. This shall be achieved in report form by the officer through the Community Services Division.

- e. **DRIVERS THAT POSE AN IMMEDIATE THREAT TO THE PUBLIC; [61.1.12]** The Registry of Motor Vehicles stands ready to quickly suspend and revoke the license of bad drivers for bad driving behavior that constitutes an immediate threat to the driving public. Aggressive driving constitutes bad driving behavior. It is defined as operating a motor vehicle in an offensive manner, which is likely to endanger, threaten or otherwise intimidate other operators by engaging in any series of violations. These violations include:

1. **CHAPTER 85-2 STATE D.P.W. RULES (REGULATIONS & BY-LAWS):**

- a. CH. 85, SEC. 2 WEAVING (FROM LANE TO LANE).
- b. CH. 85, SEC. 2 FOLLOWING TOO CLOSE (TAILGATING).
- c. CH. 85, SEC. 2 FAILING TO USE CAUTION IN STOPPING, TURNING, OR STARTING (E.G. CUTTING SOMEONE OFF).
- d. CH. 85, SEC. 2 FAILING TO OBEY TRAFFIC MARKINGS & SIGNS (LANE MARKINGS & REGULATORY SIGNS).
- e. CH. 85, SEC. 2 FAILURE TO YIELD AT INTERSECTION.

2. **CHAPTER 89 RULES OF THE ROAD:**

- a. CH. 89 SEC. 2 IMPROPER PASSING (PASSING ON RIGHT).
- b. CH. 89 SEC. 4A LANE VIOLATION (FAILING

TO BE IN MARKED LANE).

- c. CH. 89 SEC. 4B OPERATING IN BREAKDOWN LANE.
- d. CH. 89 SEC. 8 RIGHT OF WAY AT INTERSECTION AND TURNS AT RED LIGHTS.
- e. CH. 89 SEC. 9 FAILURE TO STOP AND YIELD AT INTERSECTION & DESIGNATED THROUGHWAYS.

3. CHAPTER 90 MOTOR VEHICLE LAWS:

- a. CH. 90 SEC. 14B FAILURE TO GIVE SIGNAL.
- b. CH. 90 SEC. 16 OFFENSIVE OR ILLEGAL OPERATION (UNNECESSARY USE OF A WARNING DEVICE, E.G HORN).
- c. CH. 90 SEC. 18 SPEED (ABOVE POSTED SPEED LIMITS).

4. DOCUMENTING AGGRESSIVE DRIVING:

Officers should note the violations and any other pertinent characteristics associated with aggressive driving behavior so as to better fully substantiate the charge. A report should be submitted to the Community Services Division outlining the incident. After review, the commanding officer Community Services division will determine if the incident as outlined constitutes an immediate threat. The commanding officer will then submit the immediate threat request to the Registry of Motor Vehicles for action.

All officers are encouraged to fully assess each situation when deciding to file an Immediate Threat Form so as not to indiscriminately penalize the motoring public. This procedure is simply an additional tool designed to correct poor driving behavior before leading to more potentially serious incidents.

To facilitate this process, when officers determine that circumstances warrant immediate action, a "Request for Immediate Threat License Suspension Form

(Commonwealth of Massachusetts Form #20385) will be filled out and submitted to the Commanding Officer – Community Services Division for his/her signature.

The Community Services Division will then forward the "Request Form" to the Registry of Motor Vehicles. In all cases, a copy of the officer's report shall be attached to the Request Form.

