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DIVISION 1

BYLAWS

PART I

**ADMINISTRATIVE
LEGISLATION**

Chapter 1

GENERAL PROVISIONS

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- § 1-1. Short title.
- § 1-2. Definitions.
- § 1-3. Construction of terms.
- § 1-4. Severability.

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- § 1-6. Separate violations.
- § 1-7. Penalty for zoning violations.

[HISTORY: Adopted by the Town Meeting of the Town of Topsfield as indicated in article histories. Amendments noted where applicable.]

ARTICLE I Definitions; Interpretation of Terms [Adopted 5-6-1986 TM by Art. 22 (Ch. I, §§ 1-1 through 1-4, of the General Bylaws)]

§ 1-1. Short title.

This Code shall be known and may be cited as "The Topsfield Town Code" and is herein referred to as the "Code."

§ 1-2. Definitions.

For the purpose of this Code, and in the interpretation and application of all other bylaws, rules, regulations and resolutions heretofore or hereafter adopted, except as the context may otherwise require, the following terms shall have the meanings indicated:

ATM — When referenced within this Code, shall mean the Annual Town Meeting.

MGL — Refers to the Massachusetts General Laws; "c." refers to a particular chapter of the Massachusetts General Laws. The symbol § refers to a section of that chapter. **[Amended at time of adoption of Code]**

MONTH — A calendar month unless otherwise specifically provided.

SELECT BOARD — The Board of Selectmen of the Town of Topsfield shall be referred to in these bylaws and for all other purposes as the "Select Board of the Town of Topsfield," and an individual member thereof as a "Select Board Member"; provided, however, that regardless of such nomenclature, said Board shall constitute a Board of Selectmen for purposes of the Massachusetts General Laws and of any special law applicable to the Town. **[Added 6-20-2020 ATM by Art. 27]**

STM — When referenced within this Code, shall mean a Special Town Meeting.

1. Editor's Note: Attorney General approval pending.

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YEAR — A calendar year unless otherwise specifically provided.

§ 1-3. Construction of terms. [Amended at time of adoption of Code]

For the purpose of this Code and any other bylaws, rules, regulations or resolutions heretofore or hereafter adopted, except as the context may otherwise require:

- A. The present tense includes the past and future tenses.
- B. The masculine gender includes the feminine and neuter.
- C. The singular number includes the plural and the plural the singular.
- D. "Shall" is mandatory and "may" is permissive.
- E. "Writing" and "written" shall include printing, typewriting and any other mode of communication using paper or similar material which is in general use, as well as legible handwriting.
- F. Whenever a specific time is used in this Code, it shall mean the prevailing time in effect in the Commonwealth of Massachusetts during any day in any year.
- G. Any citation of a statute or law contained in this Code shall be deemed to refer to such statute or law as amended, whether or not such designation is included in the citation.
- H. "Chapter" shall mean one of the major divisions of the Code identified by a numeral and divided by subject matter.
- I. "Section" shall mean a major subdivision of a chapter.
- J. "Subsection" shall mean a subdivision of a section, identified by a letter.

§ 1-4. Severability. [Amended at time of adoption of Code]

If any chapter, section or subsection of this Code shall be declared to be unconstitutional, invalid, or inoperative, in whole or in part, by a court of competent jurisdiction, such chapter, section or subsection shall, to the extent that it is not unconstitutional, invalid or inoperative, remain in full force and effect, and no such determination shall be deemed to invalidate the remaining chapters, sections or subsections of this Code.

ARTICLE II

General Penalty

[Adopted 5-6-1986 TM by Art. 22 (Ch. I, § 1-5, of the General Bylaws)]

§ 1-5. Maximum penalty.

Any person who shall violate any general provision of this Code or other bylaw of the Town, where no specific penalty is provided regarding the section violated, shall, upon conviction thereof, be punishable by a fine not exceeding \$300, unless the penalty for such violation is limited by the Massachusetts General Laws or any other law.

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GENERAL PROVISIONS

§ 1-7

§ 1-6. Separate violations.

Except as otherwise provided, every day in which a violation of any provision of this Code or any other bylaw of the Town exists shall constitute a separate violation.

§ 1-7. Penalty for zoning violations.

This penalty is not applicable for violations of the Zoning Bylaw. See the Zoning Bylaw for penalty provisions applicable to that bylaw.

Chapter 7

ADMINISTRATOR

§ 7-1. Duties.

§ 7-2. Positions and committees abolished.

[HISTORY: Adopted by the Town Meeting of the Town of Topsfield 3-1-2005 STM by Art. 4, effective 1-1-2007 (Ch. II, Art. X, of the General Bylaws). Amendments noted where applicable.]

§ 7-1. Duties.

The Town Administrator appointed by the Select Board as set forth in Chapter 75, Select Board, § 75-2, of The Topsfield Town Code shall have the following duties:

- A. Chief Administrative Officer. The Town Administrator shall serve as the Town's Chief Administrative Officer, shall act as the agent for the Select Board and shall be responsible to the Select Board for the proper operation of Town affairs for which said Administrator is given responsibility under this bylaw. The Administrator shall supervise, direct and be responsible for the efficient administration of all departments and employees under the jurisdiction of the Select Board and all functions for which the Administrator is given responsibility, authority or control by the Town of Topsfield Code, Town Meeting vote, or by vote of the Select Board.
- B. Chief Procurement Officer. The Town Administrator shall act as Chief Procurement Officer pursuant to § 63-12A of the Town of Topsfield Procurement Bylaw.
- C. Appointments. The Town Administrator shall appoint, based upon merit and fitness, all department heads and officers, subordinates and employees under the jurisdiction of the Select Board, except employees of the School Department, persons serving under officers, boards, or committees elected directly by the voters of the Town of Topsfield, or appointments otherwise reserved to the Select Board or other officials pursuant to the Town of Topsfield Town Code. Appointment of the Chief of Police and the Fire Chief shall be subject to confirmation by the Select Board. All other appointments of the Town Administrator shall be made in consultation with the appropriate department head, board, commission, or committee and shall be in compliance with the Personnel Bylaw¹ and Personnel Rules and Regulations of the Town. Any person holding office or employment upon the effective date of the adoption of this bylaw, shall continue to perform his or her duties under the provisions of the Personnel bylaw and Personnel Rules and Regulations² of the Town of Topsfield, unless such position is abolished by Town Meeting vote, and nothing contained herein shall otherwise impair contractual rights established prior to the adoption of this bylaw.

1. Editor's Note: See Ch. 54, Personnel.

2. Editor's Note: See Ch. 350, Personnel.

§ 7-1

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- D. Personnel Director. The Town Administrator shall be the Town's Personnel Director and shall administer the Town's Personnel Bylaw. In addition, the Town Administrator shall direct the Town's contract negotiations, subject to ratification by the Select Board;

§ 7-2. Positions and committees abolished.

Simultaneously with the establishment of the position of Town Administrator and the appointment of the same, the positions of Executive Secretary, the Personnel Board, and the Capital Program Committee shall be abolished. In addition, upon the appointment of a Town Administrator, the provisions of the Town Code (former Article VII, 2-14), concerning the Capital Program Committee, shall be deleted.

Chapter 12

BOARD OF HEALTH

ARTICLE I

Noncriminal Disposition of Violations

§ 12-1. Authority; enforcement officers; penalty.

[HISTORY: Adopted by the Town Meeting of the Town of Topsfield as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Noncriminal Disposition of Violations

**[Adopted 5-6-2003 TM by Art. 33; amended in its entirety 6-20-2020 ATM by Art. 25¹
(Ch. XXX of the General Bylaws)]**

§ 12-1. Authority; enforcement officers; penalty.

The Board of Health is hereby authorized to enforce violations of any bylaw, rule or regulation over which it has jurisdiction, in addition to any other means available in law and in equity, through the noncriminal disposition process set forth in MGL c. 40, § 21D.

- A. For purposes of noncriminal disposition, the designated enforcement officers shall be the agents of the Board of Health, or any police officer of the Town of Topsfield.
- B. Each day a violation exists shall constitute a separate violation for purposes of this section.
- C. When enforced through noncriminal disposition, unless otherwise specifically provided for by bylaw, rule or regulation, the penalties shall be as follows:
 - (1) First violation: \$25.
 - (2) Second violation: \$50.
 - (3) Third and subsequent violations: \$100.

1. Editor's Note: Attorney General approval pending.

Chapter 16

BOARDS, COMMITTEES AND COMMISSIONS

- | | |
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| § 16-1. Conservation Commission. | § 16-7. Memorial Day Committee. |
| § 16-2. Council on Aging. | § 16-8. Park and Cemetery Commissioners. |
| § 16-3. Topsfield Historical Commission. | § 16-9. Planning Board. |
| § 16-4. Insurance Committee. | § 16-10. Public Works Committee. |
| § 16-5. Board of Health. | § 16-11. Shade Tree Committee. |
| § 16-6. Agricultural Commission. | |

[HISTORY: Adopted by the Town Meeting of the Town of Topsfield as Ch. II, Art. VII, of the General Bylaws. Amendments noted where applicable.]