5. **HAZARDOUS ROADWAY OR ENVIRONMENTAL CONDITION:** [61.4.2], [1.5d] Upon discovery of a hazardous highway or environmental condition, which sometimes are related, the officer shall notify the station and request that the appropriate agency be contacted. This shall be in accordance with the Special Operations Manual located in the Operations/Communications area.
 - a. **HAZARD IDENTIFICATION:** When a hazard is identified and, in the officer's opinion, such hazard requires immediate correction (such as a fallen tree or electrical wires across any part of the traveled portion of the highway), he shall inform the Operations personnel of the situation. He will identify assistance or special equipment needed, if possible, or describe the situation if not able to do so. The officer will protect bystanders, the scene, direct traffic, and/or take any action necessary to correct the situation.
 - b. **HAZARD DETECTION:** When a hazard is detected that represents a potential crash situation but the threat of such is not immediate, the officer shall submit a report noting the hazard prior to the end of his shift. (This report shall be made available to the proper agency responsible and request that the department be notified of the actual or intended correction of the hazard within ten (10) working days.)
6. **TRAFFIC CONTROL:** The department shall perform traffic direction and control functions to ensure the safe and efficient movement of vehicles and pedestrians, when necessary, which will include crash scenes.

a. **HIGH VISIBILITY CLOTHING: [61.3.1]**

1. Officers, specials and sworn are to have high-visibility outerwear in accordance with **Chap. 40** of the Waltham Police Department Manual when assigned to perform manual traffic direction and control functions. All officers shall wear such high-visibility outerwear, in addition to the full prescribed uniform, whenever conducting manual traffic direction and control.
2. Personnel conducting unscheduled manual traffic direction and control in response to unforeseen contingencies, such as foul weather, will wear high-visibility outerwear, provided that conditions make it practical to wear the high-visibility outerwear before initiating manual traffic direction and control.

b. **POINT TRAFFIC CONTROL DEFINITION:**
The control of vehicular and pedestrian movement in a particular place on a roadway, such as an intersection.

c. **MANUAL DIRECTION OF TRAFFIC – DETERMINATION OF LOCATION: [61.3.2A, B]**

1. Times and locations identified as requiring point traffic control will be analyzed to determine whether manual direction of traffic is necessary.
2. Factors to be considered in the analysis will include, but not necessarily be limited to:
 - a. Traffic volume and speed.
 - b. Number of pedestrians present.
 - c. Duration of congestion period.
 - d. Presence and types of traffic control

devices.

- e. Special circumstances of the location (e.g., handicapped pedestrians) and other pertinent factors.

- 3. The decision to assign personnel to carry out traffic direction and control will be made only if the analysis indicates that unmanned signals/devices cannot adequately ensure the safe and efficient movement of traffic.
- 4. Uniform hand signals are gestures indicating stop and go and directional motions, shall be when needed.

d. **MANUAL OPERATION OF TRAFFIC CONTROL DEVICES: [61.3.2E]**

- 1. On occasion, officers must manually operate traffic control signal lights, normally to direct traffic flow, attempt to recycle a signal light, or to place the signal lights on flash or blink. Some intersections in the City have manual control devices located in the service box, and if an officer can gain entrance, he shall manually control traffic control devices only in the following situations:
 - a. When traffic light malfunctions.
 - b. To facilitate movement at traffic crash or other emergencies.
 - c. To provide a thoroughfare for a motorcade, funeral procession, etc.
 - d. To alleviate congestion resulting from use of automatic controls, particularly during planned special events.
- 2. All officers will receive training prior to using manual traffic controls. Any officer,

who is not familiar with the manual operation of traffic controls, shall be trained by a responsible officer, regarding their use, before using manual traffic controls.

e. **TEMPORARY TRAFFIC CONTROL DEVICES: [61.3.2F]**

1. The department will have use of temporary traffic control devices, including movable barriers, portable signs, and other apparatus intended for temporary deployment, to assist the safe and efficient movement and control of vehicular and pedestrian traffic.
2. As soon as practical following termination of the need for the temporary traffic control device, the supervisor authorizing deployment of the device will see to its removal. The department shall not use portable or part-time stop signs as temporary traffic control devices except in an emergency.

f. **TRAFFIC CONTROL AT FIRE SCENES:** The department shall continue to work closely with the fire department and other emergency services organizations in order to maintain access and egress at fire scenes by emergency vehicles. Officers responding to fire scenes will adhere to the following procedures:

1. **OFFICERS ARE TO BE CERTAIN NOT TO PARK CRUISERS IN A MANNER THAT WILL HAMPER FIRE DEPARTMENT OPERATIONS.**
2. No vehicles, including those of volunteer firemen, will be allowed to drive into the block where fire apparatus is parked and operating.
3. No vehicle will be allowed to cross fire hoses without the approval of the fire departments officer in charge.

4. Vehicles, which are parked, which interfere with fire operations may be towed as needed.
5. Applicable laws and ordinances, which may apply, include, but are not limited to:
 - a. Mass. Gen. Law, Ch. 89, Sec. 7A, 7B
 - b. Mass. Gen. Law, Ch. 268, Sec. 32, 32A
 - c. Waltham City Ordinance, Sec. 17-22
 - d. Waltham City Traffic Regulation Art. II, Sec. 1

g. TRAFFIC CONTROL DURING ADVERSE ROAD AND WEATHER CONDITIONS:
[61.3.2D]

1. Adverse weather or road conditions include, but are not limited to:
 - a. Crash hazards, such as debris that has fallen onto the roadway. Examples: debris from another motor vehicle, power lines, trees, etc.
 - b. Acts of nature, such as fog, ice, snow, etc.
 - c. Engineering hazards, such as exposed guardrail end, potholes, drain covers missing, or other objects that may cause unnecessary additional damage or injury should a vehicle, for any reason, impact upon the object.
2. The Commanding Officer - Platoon on Duty shall notify the local newspapers, radio stations, public works, and fire department of the adverse road condition(s) that will affect the response of emergency vehicles and/or the motoring public, as appropriate.

3. The Commanding Officer - Platoon on Duty may close a street, in accordance with Waltham City Traffic Regulation, Article V, Sec. 14, if, in his opinion, the surface conditions and terrain create an unusually hazardous condition. He shall also request assistance from the Department of Public Works.
 4. The Commanding Officer - Platoon on Duty shall ensure the proper utility company or construction company is also notified, and assigns officers as needed to direct traffic and safeguard the public.
- h. **MANUAL TRAFFIC DIRECTION:** Officers while carrying out manual traffic direction and control shall at all times give due consideration to their own safety and the safety of the public. Personnel shall employ uniform procedures (signals, gestures, etc.) to enhance driver and pedestrian recognition and response to their direction as follows:
1. When an officer is directing traffic, it is necessary that the people using the highway know that he is there for that purpose, and that the officer knows and utilizes standardized, appropriate gestures and audible signals to stop, start, and turn traffic.
 2. To indicate that the officer is present for the purpose of directing traffic, he should:
 - a. Turn the signal light (if there is one) to blinking or flashing.
 - b. Position himself so that he can be seen clearly by all, usually in the center of the intersection or street.
 - c. Allow his hands and arms to hang easily at his sides except when gesturing.

- d. Stand facing or with his back to traffic, which he has stopped, and with his sides to traffic he has directed to move.

i. **HOW TO STOP ONCOMING TRAFFIC:**

1. To stop traffic, the officer should first extend his arm and index finger toward and look directly at the person to be stopped until that person is aware, or it can be reasonably assumed that he is aware, of the officer's gesture.
2. The pointing hand is raised at the wrist so that its palm is toward the person to be stopped, and the palm is held in this position until the person is observed to stop. To stop traffic from both ways on a two- way street, the procedure is then repeated for traffic coming from the other direction while continuing to maintain the raised arm and palm toward the traffic previously stopped.

j. **HOW TO START TRAFFIC:**

1. The officer should first stand with shoulder and side toward the traffic to be started, extend his arm and index finger toward and look directly at the person to be started until that person is aware, or it can be reasonably assumed that he is aware, of the officer's gesture.
2. With the palm up, the pointing arm is swung from the elbow only through a vertical semi-circle until the hand is adjacent to the chin. If necessary, this gesture is repeated until the traffic begins to move. To start traffic from both directions on a two-way street, the procedure is then repeated for traffic coming from the other direction.

k. **RIGHT TURN MOVEMENT:**

1. If the driver is approaching from the officer's

right side, his extended right arm and index finger and gaze are first directed toward the driver, followed by swinging the extended arm and index finger in the direction of the driver's intended turn.