§ 16-1. Conservation Commission. [Added 3-7-1960 TM by Arts. 28 and 29; amended 5-2-1995 TM by Art. 34; 5-6-2014 TM by Art. 38]

- A. Establishment; statutory authority. Under the provisions of MGL c. 40, § 8C, inserted by Section I of Chapter 223 of the Acts of 1957, a Conservation Commission for the promotion and development of the natural resources and for the protection of watershed resources of the Town may be established. A Conservation Commission shall be established in accordance with the Acts of 1957, Chapter 223.
- B. Members; terms. A Conservation Commission of five members shall be appointed by the Select Board for three-year overlapping terms, commencing July 1 of each year, so arranged that the terms of no more than two members shall expire in any given year.
- C. Powers, duties and authority. The Topsfield Conservation Commission will have all the powers, duties, and authority as conferred on Conservation Commissions under the Massachusetts General Laws and the Town bylaws, rules and regulations thereof.

§ 16-2. Council on Aging. [Added 3-20-1972 TM by Art. 17; amended 11-19-1973 TM by Art. 9; 5-5-1992 TM by Arts. 31 and 32; 5-1-2007 TM by Art. 28]

- A. Establishment, membership and tenure. The Council on Aging, as established hereunder, shall consist of seven, nine or 11 members to be appointed by the Select Board for alternating three-year terms commencing on July 1 of each year; provided, however, that initial appointments made hereunder may be for one-, two- or three-year terms, and thereafter for terms of three years; and provided further that any members of the Council on Aging holding office as of the effective date of this bylaw may continue to serve until the expiration of their term or sooner resignation. Members of the Council on Aging may be removed for cause after a hearing. Vacancies shall be filled for the remainder of the unexpired term in the manner of the original appointment.
- B. Quorum. For purposes of this bylaw, a quorum of members of the Council on Aging shall constitute a majority of those then in office.

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- C. Duties. Members shall have the duties, powers and authority as are conferred from time to time by MGL c. 40, § 8B, as amended.

§ 16-3. Topsfield Historical Commission. [Added 3-20-1972 TM by Art. 30; amended 5-21-1974 TM by Art. 32; 10-22-1985 TM by Art. 18; 5-12-1989 TM by Art. 56]

- A. Established; members.

- (1) There is hereby established a Topsfield Historical Commission under the provisions of the Historic Districts Act, MGL c. 40C, as amended, consisting of five members, appointed by the Select Board, including one member, where possible, from two nominees submitted by the Topsfield Historical Society, one member, where possible, from two nominees submitted by the Massachusetts State Chapter of the American Institute of Architects, and one member, where possible, from two nominees of the Board of Realtors covering Topsfield. One of the foregoing shall be, where possible, a resident of, and one shall be, where possible, a property owner within the Historic District established in Topsfield pursuant to the Historic Districts Act. When the Commission is first established, one member shall be appointed for a term of one year, two shall be appointed for a term of two years, and two shall be appointed in like manner for three years, and their successors shall be appointed in like manner for terms of three years.
- (2) Alternate members shall be appointed by the Select Board for a term of one year and may actively participate as a member of the Commission upon the request of the Chairman of the Historical Commission in the absence of any regular member of the Historical Commission. **[Amended at time of adoption of Code]**

- B. Powers and duties. Pursuant to MGL c. 40C, § 14, the Historical Commission shall have the powers and duties of an Historical Commission as provided in MGL c. 40, § 8D and rename the "Historic District Commission" the "Topsfield Historical Commission."

§ 16-4. Insurance Committee. [Added 3-2-1964 TM by Art. 28; amended 5-2-2006 TM by Art. 27]

- A. Establishment, membership and tenure. The Insurance Committee, as established hereunder, shall consist of five voting members, the Town Administrator as a non-voting ex-officio member, and, at the discretion of the Committee, may include additional non-voting ex-officio members as required by said Committee.
- (1) One member of the Select Board selected thereto annually by the Chairman of the Board.
 - (2) One member of the Finance Committee selected thereto annually by the Finance Committee Chairman.
 - (3) Three members appointed annually by the Select Board.
- B. Duties. The Committee shall be chartered hereunder to review on an annual basis the Town's insurance policies, including but not limited to property and general liability,

workers' compensation, professional liability, police and fire accident, employee health insurance, and provide a recommendation to the Select Board concerning said policies relative to comprehensiveness of coverage, statutory requirements and cost impacts.

§ 16-5. Board of Health. [Added 5-4-2004 TM by Art. 43]

There shall be a five-member Board of Health to be appointed by the Select Board for alternating three-year terms commencing on July 1 of each year. Upon the expiration of the terms of the three appointees holding office on the date this bylaw is approved by the Town, the Select Board shall appoint two additional members to the following terms: one member to be appointed for an initial one-year term, the other to be appointed to a two-year term; and thereafter for three years.

§ 16-6. Agricultural Commission. [Added 5-3-2005 TM by Art. 36]

- A. Purpose. The mission of the Agricultural Commission, hereinafter "the Commission," is to preserve, revitalize and sustain the Topsfield agricultural industry and to promote agricultural-based economic opportunities. The Commission, once appointed, shall develop a work plan to guide its activities. Such activities include, but are not limited to, the following: shall serve as facilitators for encouraging the pursuit of agriculture in Topsfield; shall promote agricultural-based economic opportunities in Town; shall act as advocates and educators on farming issues; shall work for preservation of prime agricultural lands; and shall pursue all initiatives appropriate to creating a sustainable agricultural community.
- B. Membership. The Commission shall consist of five members, at least four of whom shall be Topsfield residents, appointed by the Select Board. The Commission shall consist of a minimum of two members whose primary or secondary source of income is derived from farming or agricultural-based enterprises in Topsfield and another three who are interested in farming. The Select Board shall appoint two alternates who maybe full- or part-time farmers or interested in farming. The members shall serve overlapping terms of three years. For the first Agricultural Commission, the Select Board shall appoint two members for a term of three years, two members for a term of two years and one member for a term of one year. Thereafter, appointments shall be for three-year terms. The Select Board shall fill a vacancy based on the unexpired term of the vacancy in order to maintain the cycle of appointments. The Select Board shall appoint the alternates for three-year terms. The Commission may recommend appointees to fill vacancies.

§ 16-7. Memorial Day Committee. [Added 3-4-1957 TM by Art. 5]

The Moderator shall appoint a permanent Memorial Day Committee consisting of three members. Members shall be appointed by the Moderator for a term of three years.

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§ 16-8. Park and Cemetery Commissioners. [Added 5-1-1979 TM by Art. 28; amended 5-2-1989 TM by Art. 59]

The Board of Parks and Cemetery Commissioners is hereby established. The Board shall have the duties and authority of the respective Boards of Park and Cemetery Commissioner. The Board shall consist of three members who are elected by popular vote. Each Commissioner shall serve for a three-year term.

§ 16-9. Planning Board. [Added 5-12-1978 TM by Art. 39; amended 5-1-2018 ATM by Art. 31]

The Planning Board shall consist of five members elected by popular vote for terms of three years.

§ 16-10. Public Works Committee. [Added 5-3-1988 TM by Art. 44]

- A. Members designated. The Superintendents of the Water, Park, Cemetery, and Highway Departments, the Town Engineer and the Tree Warden shall constitute a Public Works Committee for the Town. The Committee shall appoint one of the members of the Committee to be Chairman for a one-year term and shall also appoint someone to act in their place during their absence. A member may not be appointed as Chairman for more than two consecutive one-year terms. It shall be his duty to call and preside at the meetings of the Committee, and to file a written report to be included in the Town Report upon the activities, accomplishments and proposals of the Committee. The Committee shall from time to time elect or designate a secretary, who shall keep minutes of the meetings and give notice of all regular and special meetings. The Committee shall meet at least once a month at a time and place designated by the Chairman.
- B. Duties of the Committee. It shall be the duty of the Committee:
 - (1) To coordinate the work of the several departments engaged in public works for the purpose of obtaining the most efficient use of equipment and manpower;
 - (2) To devise uniform recordkeeping forms and procedures with reference to the use of manpower and personnel which will record the hours worked by each employee, the nature of the work done and for what department;
 - (3) To devise uniform recordkeeping forms designed to show, with respect to each vehicle or piece of equipment, its utilization from day to day in terms of hours, location, project worked on, department for which used, and also to record mileage, maintenance, repairs, etc.;
 - (4) To maintain uniform personnel policies and procedures in all departments;
 - (5) To take such steps as may be possible to bring about pooling and centralized housing, maintenance and repair of vehicles and equipment;
 - (6) To review and implement communication procedures to the end that citizens' needs and requests may always be known and attended to promptly;

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§ 16-11

- (7) To continuously explore opportunities for joint purchasing, both among the departments engaged in public works and also with other Town departments;
- (8) To coordinate requests for capital equipment appropriations and purchases and to develop joint manpower forecasts for planning and budgeting purposes;
- (9) To make recommendations to appropriate Town officials respecting the combining or elimination of departments, the transfer of functions from one department to another or other modifications in the structure of the Town government which may lead to greater efficiency or economy in the carrying out of the public works;
- (10) To act upon any recommendations made by Town officials.

§ 16-11. Shade Tree Committee. [Added 3-5-1956 TM by Art. 23]

The Moderator shall appoint a committee of five to serve as a Shade Tree Committee acting in an advisory committee to the Tree Warden and the Moth Superintendent. The Tree Warden and the Moth Superintendent shall be members of the Committee ex-officio. The Committee shall have specific responsibility for Dutch Elm Disease control, surveys and recommendations.¹

1. Editor's Note: The Tree Planning Subcommittee was established by the Topsfield Conservation Commission as a subcommittee in November 1968.