2. If the driver is approaching from the officer's left side, either the same procedure may be followed utilizing the left arm extended, or the extended left forearm may be raised to a vertical position from the elbow while closing the fingers so that the remaining extended thumb points in the direction of the driver's intended turn.

I LEFT TURN MOVEMENT:

1. Left turning drivers should not be directed to affect their movement while the officer is also directing oncoming traffic to proceed. Therefore, the officer should either direct opposing vehicles to start while avoiding left turn gestures directed at turning drivers, which will lead them to complete their turn only when there is a gap in the oncoming traffic, or to stop or hold oncoming drivers, after which the left turning driver can be directed into his turn. The officer's right side and arm should be toward the oncoming traffic, and the left side and arm should be toward the left turning driver. After stopping oncoming traffic by using the right arm and hand, the right hand should remain in the halt position, then the extended left arm and index finger and officer's gaze is directed toward the driver who intends to affect a left turn. When the left turning driver's attention has been gained, the extended left arm and index finger are swinging to point in the direction the driver intends to go.
2. Street width permitting, in order to clear the lane occupied by a driver who intends to make a left turn but cannot because of oncoming traffic, he can be directed into the intersection

and stopped adjacent to the officer's position until the left turn can be safely completed. The driver should be directed into the intersection by pointing toward him with the extended arm and index finger, which is then swung to point at the position at which the officer wishes the driver to stop and wait for clearing traffic. In the alternative, the driver may be directed to move with one arm and hand gesture while the other arm and hand are utilized to point to the position at which the driver is to stop. After the driver is positioned within the intersection, the officer may either halt oncoming traffic and direct the completion of the turn or permit the driver to affect the turn during a natural break in the oncoming traffic.

m. SIGNALING AIDS:

- 1.** The whistle is used to get the attention of the drivers and pedestrians. It is used as follows:
 - a.** One long blast with a STOP signal.
 - b.** Two short blasts with the GO signal.
 - c.** Several short blasts to get the attention of a driver or pedestrian who does not respond to given signal.
 - d.** The whistle should be used judiciously. It should not be used to indicate frustration, and the volume should be just sufficient to be heard by those whose attention is required. Therefore, whistle blasts directed at pedestrians should be moderate in volume. The whistle should be used only to indicate stop, go, or to gain attention, and when its purpose had been achieved, the officer should cease sounding the whistle. If the whistle is utilized continuously, it ceases to hold meaning for drivers

and pedestrians.

2. The voice is seldom used in directing traffic. Arm gestures and the whistle are usually sufficient. There are numerous reasons why verbal commands are not used. Verbal orders are not easy to give or understand and often lead to misinterpretations, which are dangerous. An order, which is shouted, can antagonize the motorist. Occasionally a driver or pedestrian will not understand the officer's directions. When this happens, the officer should move reasonably close to the person and politely and briefly explain his directions. No officer should exhibit loss of temper by shouting or otherwise indicate antagonism toward those who do not understand or who do not wish to obey the officer's direction

n. **THE USE OF FLASHLIGHT WITH ILLUMINATED CONE OR BATON:**

1. To stop a driver with the baton, the officer should face the oncoming traffic, hold the baton in the right hand, bend the right elbow, hold the baton vertical, then swing the baton from left to right through an arc of approximately 45 degrees.
2. The "GO" and "LEFT" turn direction are the same gestures as those previously described, except that the baton acts as an extension of the hand and index fingers. Signals and directions given with the aid of the baton should be exaggerated and often need to be repeated because of poor visibility. The baton light should be turned off when it is not being actively utilized to give directions.
3. A flashlight alone can also be used to halt traffic, but less effectively and safely than with cone attachment. To stop traffic, slowly swing the beam of the light across the path of oncoming traffic. The beam from the

flashlight strikes the pavement as an elongated spot of light. After the driver has stopped, arm signals may be given in the usual manner, as the vehicle's headlights provide illumination.

7. **PARKING CONTROL:** [61.1.13] Parking regulations shall be enforced with reasonableness and impartiality in all areas of the city.

- a. Parking control activities are essential to the safe and efficient movement of vehicles.
- b. The Waltham Traffic Commission is responsible for implementing the parking control regulations.

8. **PARKING ENFORCEMENT:** [61.1.13]

- a. **ENFORCEMENT - SEASONAL VARIANCE:**
Officers must be aware that parking problems within the City of Waltham vary as the seasons change. During the winter months, enforcement efforts are directed at educating the public to park which allows ample room for snow plowing, necessary to ensure safe passage of fire, ambulance, and police vehicles. As the summer months approach, enforcement efforts change. Officers should direct their attention to violations, which are hazardous to the public welfare and appropriate for summer enforcement, such as:

- 1. Wrong direction parking.
- 2. Within ten (10) feet of a hydrant.
- 3. Double parking.
- 4. Parking on crosswalk.
- 5. Handicap parking.

- b. **PARKING ON SIDEWALK VIOLATIONS:**
Violations for parking on the sidewalk are a concern for both the police and the public. Any violations of parking on the sidewalk where there are formally

constructed sidewalks should be strictly enforced. Vehicles parked on areas adjacent to the street where there are no formal sidewalks should not be tagged for parking on the sidewalk, provided that the vehicle does not obstruct access to homes or driveways of other residents or create a hazard to pedestrians or others. **[61.1.13]**

9. ESCORTS: [61.3.3]

- a.** The department shall recognize that there are legitimate and reasonable requests for police escort services to ensure safe, orderly, and efficient movement of special traffic or to expedite delivery of special items. The department shall make every effort to honor such requests to the extent practical and consistent with the need to ensure that the act of escorting or emergency relay itself does not create unnecessary risk to the public. The Commanding Officer - Patrol Division or his designee shall review and approve all requests for escorts or relay.
- b.** Officers shall not initiate emergency escorts without first obtaining permission from the Commanding Officer - Platoon on Duty.
- c.** Requests that may be obliged may include, but are not limited to, the following:
 - 1.** Funerals.
 - 2.** Motorcades.
 - 3.** Public officials and dignitaries.
 - 4.** Oversized vehicles.
 - 5.** Highway construction and maintenance vehicles.
 - 6.** Hazardous or unusual cargo.
- d.** Officers will not escort emergency vehicles including ambulances except under certain circumstances. Example: Escort an emergency

vehicle from the city limits to a hospital when the driver of the emergency vehicle is not familiar with the location of the hospital.

Exceptions will be approved by the Commanding Officer - Patrol Division.

- e. Officers shall not escort civilian vehicles except in unusual medical emergencies. **[61.3.3b]**
 - 1. The driver of a civilian vehicle requesting an escort should be directed to proceed to the emergency medical facility at normal speed in compliance with all traffic regulations.
 - 2. If, in the officer's opinion, delay or transfer would jeopardize the patient's life, the officer may, with the approval of the Commanding Officer - Platoon on Duty, escort to the nearest medical facility. During this escort, all emergency equipment (lights and siren) shall be utilized. Motor vehicle laws outlined in Mass. Gen. Law, Chap. 89, Sec. 7, 7A, & 7B, shall be complied with.
- f. Officers shall not escort funerals without permission of the Commanding Officer - Platoon on Duty. Directing traffic at funeral processions at strategic locations is of greater assistance and will be performed by officers when necessary, and shall be done in accordance with City of Waltham Traffic Regulations, Article VII, Sec. 15.