Chapter 28

FINANCES

ARTICLE I **Finance Committee**

- § 28-1. **Members; duties.**
§ 28-2. **Requests for information.**

ARTICLE II **Annual Audit**

- § 28-3. **Annual financial audit.**

ARTICLE III **Payment of Fees**

- § 28-4. **Payment to Town treasury.**

ARTICLE IV **Revolving Funds**

- § 28-5. **Funds established.**
§ 28-6. **Expenditures.**

[HISTORY: Adopted by the Town Meeting of the Town of Topsfield as indicated in article histories. Amendments noted where applicable.]

ARTICLE I **Finance Committee**

[Adopted 7-15-1915 TM by Art. 3; amended 3-6-1939 TM by Art. 3; at time of adoption of Code (Ch. II, Art. IV, of the General Bylaws)]

- § 28-1. **Members; duties. [Amended 5-7-1977 TM by Art. 15]**

There shall be a Finance Committee appointed by the Town Moderator, consisting of seven legal voters, none of whom shall be officers of the Town elected by ballot. The duties of this Committee shall include consideration of any and all municipal questions for the purpose of making reports and recommendations to the Town, and consideration of the articles in the warrant for Town Meetings, and it shall report at each Town Meeting estimates and recommendations with reasons therefor for the action of the Town. Members of the Committee shall serve for terms of three years, arranged so that not more than three terms expire in any given year.

- § 28-2. **Requests for information.**

All Town officers and committees shall, upon request of the Finance Committee, furnish it with facts, figures, and any other information pertaining to their several departments.

§ 28-2

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ARTICLE II

Annual Audit**[Adopted 5-4-1993 TM by Art. 27 (Ch. II, Art. VI, of the General Bylaws)]****§ 28-3. Annual financial audit.**

The Town Accountant, as directed by the Select Board, shall on an annual basis contract for financial services to audit or review the financial records of the Town.

ARTICLE III

Payment of Fees**[Adopted 5-1-1984 TM by Art. 42 (Ch. II, Art. VIII, § 2-59, of the General Bylaws)]****§ 28-4. Payment to Town treasury.**

All Town officers shall pay into the Town Treasury all fees received by them by virtue of their office.

ARTICLE IV

Revolving Funds**[Adopted 5-2-2017 ATM by Art. 14; 5-7-2019 ATM by Art. 27 (Ch. LXIV of the General Bylaws)]****§ 28-5. Funds established.**

There are hereby established in the Town of Topsfield pursuant to the provisions of MGL c. 44, § 53E 1/2, the following revolving funds:

Program or Purpose	Department Receipts	Authorized to Spend
Parks Revolving Fund (paying costs and expenses related to parks and recreation programs, recreational activities, including noncompetitive activities for all age groups in Town. Fees charged to participants of recreation programs are deposited into the fund to pay for wages, supplies, operating expenses and programming.)	Receipts from parks programs, recreational activities and events	Park and Cemetery Commissioners

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FINANCES

§ 28-6

Program or Purpose	Department Receipts	Authorized to Spend
Cemeteries Revolving Fund (paying costs and expenses related to said operations and programs, including wages, equipment, supplies and operating expenses, cemeteries improvements, purchase of capital equipment for Parks and Cemeteries operations)	Receipts from cemeteries related activities, including grave opening fees	Park and Cemetery Commissioners
Conservation Commission Revolving Fund (paying costs and expenses related to said programs, including services, supplies, part-time wages and other operating expenses and other expenses related to the enforcement of the Town's local Wetlands Bylaw)	Receipts from conservation fees paid under the Topsfield General Wetlands Bylaw and Regulations	Conservation Commission

§ 28-6. Expenditures.

Expenditures from each revolving fund set forth herein shall be subject to the limitation established by Town Meeting, or any increase therein, all as may be authorized in accordance with MGL c. 44, § 53E 1/2.

Chapter 54

PERSONNEL

§ 54-1. Purpose and intent.

§ 54-2. Statutory authority.

§ 54-3. Applicability.

§ 54-4. Effect on prior laws and other policies.

§ 54-5. Personnel Director.

§ 54-6. Adoption of personnel rules and regulations.

§ 54-7. Ad hoc personnel advisors.

§ 54-8. Severability.

§ 54-9. Effective date.

[HISTORY: Adopted by the Town Meeting of the Town of Topsfield as last amended 5- 3- 2016 ATM by Art. 31 (Ch. XLI of the General Bylaws). Subsequent amendments noted where applicable.]¹

§ 54-1. Purpose and intent.

The purpose of this Personnel Bylaw is to establish a system of personnel administration based on merit principles that ensures a uniform, fair and efficient application of personnel policies. The intent of this bylaw is to provide a method of recruitment, selection and development of a work force that is skilled and effective in accomplishing the service delivery missions of the Town. Personnel actions are to be taken without regard to sex, race, religion, color, age as defined by law, handicap, sexual orientation, political affiliation or other non-job-related factor, and shall be based on merit and fitness.

§ 54-2. Statutory authority.

This Personnel Bylaw is adopted pursuant to the authority granted by the so-called "Home Rule Amendment," Article LXXXIX of the Constitution of the Commonwealth of Massachusetts, and MGL c. 41, §§ 108A and 108C.

§ 54-3. Applicability.

All Town departments and positions shall be subject to the provisions of this bylaw and any regulations adopted pursuant to this bylaw, excluding elected officers of the Town of Topsfield and School Department employees. To the extent that any collective bargaining agreement conflicts with any provision of this bylaw with respect to employees covered under such labor agreements, the provisions of the collective bargaining agreement shall prevail.

1. Editor's Note: The document entitled "Town of Topsfield Personnel Rules, Regulations and Procedures" is on file with the Topsfield Select Board and may be viewed and/or procured in said office. See § 54-6 as to procedures for adoption of personnel rules and regulations and § 54-9 as to effective dates of said adoptions.

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§ 54-6

§ 54-4. Effect on prior laws and other policies.

Except as otherwise specifically provided herein, this Personnel Bylaw and any and all rules, regulations and policies adopted pursuant to its provisions are intended to supersede any other previously adopted Personnel Bylaw or other regulations or policies.

§ 54-5. Personnel Director. [Amended at time of adoption of Code]

In accordance with Chapter 7, Administrator, of the Town Code, the Town Administrator shall be the Town's Personnel Director and shall administer the Town's Personnel Bylaw. The Personnel Director shall administer:

- A. A classification plan;
- B. A compensation plan;
- C. Development of a centralized recordkeeping system;
- D. Personnel rules and regulations which indicate the rights and obligations of employees;
- E. Disciplinary procedures;
- F. Establishment of a personnel appraisal system; and
- G. Other elements that are deemed necessary.

§ 54-6. Adoption of personnel rules and regulations.

Personnel rules and regulations defining the rights, benefits and obligations of employee's subject to this bylaw shall be adopted or amended as follows:

- A. Preparation of rules and regulations.
 - (1) The Personnel Director shall prepare proposed personnel rules and regulations. Any member of the Select Board, any appointing authority or any two or more employees may suggest rules and regulations for consideration by the Personnel Director. The Personnel Director need not consider any proposal already considered in the preceding six months.
 - (2) Any person suggesting new or amended rules and regulations shall provide the substance and reason for the rule or regulation change in writing.
- B. Public meeting. The Personnel Director shall hold a public meeting on suggested rules and regulations. Any suggested rules and regulations or amendments to rules and regulations shall be posted in the office of the Personnel Director and on the Town Clerk's bulletin board at least five business days prior to the public meeting at which such suggestions are to be considered. The Personnel Director shall submit a copy of any suggested rules or regulations to the Select Board.
- C. Personnel Director action on suggested rules and regulations. Within a reasonable period of time after the public meeting on any suggested rule or regulation, the Personnel Director shall determine if the suggested rules or regulations shall be recommended for adoption by the Select Board.

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- D. Action by the Select Board. The Personnel Director shall transmit any recommendations for the adoption of personnel rules and regulations or amendments in writing, including the text of any proposed rules and regulations, to the Select Board. The Select Board shall consider the recommendations of the Personnel Director and may adopt or reject the recommendations; provided, however, that if the Select Board fails to act, recommended rules and regulations shall be deemed adopted upon the expiration of 45 days from the date of transmittal of the recommendations to the Select Board.
- E. Posting of rules and regulations. The Select Board shall cause the posting of the text of adopted rules and regulations in prominent work locations, and should distribute such amended rules and regulations to all employees.
- F. Official record. The Personnel Director shall maintain a compilation of all personnel rules and regulations adopted by the Select Board. A copy of such compilation shall also be maintained by the Town Clerk.

§ 54-7. Ad hoc personnel advisors.

The Personnel Director may appoint, to serve at the pleasure of the Director, one or more residents of the Town qualified with certain expertise and experience relevant to personnel issues, all of whom shall serve without compensation, to assist said Director in an advisory capacity with respect to any personnel issues that the Personnel Director deems appropriate.

§ 54-8. Severability.

The provisions of this bylaw and any regulations adopted pursuant to this bylaw are severable. If any bylaw provision or regulation is held invalid, the remaining provisions of the bylaw or regulations shall not be affected thereby.

§ 54-9. Effective date.