10. REQUEST FOR SERVICE VEHICLES: [61.4.1B, E]

The public, when utilizing public highways, may encounter mechanical or other difficulties, including emergency assistance, protection while stranded, lock outs etc. requiring assistance from the police. When police request assistance, notify dispatcher of:

- a. **TYPE OF SERVICE NEEDED: [61.4.1B]**
 - 1. Tow trucks.
 - 2. Traffic.

3. Road repair/service.

b. **GIVE LOCATION THAT SERVICE IS TO BE DISPATCHED TO:**

Officers shall give street name and number.

c. **REASON FOR REQUEST:**

1. **TOW** - Type of car, problem, whether hook or flatbed is needed.
2. **AMBULANCE** - Medical problem requiring attention so that proper life support units can be assigned.
3. **ROAD REPAIR/SERVICE** - Whether for a flat tire, out of gas, fanbelt, etc.
4. **LOCK OUT**- Police officers are not allowed to try to unlock a vehicle. They shall contact the local road repair service or tow truck to assist in unlocking the vehicle. **[61.4.1A]**

d. **STRANDED MOTORISTS:** **[61.4.1C]** The overall danger to the stranded motorist can also be a potentially dangerous condition. The department shall offer reasonable assistance at all hours of the day.

e. **OBTAINING ASSISTANCE ON HIGHWAYS/ROADS/ETC:** **[61.4.1]**

- a. **FIRE SERVICE ASSISTANCE:** When a call for a fire is received the dispatcher will notify the Fire Department immediately. Officers dispatched shall notify the dispatcher immediately upon arrival at the scene of the fire of:
1. Location, including street and number.
 2. Type of vehicle involved; for example, car, bus, truck, van, etc.

3. Status of fire; for example, fully involved, passenger compartment fire, engine fire, etc.

11. **PRIVATE TOWS:** [61.4.3] M.G.L. Ch. 266 § 120D permits so called “Trespass Tows” where a motor vehicle is towed from a private lot or other property by a tow truck company upon the order of the property owner or person in lawful control of that property., and specifies that the Chief of Police sets policy for the towing of improperly parked vehicles from private property. It is the policy of the Waltham Police Department that “Trespass Tows” are permitted where fairness to both the property owner and vehicle owner is preserved and where persons whose cars are towed can readily locate and retrieve their property. Any violation of the policy outlined below will be subject to the penalties outlined in M.G.L. Ch. 266 s. 120d including the following provision: *Any person who removes a vehicle illegally parked or standing on a private way or upon improved or enclosed property, or holds such a vehicle after its removal, and who has not complied in full with the provisions of this section, shall release such vehicle to its owner without assessing any charges for its removal or storage.*

- a. **FAIR NOTICE:** Before a Trespass Tow can be performed, the motorist needs to be given fair notice that they cannot park there either verbally or via posted sign. It is required that the entry points to these properties be posted with reasonable notice that cars unlawfully parked there will be towed. Where a tow company is allowed by a property owner to self-monitor a property and tow at will, a copy of this contract will be placed on file with the Waltham Police Department. The tow contract must be current and explicit stating the terms and conditions in which the property owner will authorize a trespass tow. Annually, each tow company must provide the Chief of Police with updated contracts of the properties they self-monitor. This list must be received no later than January 15th of each calendar year. Where no tow contract is on file, the property owner must contact us directly authorizing the tow each and every time a vehicle is towed. In these instances, if the property owners do not contact the Waltham Police

Department the tow will not be approved and cannot be conducted.

- b. POLICE NOTIFICATION:** Prior to commencing a tow the tow driver must make an in- person visit to the police station. The tow operator that will be conducting the tow will personally deliver a completed Private/Trespass Tow Notification form to the front counter of Police Operations prior to starting the tow. Operations personnel will then conduct a LEAPS query to confirm that the vehicle has not been reported stolen. A CAD incident will then be generated to document the tow. In the CAD incident, the vehicle information (Registration/state, make & model) will be entered into the vehicle section. The CAD incident will also include the name and contact information of the tow company, the name of the party authorizing the tow and document whether or not the vehicle was entered during the tow. Operations personnel will then note the CAD incident number on the form and sign in the appropriate location with the approval of an Operations Supervisor. A copy of the completed form will then be turned over to the tow operator for company records. At this time, the same tow operator can complete the tow. In the event that the vehicle has left upon return or is not towed, Police Operations shall be notified forthwith. The tow driver will immediately call Operations to notify personnel if the vehicle was towed and whether or not entry was made into the vehicle. Operations personnel will then note this on the tow form. Once the tow is completed, the Private/Trespass Tow Form will be submitted to Community Services.
- c. STORAGE LOCATION:** MGL Ch.266 s120d mandates that vehicles so removed shall be stored in a convenient location. So-called “Trespass Tows” may not be towed and/or stored outside of Waltham City limits and must be stored in a place that is secure from damage to and theft of and from the towed vehicle. The Chief of Police, at his discretion, may by written authority, grant authority to out-of-town tow companies on a case- by-case basis.

- d. **VEHICLE RETRIEVAL:** Vehicle owners must be able to retrieve their vehicles on a 24-hour, 7 day a week basis. In no case may a tow operator delay the return of a vehicle for a period in excess of 30 minutes provided all applicable storage and towing fees have been paid.
- e. **VEHICLE ENTRY:** No entry may be made into any vehicle towed unless entry is necessary for the safe towing of that vehicle. If entry is made the tow operator will notify Operations personnel at the time, they confirm the tow.
- f. **DOMESTIC ANIMALS IN VEHICLES:** No vehicle may be towed with a person or domestic animal therein. In instances where a domestic animal is present in the vehicle for a prolonged period of time, the Animal Control Unit of the Waltham Police Dept. may be called during that unit's ordinary duty hours to remove the animal.
- g. **PROPERTY RETRIEVAL:** Vehicle owners, who cannot immediately pay the towing and storage fees to the tow company operator, shall be afforded a reasonable single opportunity to retrieve personal belongings from the vehicle while it is in the custody of the tow company. No parts or any item mounted to the vehicle such as audio, video, permanently mounted GPS systems, etc. may be removed from the vehicle while the vehicle is in the custody of the tow company.
- h. **INCOMPLETE TOWS:** The Department of Public Utilities, Transportation Oversight Division allows for a tow company at their discretion to charge up to half the towing fee for an **incomplete private tow**. An incomplete private tow is defined as a vehicle actively being hooked up to a tow truck or a vehicle still on private property when fully hooked up. Remember, it is discretionary for the tow driver to elect to even charge for an incomplete tow; however, if a tow driver opts to charge, they can only assess half the fee for the tow (DPU AND MGL Ch. 120d allow for the so-called drop fee with no storage fee or fuel charge assessed). For clarity a completed tow is

one in which the vehicle is hooked up to a tow truck with the wheels to the vehicle off the ground and the vehicle has been removed from the Private Property or Private Way where it was forbidden.

12. **ABANDONED MOTOR VEHICLE:** [61.4.3a] All vehicles towed will be recorded and maintained in the Waltham Police CAD System.

DEFINITIONS:

- a. **ABANDONMENT:** A vehicle left parked and unattended for 72 hours or more.
- b. **JUNK CAR:** Has no salvage value. Before disposal it must be stripped of tires and batteries; oil, gas, transmission fluid, and radiator fluids must be drained; stuffing or fill-in seats must be removed, as well as papers or foreign debris; the gas tank must also be removed.

1. **ABANDONED MOTOR VEHICLES NOT CLASSIFIED AS JUNK CARS LEFT UNATTENDED FOR OVER 24 HOURS:**

In all circumstances, towing will be in compliance with the Traffic Rules and Regulations of the Waltham Traffic Commission, Article IX.