- A. This bylaw shall take effect on July 1, 2007.
- B. Upon the effective date of this bylaw, the personnel rules and regulations prepared in anticipation of the passage of this bylaw, dated March 2007, and entitled "Town of Topsfield: Personnel Rules, Regulations and Procedures," shall become effective to the extent that such rules and regulations have been approved by the Select Board. Such personnel rules and regulations shall remain in full force and effect until amended or revised in accordance with § 54-6 of this bylaw and shall supersede other personnel rules and regulations that may be in effect.

Chapter 63

PURCHASING AND CONTRACTS

ARTICLE I

Equal Employment Opportunity

§ 63-1. Contract requirements.

ARTICLE II

Affordable Housing Tax Agreements

§ 63-2. Authority to negotiate.

§ 63-3. Action by Town Meeting.

§ 63-4. Request to Commissioner of Revenue.

§ 63-5. Execution of agreement; distribution of copies.

§ 63-6. Site qualifications.

§ 63-7. Contents of agreement.

§ 63-8. Policies.

§ 63-9. Amendments.

§ 63-10. When effective.

ARTICLE III

Procurement

§ 63-11. Authority to execute contracts.

§ 63-12. Procurement procedures.

[HISTORY: Adopted by the Town Meeting of the Town of Topsfield as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Equal Employment Opportunity

[Adopted 6-17-1971 TM by Art. 3 (Ch. II, Art. IX, § 2-65, of the General Bylaws)]

§ 63-1. Contract requirements.

No contract shall be entered into by the Town directly or through any agency of the Town unless the contractor certifies in writing to the Town that the contractor and any of hissubcontractors are in compliance with MGL c. 151B, and the Civil Rights Act of 1964(Public Law 88-352), and set for affirmative action to ensure equal employment opportunities for all qualified persons without regard to race, color, religion, sex or national origin, as set forth in guidelines to be established by the Select Board.

ARTICLE II

Affordable Housing Tax Agreements

[Adopted 5-6-2003 TM by Art. 31; amended 5-4-2004 TM by Art. 47 (Ch. II, Art. IX, § 2-66, of the General Bylaws)]

§ 63-2. Authority to negotiate. [Amended at time of adoption of Code]

Pursuant to the provisions of MGL c. 58, § 8C, the Select Board or its designee is hereby authorized to negotiate on behalf of the Town an affordable housing tax agreement ("agreement") between the Town and the developer of sites or portions of sites that will be

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used as affordable housing, as defined in MGL c. 60, § 1, regarding the abatement of up to 75% of the real estate tax obligations and up to 100% of the outstanding interest and penalties on said sites or portions of sites, provided that the Commissioner of Revenue has approved in writing the Town's request to grant such abatement.

§ 63-3. Action by Town Meeting.

The agreement must be approved by Town Meeting if it exceeds \$25,000. In all other cases, no Town Meeting action is necessary.

§ 63-4. Request to Commissioner of Revenue.

Prior to executing the agreement, the Town must file with the Commissioner of the Department of Revenue a written request to grant an abatement under MGL c. 58, § 8C. If the Commissioner of the Department of Revenue approves the request for abatement, or fails to act within 30 days from the date of the receipt of the request for abatement to make a determination, the Select Board or its designee may execute the agreement.

§ 63-5. Execution of agreement; distribution of copies.

The agreement must be executed by the Select Board or its designee and notarized and attested to by the Town Clerk of the municipality. A copy of the executed agreement must be given to:

- A. The developer;
- B. The Select Board;
- C. The Department of Housing and Community Development; and
- D. The Commissioner of the Department of Revenue.

§ 63-6. Site qualifications.

The site covered by an agreement must be developed for: 1) affordable housing use only; or 2) mixed affordable housing and commercial use, as set forth below.

- A. Affordable housing. The definition of "affordable housing" for purposes of this bylaw shall be that provided by the Department of Revenue in Informational Guideline Release No. 02-207. "Affordable housing" shall mean housing: 1) owned by or rented to families or individuals with household income at time of initial occupancy that meets certain income standards, and 2) subject to a recorded affordable housing restriction of at least 45 years, including resale restrictions imposed to maintain its affordability on a long-term basis (MGL c. 60, § 1). Household income cannot exceed 120% of the area-wide median income determined by the United States Department of Housing and Urban Development as adjusted for family size. Subsequent owners and renters must also meet that income standard at initial occupancy.
- B. Mixed use.

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- (1) Primary use. In accordance with the Department of Revenue's Informational Guideline Release No. 02-207, affordable housing must be the primary use of any mixed-use development. The site may include commercial uses, but not market-rate housing. "Primary use" means that more than 50% of the floor space of the improvements on the site must be devoted to affordable housing. This condition and definition of primary use must be included in any agreement entered into pursuant to this bylaw, along with plans showing the percentage of floor space devoted to affordable housing use. Common areas, such as floor space used for heating, air conditioning or storage, are to be prorated and allocated to the affordable housing and other uses.
- (2) Compliance. No building permits or certificates of occupancy may be issued unless the Inspector of Buildings determines that the development of the site conforms to the primary use requirement set forth in Subsection B(1).
- (3) Any agreement made in accordance with this bylaw must provide, at a minimum, that if the development later becomes nonconforming during the period covered by the agreement, or within 20 years of its effective date, whichever period is shorter, the certificates of occupancy for the commercial space shall be revoked unless the amount of real estate taxes abated pursuant to the agreement are repaid.

§ 63-7. Contents of agreement.

The agreement must include, but is not limited to, the following elements:

- A. The outstanding amount of real estate taxes;
- B. The rate of interest to accrue, if any;
- C. The amount of monthly payments;
- D. The commencement date of the payments;
- E. The due date of the final payment;
- F. The late penalty fee, if any;
- G. The number of affordable housing units to be developed; and
- H. The amount of real estate taxes to be abated subject to Department of Revenue approval.

§ 63-8. Policies.

The Select Board is hereby authorized to establish a written policy or policies regarding the circumstances under which agreements under this bylaw may be made as well as any parameters regarding the terms of such agreements.

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§ 63-9. Amendments.

This bylaw may be amended from time to time by a majority vote of the Town Meeting consistent with the provisions of MGL c. 58, § 8C.

§ 63-10. When effective.

Provided that MGL c. 58, § 8C is accepted by the voters of the Town at a Special or Annual Town Meeting, this bylaw shall take effect after all requirements of MGL c. 58, § 8C have been met.¹

ARTICLE III**Procurement**

[Adopted 5-7-1996 TM by Art. 50; amended 5-4-1999 TM by Art. 32; 5-1-2007 TM by Art. 33; 5-6-2014 ATM by Art. 36 (Ch. XXIV of the General Bylaws)]

§ 63-11. Authority to execute contracts.

- A. Unless otherwise provided by a vote of Town Meeting, the Select Board, for all Town matters other than those involving schools, and the School Committee, for all matters involving schools, are authorized to enter into any contract for the exercise of the corporate powers of the Town, on such terms and conditions as they deem to be in the best interests of the Town, including the length of each such contract.
- B. Notwithstanding the foregoing, the Select Board or School Committee shall not contract for any purpose, on any terms, or under any conditions inconsistent with any applicable provision of any general or special law.

§ 63-12. Procurement procedures.

- A. The Town Administrator shall serve as the Chief Procurement Officer of the Town. All procurement activities of the Town shall be under the direction of the Chief Procurement Officer.
- B. The procurement of supplies or services in excess of \$10,000 and all contracts related thereto shall be governed by the provisions of MGL c. 30B, the Uniform Procurement Act.
- C. The disposal of all surplus supplies of the Town shall be governed by the procedures set out in MGL c. 30B, § 15, subject to the prior authorization of the Select Board.
- D. The acquisition or disposition of interests in real property by the Town shall be governed by the procedures set out in MGL c. 30B, § 16.

1. Editor's Note: MGL c. 58, § 8C was accepted at the 2003 Town Meeting.

Chapter 75

SELECT BOARD

§ 75-1. Membership and terms.

§ 75-3. Salary.

§ 75-2. Duties.

[HISTORY: Adopted by the Town Meeting of the Town of Topsfield as Ch. II, Art. III, of the General Bylaws. Amendments noted where applicable.]

§ 75-1. Membership and terms.

The Select Board shall consist of five members who are elected by popular vote at an Annual Town Election in May for alternating terms. Each Select Board Member shall serve for a three-year term, with no more than two Select Board Members' terms to run concurrently. Notwithstanding the provisions of the immediately preceding sentence, at the Annual Town Election in May of 2006, one additional member shall be elected for a two-year term and one additional member shall be elected to a three-year term. The terms of those members currently serving as Select Board Members at the time of the adoption of this bylaw shall be unchanged.

§ 75-2. Duties.

- A. Distribution of warrant of Town Meeting to the Finance Committee. The Select Board shall, immediately upon issuance, forward warrants of all Town Meetings to the Finance Committee.
- B. Annual Code supplementation. The Select Board shall, on an annual basis, subject to appropriation by Town Meeting, contract for a complete supplementation service for the insertion of general bylaws, zoning bylaws, operating rules and regulations as enacted and/or adopted by the Town Meeting and/or any Town board, committee or official in the municipal Code book.
- C. Appointment of Town Administrator. Upon the passage of a Town Meeting vote establishing the Office of Town Administrator and effective January 1, 2007, the Select Board shall, by majority vote, appoint a Town Administrator, who shall have the powers as set forth in Chapter 7, Administrator, § 7-1. Said Administrator shall be a person especially fitted by education, training and experience to perform the duties of the office.
 - (1) Three-year contract. The Town Administrator shall be given a three-year contract which may be terminated by the Select Board sooner, for cause, only upon the vote of not less than four members of the Select Board.
 - (2) Upon the appointment of any Town Administrator, the position of Executive Secretary shall be abolished.

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§ 75-3. Salary. [Amended 3-1-2005 TM by Art. 3; at time of adoption of Code]

Each Select Board Member shall receive, subject to appropriation, an annual salary as set from time to time by the Town Meeting, prorated for any period of time less than one year served due to resignation, special elections, or the like.¹

1. Editor's Note: Original § 2-3.4 of the General Bylaws, Distribution of Warrant of Town Meeting to Finance Committee, and § 2-3.5, Annual Code Supplementation, as amended, which immediately followed this section, were repealed at time of adoption of Code.

Chapter 81

TOWN MEETINGS AND ELECTIONS

§ 81-1. Notice of Town Meetings.

§ 81-2. Mailing of warrants.

§ 81-3. Time of Annual Town Meeting.

§ 81-4. Location.

§ 81-5. Quorum required at Town Meeting.

§ 81-6. Two-thirds voice votes.

§ 81-7. Issuance of warrant.

[HISTORY: Adopted by the Town Meeting of the Town of Topsfield as Ch. II, Arts. I and II, of the General Bylaws. Amendments noted where applicable.]

§ 81-1. Notice of Town Meetings. [Amended 7-15-1915 TM by Art. I; at time of adoption of Code]

Notice of every Town Meeting shall be given by posting at the Post Office, Town Hall, and at each of the Meeting Houses in the Town an attested copy of the warrant for such meeting, at least seven days before the time named in the warrant for holding the meeting for the Annual Town Meeting and at least 14 days before any Special Town Meeting.

§ 81-2. Mailing of warrants. [Amended 7-15-1915 TM by Art. I; 3-4-1918 TM by Art. XII; 3-16-1939 TM by Art. I; 5-7-1977 TM by Art. 24; 5-7-2002 TM by Art. 33]

Printed copies of all warrants for the Annual Town Meeting and Town Elections shall be mailed or otherwise delivered by the Select Board to the registered voters at least seven days before the date for the Town Meeting or Election or the May Special Town Meeting held on the same day within the Annual Town Meeting, and 14 days before a Special Town Meeting.

§ 81-3. Time of Annual Town Meeting. [Amended 6-17-1971 TM by Art. 5; 3-19-1973 TM by Art. 37; 5-20-1975 TM by Art. 50; 5-7-1977 TM by Art. 25; 5-5-1998 TM by Art. 35; 5-4-2004 TM by Art. 25]

The Annual Town Meeting shall be called for the first Tuesday in May at 7:00 in the afternoon. The election of Town officers and the vote upon such questions as can legally be placed upon the ballot shall take place on the first Thursday after the first Tuesday in May, and the polls shall be opened at 7:00 a.m. and may close at 8:00 p.m.

§ 81-4. Location. [Voted by Legislature 11-26-1973]

The Town may hold its Annual and Special Town Meetings or any adjournments thereof at the Masconomet Regional School in the Town of Boxford; provided that any meeting for the election by official ballot of federal, state, county or other officials shall be held within the Town of Topsfield.

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§ 81-5. Quorum required at Town Meeting. [Amended 7-15-1915 TM by Art. I; 3-6-1950 TM by Art. 1; 3-2-1959 TM by Art. 39]

One hundred of the legal voters of the Town shall constitute a quorum for the transaction of business of the Town at all Town Meetings except such parts of the meetings as are devoted exclusively to the election of Town officers, but a number less than a quorum may adjourn a meeting to a later date.

§ 81-6. Two-thirds voice votes. [Amended 5-5-1998 TM by Art. 36]

The Moderator may take all votes requiring a two-thirds majority in the same manner in which he or she conducts the taking of a vote when a majority is required.

§ 81-7. Issuance of warrant. [Amended 7-15-1915 TM by Art. 2; 3-3-1919 TM by Art. 35; 3-16-1950 TM by Art. 24; 3-5-1956 TM by Art. 51; 3-6-1961 TM by Art. 28; 3-19-1973 TM by Art. 37; 5-9-1977 TM by Art. 27]

Duty of Select Board. The Select Board shall issue the warrant for the Annual Town Meeting in accordance with § 81-2.

Chapter 96

ZONING BOARD OF APPEALS

§ 96-1. Members; duties.

§ 96-3. Organization.

§ 96-2. Jurisdiction.

[HISTORY: Adopted by the Town Meeting of the Town of Topsfield 5-1-1990 TM by Art. 42 (Ch. II, Art. V, of the General Bylaws). Amendments noted where applicable.]

§ 96-1. Members; duties.

A Zoning Board of Appeals, consisting of five members appointed by the Select Board, is responsible for administering the Topsfield Zoning Bylaws in conformity with the provisions of MGL c. 40A, as amended (known as "The Zoning Act"). Four Associates, appointed by the Select Board, may sit in the place of absent members upon designation by the Chairman, or, in his absence, the Acting Chairman. Associates shall be appointed for a term of one year. These rules and procedures shall incorporate The Zoning Act, as amended, as if fully set forth herein.

§ 96-2. Jurisdiction. [Amended at time of adoption of Code]

The jurisdiction of the Zoning Board of Appeals shall be as follows:

- A. To hear and decide applications for special permits pursuant to Article V, Section 5.02 of the Topsfield Zoning Bylaw;
- B. To hear and decide petitions for variances from the requirements of the Topsfield Zoning Bylaws;
- C. To hear and decide applications for site plan review pursuant to Article IX of the Topsfield Zoning Bylaws;
- D. To hear and decide applications for comprehensive permits pursuant to MGL c. 40B, §§ 20 through 23;
- E. To hear and decide appeals from decisions of the Building Inspector or others pursuant to Chapter 392, Zoning Board of Appeals Procedures, § 392-7C.

§ 96-3. Organization.

- A. The Zoning Board of Appeals shall annually elect a Chair and a Clerk from its membership.
- B. Meetings of the Zoning Board of Appeals shall be held at the call of the chair. Public notice of meeting time and place shall be filed with the Town Clerk at least 48 hours prior to the meeting.

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- C. The Chair may designate an alternate member to sit on the Board in case of absence, inability to act, or conflict of interest on the part of any member thereof, or in the event of a vacancy on the Board until the vacancy is filled by appointment of the Select Board.
- D. A concurring vote of at least four out of five Board members shall be required for the granting of a variance or special permit, or any extension, modification, or renewal thereof, and for any order or decision or reversal.
- E. Records of the Board's proceedings shall be kept by the Clerk and shall, upon approval of the Board, become public record.

PART II

GENERAL LEGISLATION

Chapter 107

ALARM SYSTEMS

§ 107-1. Permit required; fee.

§ 107-2. Notification of disconnection, removal or alteration.

§ 107-3. Automatic dialing devices; disconnection from Police and Fire Departments.

§ 107-4. Automatic shut-off of horn or bell required.

§ 107-5. Identification of persons authorized to enter protected premises.

§ 107-6. Testing of equipment; false alarm fees.

§ 107-7. Suspension or revocation of permit.

[HISTORY: Adopted by the Town Meeting of the Town of Topsfield 5-2-1995 TM by Art. 41 (Ch. XXI of the General Bylaws). Amendments noted where applicable.]

§ 107-1. Permit required; fee.

As of July 1, 1995, no alarm system or equipment designed to summon the Police Department shall be installed without first obtaining an alarm permit signed by the Police Chief or his designee. As of July 1, 1995, no alarm system or equipment designed to summon the Fire Department shall be installed without first obtaining an alarm permit signed by the Fire Chief or his designee. Owners of existing alarm systems must obtain a permit within three months of the effective date of this bylaw. The Police Chief and the Fire Chief shall prescribe an application form for alarm permits and any other rules or regulations as may be necessary for the implementation of this bylaw. The fee for each alarm permit shall be \$25.

§ 107-2. Notification of disconnection, removal or alteration.

Whenever an alarm system or equipment is disconnected, removed, or substantially altered, the owner or user thereof shall notify the Police Department or the Fire Department in writing so that an appropriate notation may be made on the permit.

§ 107-3. Automatic dialing devices; disconnection from Police and Fire Departments.

- A. No automatic dialing device shall be interconnected to any telephone numbers at the Police Department or Fire Department after July 1, 1995. Within three months after the effective date of this bylaw, August 2, 1995, all automatic dialing devices interconnected to any telephone numbers at the Police Department or Fire Department shall be disconnected therefrom.
- B. Any person using an automatic dialing device may have the device interconnected to a telephone line transmitted directly to:
 - (1) A central station;
 - (2) An answering service; or

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- (3) Any privately owned or privately-operated facility or terminal.

§ 107-4. Automatic shut-off of horn or bell required.

All alarm systems installed after May 2, 1995, which use an audible horn or bell shall be equipped with a device that will shut off the horn or bell within 10 minutes after activation of the alarm system. All existing alarms using an audible horn or bell shall be equipped with such a device within three months after installation.

§ 107-5. Identification of persons authorized to enter protected premises.