- a. When an officer has initially noticed a vehicle that may be in violation of above, officer shall monitor vehicle for 24 hours or more, chalking tires. At the conclusion of the 24 hours, affix a parking violation tag to vehicle indicating offense.
- b. Although circumstances may at times dictate that a particular motor vehicle be towed under the guise of being left unattended for over 24 hours, whenever possible, it is preferred that the vehicle be treated as an abandoned motor vehicle. The

advantages are:

1. The owner may respond upon seeing the Abandonment Ticket.
2. More time is allowed (72 hours) to ascertain ownership.
3. Most importantly, from the tow facility's standpoint is the limited amount of time that the vehicle has to remain on the property before abandonment proceedings can commence.

2. **PUBLIC PROPERTY ABANDONMENT:** [61.4.3b] A motor vehicle shall be deemed abandoned by its owner if it is left parked and unattended for 72 hours or more on public/private property (Mass. Gen. Law, Chap. 90, Sec. 22C).

3. **PRIVATE PROPERTY ABANDONMENT:**

a. **CONDITIONS ALLOWING TOWING ON PRIVATE PROPERTY:** [61.4.3b] In order to have an abandoned motor vehicle removed from private property under Mass. Gen. Law, Chap. 266, Sec. 120D, it is necessary to show that the owner of the vehicle has been forbidden to park on the property either directly or by a posted notice (i.e., No Parking - No Trespassing sign). There is no 72-hour requirement on private property.

b. **OWNER'S RESPONSIBILITY:** In order to have the abandoned motor vehicle removed, the owner or the person having lawful control must

provide the Chief of Police or his designee with the following information:

1. The address from which the motor vehicle is being removed.
2. The address to which the motor vehicle will be moved.
3. The registration number (plate).
4. The name of the owner or person in lawful control of the property.
5. The name of the person or tow company that will be towing the motor vehicle.
6. The towed vehicle shall be stored in a convenient place and the owner of the vehicle shall be liable for the tow and storage charges.
7. Abandoning a motor vehicle on private property does not prevent police from charging the owner of the motor vehicle with Abandonment (Mass. Gen. Law, Chap. 90, Sec. 22C).

4. **INVESTIGATION OF ABANDONED/
JUNK MOTOR VEHICLES:**

- a. **OWNERSHIP
DETERMINATION:** Determining ownership and attempt to notify the owner by checking:
- b. Registration Plate.

- c. Vehicle Identification Number (VIN).
- d. Visible stickers, inspection or other type.
- e. Interior of vehicle for notes, letters, papers, materials, or other types of identification of owner.

If any of the above results in the determination of the owner, that information shall be given to the tow facility, so that the tow facility may contact the owner also.

- 5. **VEHICLE CONDITION:** If vehicle has physical conditions indicating abandonment, pictures of the vehicles should be taken for evidence.

6. **INVESTIGATION OF AN ABANDONED MOTOR VEHICLE:**

- a. A police officer may search an abandoned motor vehicle for evidence in attempt to determine the owner.
- b. The officer investigating the abandoned motor vehicle at the time of the search must attach to the windshield a green-colored ticket stating Abandoned Motor Vehicle. The ticket will be turned in to the Community Services Division.
- c. The officer will monitor the vehicle during the next three days.

- 7. **IF OWNER CONTACTS DEPARTMENT:** If within 3 days the owner contacts the department, he will be ordered to remove the vehicle. The department's involvement is ended if the vehicle is removed.

8. **IF OWNER CANNOT BE LOCATED:** If the owner cannot be located within three days, the person who had last registered the vehicle will be issued a City of Waltham ticket for abandonment of a motor vehicle. The ticket will be sent to the Parking Clerk at City Hall for processing.
9. **VEHICLE NOT MOVED AFTER 72 HOURS:** If after seventy-two hours the vehicle's position hasn't moved and the value of the vehicle is less than the tow and storage charge, a report (Form #66-2) of the preceding shall be forwarded by the Community Services Division to the City of Waltham Parking Clerk. The Parking Clerk will issue an order for the vehicle to be disposed of as refuse. Such value shall be determined in conjunction with the Commanding Officer - Community Services Division and the City of Waltham Parking Clerk.