Each alarm user shall submit to the Emergency Center the names, addresses, or telephone numbers of two persons who can be reached at any time, day or night, who are authorized to gain access to the protected premises for the purpose of silencing and resetting the alarm system. It shall be the alarm system user's responsibility to keep this information up-to-date.

§ 107-6. Testing of equipment; false alarm fees.

- A. All alarm users must notify the Emergency Center in advance of any testing of the equipment. Failure to do so may constitute a false alarm, and therefore be subject to a fee assessment.

False Alarms in a Fiscal Year	Fee
4 to 6	\$25 each
7 to 10	\$50 each
More than 10	\$100 each

- B. False alarms caused by faulty telephone service, electrical storms, or power outages through no fault of the owner will be excused. Determination that a false alarm has been transmitted will be the responsibility of the Police Chief, Fire Chief, or their duly appointed duty officer.

§ 107-7. Suspension or revocation of permit.

The Police Chief or the Fire Chief may suspend or revoke an alarm permit for just cause in accordance with the following procedures:

- A. The Chief or his designee shall issue to the permit holder a written notice, by certified mail, of his intent to suspend or revoke the alarm permit. Notice will include the date of the intended suspension or revocation, the reasons for the suspension or revocation and notice that the permit holder is entitled to a hearing upon written request.
- B. Upon receipt of a notice of suspension or revocation, the permit holder may, within five working days of receipt, submit a written request for a hearing before the Police Chief, the Fire Chief, or a designee thereof. At the hearing, the permit holder shall have the right to present evidence, cross-examine witnesses and be represented by counsel. The

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hearing shall be informal and shall not be subject to the rules of evidence or formal courtroom procedure. After the hearing, the hearing officer may issue a written order of suspension or revocation for a given period of time. He may also withdraw any previous order of suspension or revocation.

- C. During the appeal period, the alarm system may remain in operation.
- D. An alarm owner or user whose permit has been suspended or revoked may reapply for a new permit after the suspension period is over.

Chapter 111

ANIMALS

ARTICLE I

Dogs

- § 111-1. Purpose.**
- § 111-2. Registration and licensing; fees; payment for damages caused by dogs.**
- § 111-3. Nuisances; abandoned and abused dogs; impounded and quarantined dogs.**
- § 111-4. Enforcement; violations and penalties.**

ARTICLE II

Wild and Exotic Animals

- § 111-5. Purpose.**
- § 111-6. Definitions.**
- § 111-7. Use of wild or exotic animals for entertainment prohibited.**
- § 111-8. Exemptions.**
- § 111-9. Enforcement; violations and penalties.**

[HISTORY: Adopted by the Town Meeting of the Town of Topsfield as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Dogs

[Adopted as amended 11-17-1987 TM by Art. 10; 5-2-1990 TM by Art. 46; 5-6-1992 TM by Art. 25; 5-4-1993 TM by Art. 41; 5-7-1996 TM by Art. 52; 5-6-2008 TM by Art. 25; 5-1-2012 TM by Art. 30; and 5-7-2013 ATM by Art. 46 (Ch. XXIII of the General Bylaws)]

§ 111-1. Purpose.

The purpose of the Topsfield Canine Regulation Bylaw, hereinafter called the "bylaw", is to:

- A. Establish a Town-wide program to register dogs owned by Topsfield residents.
- B. Establish fees for the registration of dogs and to set fines for violations of the bylaw.
- C. Establish rules and regulations for the control of dog complaints caused by nuisance.
- D. Authorize a Town agent to enforce the provisions of the bylaw.

§ 111-2. Registration and licensing; fees; payment for damages caused by dogs.

- A. Registration of dogs. Notwithstanding the provisions of MGL c. 140, § 137 or any other provision of law to the contrary, the registering, numbering, describing and licensing of dogs kept in the Town shall be conducted in the office of the Town Clerk.
- B. Manner of display. The owner or keeper of a dog registered in Topsfield shall cause it to wear around its neck or body a collar or harness to which shall be securely attached

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a tag in a form as prescribed by the Town Clerk and available at the Town Clerk's office.

C. Fees established.

- (1) Notwithstanding the provisions of MGL c. 140, § 139 or any other provision of law to the contrary, the annual fees to be charged by the Town for the issuance of licenses for all dogs six months old or older shall be:
 - (a) All dogs neutered or spayed (male or female): \$15 per registered dog.
 - (b) All dogs not neutered or spayed (male or female): \$20 per registered dog.
 - (c) Kennel (four or more dogs): \$200; maximum 50 tags.
- (2) Any owner or keeper of a dog, owned or kept in Topsfield as of January 1 of each year, who fails to register that dog on or before January 31 of each year shall pay a late fee of \$25 in addition to any other fees provided for in this bylaw, for each such dog not registered in accordance with the provisions of this section.
- (3) In the event any dog over six months old becomes owned or kept in Topsfield after January 1 of each year, the owner or keeper shall register such dog within 30 days of the date the dog became so owned or kept, or pay the late fee as provided for in this section.
- (4) No dog shall be licensed for the current year until all fees and fines from the previous year have been paid.
- (5) No fee shall be charged for a license under this section for a service animal as defined by the Americans with Disabilities Act or regulations promulgated thereunder.¹
[Added at time of adoption of Code]

D. Damages paid from Town Treasury. Notwithstanding the provisions of MGL c. 140, § 147 or any other provision of law to the contrary, whoever suffers loss by the worrying, maiming or killing of his livestock or fowl by dogs outside the premises of the owners or keepers of such dogs shall, after investigation as provided in MGL c.140, § 161, be paid from the Town Treasury as provided in MGL c. 140, § 161.

§ 111-3. Nuisances; abandoned and abused dogs; impounded and quarantined dogs.

- A. Definition of nuisance. Animal behavior which constitutes a nuisance includes, but is not limited to, the following: molesting passersby or passing vehicles (including bicycles), attacking persons or domestic animals, trespassing on school grounds or other public property, damaging public or private property, barking, whining, or howling in an excessive, continuous, or untimely fashion.
- B. Duties and powers of Animal Control Officer. The Animal Control Officer shall attend to all complaints, and other matters pertaining to dogs, and shall take whatever legal action is authorized by law. The Animal Control Officer shall be empowered to enforce

1. Editor's Note: Original § 23-2.4 of the General Bylaws, Fees to Be Paid into Town Treasury, which immediately followed this section, was repealed at time of adoption of Code.

this bylaw, and no person shall interfere with or hinder, molest or abuse any Animal Control Officer in the exercise of such powers.

- C. Abandoned and abused dogs. The Animal Control Officer shall confine any animal found to be without adequate care, or found in unsanitary or unsafe conditions or that has been abused, abandoned, or neglected. Any such animal shall be confined for not less than three days.
- D. Impounded dogs. Impounded dogs shall be kept for seven days unless reclaimed by their owners. Dogs not claimed by their owners within seven days or placed in suitable new homes may be humanely euthanized by the Animal Control Officer or by an agency delegated by him to exercise that authority. **[Amended at time of adoption of Code]**
- E. Quarantined dogs. Any dog which bites a person shall be quarantined for 10 days if ordered by the Animal Control Officer. During quarantine, the dog shall be securely confined and kept from contact with any other animals. At the discretion of the Animal Control Officer, the quarantine may be on the premises of the owner. If the Animal Control Officer requires other confinement, the owner shall surrender the animal for the quarantine period to an animal shelter or shall, at his own expense, place it in a veterinary hospital.
- F. Female dogs in heat. If the Animal Control Officer determines that a female animal, in heat, even when confined to the property of the owner or keeper, is attracting other animals to the area, which condition causes disturbance or damage to neighboring property or public areas, the Animal Control Officer may require the owner or keeper to place and keep the animal while in heat in a kennel or to remove it from the area so that the nuisance is abated.
- G. Uncontrolled dogs. The Animal Control Officer is authorized to require owners or keepers of dogs to prevent such dogs from running at large in schools, school playgrounds, parks or public recreational areas. The Animal Control Officer is further authorized to require owners or keepers of dogs to restrain their dogs from running at large when it has been determined by the Animal Control Officer that the dog is an annoyance, is dangerous, is known to cause damage in the neighborhood, or further is on the property of an owner who does not wish the dog on his or her property.
- H. Barking dogs. If the Animal Control Officer determines that an animal is a nuisance due to excessive barking, whining or howling in a continuous or untimely fashion, the Animal Control Officer is authorized to order the owner or keeper to house the animal.
- I. Fee and fine enforcement. All pound fees, pickup fees and fines, including the licensing fee, shall be paid by the owner or keeper before release of the dog or dogs.
- J. Pick-up fees. The owner of any stray dog picked up by the Animal Control Officer shall be charged a \$25 fee.
- K. Appeal of order. The owner or keeper of a dog, about which the Animal Control Officer has issued an order under the above sections of the bylaw, who wishes to appeal the order, may make such an appeal in writing to the Select Board within 10 days of the issuance of the order. In the event of such an appeal, the Select Board will hold a public hearing.

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§ 111-4. Enforcement; violations and penalties.

- A. Violation; fines. Any person violating any provision of the bylaw, other than those provisions of § 111-2C relating to the deadline for registering dogs, shall be deemed guilty of a misdemeanor and shall be punished by a fine of \$25 for the first offense and \$50 for each subsequent offense. If any violation is continuing, each day's violation shall be deemed a separate violation. Complaints will be sought in District Court according to MGL c. 140, § 173A. Under the provisions of this bylaw, the Town Clerk is authorized to accept payment of fines for violations, sought in the District Court.
- B. Enforcement officer. The Animal Control Officer and/or police are hereby authorized to issue a notice of violation to an owner or keeper who has violated any provision of the bylaw.
- C. Enforcement authority. Notwithstanding the provisions of this bylaw, all other aspects of MGL c. 140, §§ 136A through 174F, shall still be in effect. **[Amended at time of adoption of Code]**

ARTICLE II

Wild and Exotic Animals

[Adopted 5-7-2019 ATM by Art. 33; amended in its entirety 6-20-2020 ATM by Art. 26² (Ch. LXVII of the General Bylaws)]

§ 111-5. Purpose.

The purpose of this bylaw is to prevent the cruel and inhumane treatment of certain wild and exotic animals displayed for public entertainment in the Town of Topsfield.

§ 111-6. Definitions.

As used in this bylaw, the following terms shall have the meanings indicated:

DISPLAYED — This term shall include animal acts or performances, animal rides, photographic opportunities, and parades.

DOMESTICATED ANIMAL — Any animal occurring naturally or historically in the United States, that through long association with humans has been bred to a degree which has resulted in changes affecting the temperament, color, conformation or other attributes of the species to the extent that makes it unique and different from wild animals of its kind.

ENTERTAINMENT — Any wild animal circus or other carnival, traveling show, fair, or presentation in which wild or exotic animals are required to perform tricks or are used in performances for the amusement of an audience.

TRAVELING SHOW — Any mobile or stationary act, public show, trade show or similar undertaking incorporating wild or exotic animals as defined in this bylaw wherein the animals are taken from their permanent residence and required to walk or travel for any distance.

2. Editor's Note: Attorney General approval pending.

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WILD OR EXOTIC ANIMAL — Any or all of the following, whether born in the wild or in captivity:

- A. Elephants;
- B. Lions;
- C. Tigers;
- D. Ocelots;
- E. Cheetahs;
- F. Jaguars;
- G. Cougars;
- H. Lynx;
- I. Bears;
- J. Giraffes;
- K. Camels;
- L. Zebras;
- M. Kangaroos;
- N. All non-human primates.

§ 111-7. Use of wild or exotic animals for entertainment prohibited.

No living wild or exotic animal as defined in this bylaw shall be displayed or used for public entertainment on any property in the Town of Topsfield, including land owned by the Town, leased by the Town, or private property, and regardless of how such public entertainment is characterized, including, for example, a circus, carnival, fair, traveling show, exhibit, or similar event or undertaking.

§ 111-8. Exemptions.

The provisions of § 111-7 shall not apply to:

- A. Domesticated animals, including, but not limited to, dogs, cats, horses, and farm animals.
- B. Any non-domesticated animal that is not included in this bylaw's definition of "wild or exotic animal."
- C. Exhibits that are part of an organization that is accredited by the Association of Zoos and Aquariums (AZA).

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§ 111-9. Enforcement; violations and penalties.

This bylaw shall be enforced by any available means in law or equity, including but not limited to enforcement by noncriminal disposition pursuant to MGL c. 40, § 21D. Display of a wild or exotic animal in violation of this bylaw shall constitute a separate violation for each day such violation exists. When enforced through noncriminal disposition, the penalties shall be as follows:

- A. First violation: \$100.
- B. Second violation: \$200.
- C. Third violation and subsequent offenses: \$300.

Chapter 114

BUILDING CONSTRUCTION

ARTICLE I **Stretch Energy Code**

- § 114-1. Purpose.**
- § 114-2. Applicability; additional provisions.**
- § 114-3. Incorporation by reference.**

ARTICLE II **Street Numbering**

- § 114-4. Standards.**
- § 114-5. Officials designated to assign addresses.**
- § 114-6. Master Address Table.**

[HISTORY: Adopted by the Town Meeting of the Town of Topsfield as indicated in article histories. Amendments noted where applicable.]

ARTICLE I **Stretch Energy Code** **[Adopted 5-3-2011 TM by Art. 26 (Ch. LXIII of the General Bylaws)]**

§ 114-1. Purpose.

The purpose of the Stretch Code is to provide a more energy-efficient alternative to the base energy code applicable to the relevant section of the Building Code for both new construction and existing buildings.

§ 114-2. Applicability; additional provisions.

The Stretch Code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 13, 34, 61, or 93, as applicable.

§ 114-3. Incorporation by reference. [Amended at time of adoption of Code]

The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115 AA, including any amendments and modifications, is herein incorporated by reference.

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ARTICLE II

Street Numbering

[Adopted 6-20-2020 ATM by Art. 24¹ Ch. II, Art. VIII, Sec. 2-55, of the General Bylaws)]

§ 114-4. Standards.

The Town, through its Select Board, shall promulgate regulations established addressing standards and governing the numbering of properties.

§ 114-5. Officials designated to assign addresses.

The regulations shall designate specific Town officials to assign and modify addresses for all taxable and nontaxable properties.

§ 114-6. Master Address Table.

The Town shall maintain an up-to-date Master Address Table for all taxable and nontaxable properties using the addresses and parcel identifications assigned by persons designated in § 114-5 above. No person shall utilize an address in the Town for a property, building or structure, for any purpose, unless that address is included in the Master Address Table.

1. Editor's Note: Attorney General approval pending.

Chapter 125

DEMOLITION DELAY

§ 125-1. Intent and purpose.

§ 125-2. Definitions.

§ 125-3. Regulated buildings and structures.

§ 125-4. Procedures.

§ 125-5. Responsibilities of owner.

§ 125-6. Emergency demolitions.

§ 125-7. Historic Districts Act.

§ 125-8. Enforcement and remedies.

§ 125-9. Severability.

[HISTORY: Adopted by the Town Meeting of the Town of Topsfield 5-7-2002 TM by Art. 40; as amended 5-6-2003 TM by Art. 32; 5-4-2004 TM by Art. 46, effective 7-21-2004 (Ch. XXVI of the General Bylaws). Subsequent amendments noted where applicable.]

§ 125-1. Intent and purpose.

- A. The purpose of Topsfield's proposed Demolition Delay Bylaw is to preserve, protect and document significant buildings and structures within the Town of Topsfield that are outside local historic districts. Such buildings and structures reflect distinctive features of the architectural, cultural, economic, agricultural landscape or social history of the Town, and their preservation promotes the public welfare by making the Town a more attractive and desirable place to live and work.
- B. The intent of the bylaw is not to permanently prevent demolition, but rather to provide an opportunity to develop preservation solutions for properties threatened with demolition through a six-month delay in issuing a demolition permit. In addition, this delay will give the Topsfield Historical Commission ("the Commission") an opportunity to document historic or important architectural resources before they are lost from Topsfield's cultural landscape.
- C. The bylaw is intended to encourage and assist owners and townspeople to seek out persons who might be willing to purchase, preserve, rehabilitate, restore or relocate such structures rather than demolish them, thus limiting the detrimental effect of demolition on the historical architectural resources of the Town.
- D. To achieve these purposes, the Commission is empowered to advise the Building Inspector with respect to the issuance of permits for demolition of significant structures, and, where appropriate and consistent with the intent and purpose of this bylaw, to allow demolition under conditions designed to minimize the loss of distinctive features of significant structures.

§ 125-2. Definitions.

As used in this bylaw, the following terms shall have the meanings indicated:

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BUILDING OR STRUCTURE — Any combination of materials forming a shelter for persons, animals, or property.

BUSINESS DAY — Any day which is not a legal municipal holiday, Saturday or Sunday.

COMMISSION — The Topsfield Historical Commission.

DEMOLITION — Any act of pulling down, destroying, removing, razing, burning by arson, dismantling or moving a building or structure or any portion thereof, or commencing the work of moving or of total or substantial destruction of a structure or portion thereof, with the intent of completing the same.

LOCAL HISTORIC DISTRICT — A defined district, such as the existing Topsfield Common Historic District, that has been established under the Historic Districts Act, MGL c. 40C.

PREFERABLY PRESERVED — Any significant structure that has been determined by the Commission, because of its importance to the historical and/or cultural resources of the Town, to be in the public interest to preserve.

SIGNIFICANT STRUCTURE — Any building or structure, or portion thereof, which is not within a local historic district, and which meets one or more of the following criteria:

- A. Listed in the National Register of Historic Places.
- B. Determined by the Massachusetts Historical Commission to be eligible for listing in said National Register.
- C. Recorded on the inventoried list of historic properties in the Town of Topsfield, Massachusetts.

§ 125-3. Regulated buildings and structures.

The provisions of this bylaw shall apply only to any building or structure which, in whole or in part, conforms to the definition of "significant structure" in § 125-2.

§ 125-4. Procedures. [Amended 5-7-2013 TM by Art. 42]

- A. No demolition of a significant structure, or any portion thereof, shall be permitted except in conformity with the provisions of this bylaw. A permit for the demolition of such a structure or portion thereof shall be issued only upon compliance with the provisions of this bylaw.
- B. The Commission shall maintain and keep current a list of significant structures that meet the criteria specified in the definition of "significant structure" in § 125-2, and shall provide said list to the Building Inspector.
- C. Upon receipt of an application for a demolition permit, the Building Inspector shall refer to the List of Significant Structures. If the Building Inspector determines that the application pertains to a significant structure, the Building Inspector shall deny the application and notify the Commission in writing of this action.

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- D. Upon notification of denial of a demolition permit by the Building Inspector, if the applicant wishes to proceed, the applicant shall, within 60 days of denial, file an application for significant structure review ("application for review") with the Commission. The application for review shall include the following information and materials:
- (1) A map showing the location of the structure or portion thereof to be demolished, with reference to the lot lines and to neighboring building and structures;
 - (2) Photographs of all elevations;
 - (3) A written description of the structure or portion thereof to be demolished, sufficient to identify the nature and extent of the proposed demolition;
 - (4) The reason for the proposed demolition and data supporting said reason;
 - (5) Plans for the proposed restoration or buildings that will replace the demolished structure;
 - (6) Authorization for a site visit by the Commission.
- E. Upon receipt of an application for review filing, the Commission shall, within 14 days of such filing, assess the structure or portion thereof and hold a meeting of the Commission (during a site visit or otherwise) to make a determination relative to the proposed demolition.
- F. If the Commission determines that the proposed demolition of the structure or portion thereof would not be detrimental to the historical or architectural heritage or resources of the Town, the Commission shall so notify the Building Inspector and applicant of such in writing within 10 days of such determination. Upon receipt of such notice, the Building Inspector may, subject to the requirements of the State Building Code and any other applicable laws, bylaws, rules and regulations, issue a demolition permit for the subject structure or project.
- G. Preferably preserved structures.
- (1) If the Commission determines that the proposed demolition of the structure or portion thereof would or may be detrimental to the historical or architectural heritage or resources of the Town, the Commission shall so notify the Building Inspector and the applicant in writing within 10 days of such determination, and the Commission shall conduct a public hearing at the applicant's expense within 30 days of such determination to determine whether the structure or portion thereof should be preferably preserved. The Commission shall give public notice of said hearing by publishing notice of the time, place and purpose of the hearing in a newspaper of general circulation in Topsfield at least five business days prior to the date of such hearing and by mailing a copy of said notice to the applicant, to the owner of the premises on which the significant structure is located (if other than the applicant), to the owners of all property within 300 feet of the premises on which the significant structure is located as appearing on the most recent tax list, and to such other persons as the Commission shall deem entitled to notice. The Commission may allow publication of such notice on the Town's website, in lieu of publication in a local newspaper.

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- (2) The Commission shall determine at the public hearing whether the structure or portion thereof should be preferably preserved. Within 10 business days of the close of the public hearing, the Commission shall advise the applicant, the owner if other than the applicant, and the Building Inspector, in writing, of the Commission's determination. If the Commission determines that demolition of the structure or portion thereof would be detrimental to the historical or architectural heritage or resources of the Town, such structure shall be considered to be a preferably preserved structure, and no demolition permit shall be issued until six months after the close of the public hearing. If the Commission determines that demolition of the structure or portion thereof would not be detrimental, the Building Inspector may, subject to the requirements of the State Building Code and any other applicable laws, bylaws, rules and regulations, issue a demolition permit for the subject structure or project.
- H. If, upon the expiration of 90 days from the application for review filing, the Building Inspector has received no notification of final determination from the Commission, the Building Inspector may, subject to the requirements of the State Building Code and any other applicable laws, bylaws, rules and regulations, issue a demolition permit for the subject structure or project.
- I. During the six-month delay period following the Commission's determination that a structure is to be considered preferably preserved, the Commission shall notify the Massachusetts Historical Commission, the Select Board, the Planning Board, and any other interested party in an effort to obtain assistance in obtaining preservation funding or in finding an adaptive use of the structure which will result in its preservation.

§ 125-5. Responsibilities of owner.

Once a significant structure is determined to be a preferably preserved structure, the owner shall be responsible for properly securing the building or structure, if vacant, to the satisfaction of the Building Inspector. Should the owner fail to so secure the building or structure, a subsequent destruction of the structure at any time during the six-month demolition delay period, which destruction could have been prevented by the required security measures, shall be considered a demolition in violation of this bylaw.

§ 125-6. Emergency demolitions.

- A. Notwithstanding any other provisions of the bylaw, the Building Inspector may issue a demolition permit at any time in the event of imminent and substantial danger to the health or safety of the public due to deteriorating conditions. Prior to doing so, the Building Inspector shall inspect the building or structure and document, in writing, the findings and reasons requiring an emergency demolition, a copy of which shall be forwarded immediately to the Commission. Before allowing emergency demolition, the Building Inspector shall make every effort to inform the Chairperson of the Commission of his intention to allow demolition before he issues a permit for emergency demolition.
- B. No provision of this bylaw is intended to conflict with or abridge any obligations or rights conferred by MGL c. 143 regarding removal or demolition of dangerous or

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abandoned structures. In the event of a conflict, the applicable provisions of MGL c. 143 shall control.

§ 125-7. Historic Districts Act.

Nothing in this bylaw shall be deemed to conflict with the provisions of the Historic Districts Act, MGL c. 40C, with respect to requirements of notice, hearing and issuance by the Commission of a certificate of appropriateness, a certificate of non-applicability or a certificate of hardship prior to demolition of any building or structure in an historic district.

§ 125-8. Enforcement and remedies.

- A. The Building Inspector is specifically authorized to institute any actions, in law or in equity, as deemed necessary to obtain compliance with the requirement of this bylaw to prevent a threatened violation thereof.
- B. During the six-month delay period following the Commission's determination that a structure is considered preferably preserved, the Commission can advise the Building Inspector, in writing, to issue a demolition permit without waiting for the period to expire, if the Commission decides to the effect that:
 - (1) The Commission is satisfied that there is not reasonable likelihood that either the owner or some other person or group is willing to purchase, preserve, rehabilitate or restore said structure; or
 - (2) The Commission is satisfied that for at least six months the owner has made continuing, bona fide and reasonable efforts to locate a purchaser to preserve, rehabilitate and restore the subject structure, and that such efforts have been unsuccessful;
 - (3) The Commission has determined that the proposed demolition may be conducted in a specific manner so as not to be detrimental to the historical or architectural heritage or resources of the Town. **[Amended at time of adoption of Code]**
 - (4) Documentation of significant structures has met the requirements of the Commission.
- C. Except as provided below, whenever a significant building or structure or any portion thereof has been voluntarily demolished in violation of this bylaw, for a period of two years after the date of completion of such demolition, no building permit shall be issued with respect to any premises upon which such demolition has occurred. As used herein, "premises" includes the parcel of land upon which the demolished significant structure was located.
- D. Notwithstanding the foregoing, whenever the Commission shall, on its own initiative, or on application of the landowner, determine that earlier reconstruction, restoration or other remediation of any demolition in violation of this bylaw better serves the intent and purpose of this bylaw, it may, prior to the expiration of said period of two years, but no sooner than six months from the date of completion of any demolition in violation of this bylaw, authorize issuance of a building permit, upon such conditions as

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the Commission deems necessary or appropriate to effectuate the purposes of this bylaw, and may so notify the Building Inspector pursuant to this bylaw.

§ 125-9. Severability.

If any section, paragraph or part of this bylaw is for any reason declared invalid or unconstitutional by any court, every other section, paragraph and part shall continue in full force and effect.

Chapter 142

FARMING

§ 142-1. Purpose and intent.

§ 142-3. Right to farm declaration.

§ 142-2. Definitions.

§ 142-4. Protections.

[HISTORY: Adopted by the Town Meeting of the Town of Topsfield 5-4-2005 TM by Art. 37, effective 8-30-2005 (Ch. XLVIII of the General Bylaws). Amendments noted where applicable.]

§ 142-1. Purpose and intent.

- A. The Town of Topsfield recognizes and endorses the right to farm accorded to all citizens of the Commonwealth under Article 97 of the Constitution, and all state statutes and regulations hereunder, including but not limited to MGL c. 40A, § 3, Paragraph 1; MGL c. 90, § 9; MGL c. 111, § 125A and MGL c. 128, § 1A. Topsfield has a rich agricultural heritage continued by the current operation of farms that contribute to the character and economy of the Town. This bylaw encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmlands within the Town of Topsfield by allowing agricultural uses and related activities to function with minimal conflict with abutters and Town agencies. This bylaw shall apply to all jurisdictional areas within the Town.
- B. The benefits and protections of this bylaw are intended to apply exclusively to those commercial, agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. Said benefits and protections do not extend to the noncommercial, personal and/or occasional accessory keeping of farm animals or agricultural activities.

§ 142-2. Definitions.

As used in this bylaw, the following terms shall have the meanings indicated:

FARM — Includes any parcel or contiguous parcels of land, or water bodies used for the primary purpose of commercial agriculture, or accessory thereto.

FARMING or AGRICULTURE —

- A. The words "farming" or "agriculture" or their derivatives shall include, but not be limited to, the following:
 - (1) Farming in all its branches and the cultivation and tillage of the soil;
 - (2) Dairying;
 - (3) Production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticulture, or horticultural commodities;

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- (4) Growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations;
- (5) Raising of livestock, including horses;
- (6) Keeping of horses as a commercial enterprise; and keeping and raising of poultry, swine, cattle, ratites (such as emus, ostriches and rheas) and camelids (such as llamas and camels), and other domesticated animals for food and other agricultural purposes, including bees and fur-bearing animals.

B. "Farming" shall encompass activities including, but not limited to, the following:

- (1) Operation and transportation of slow-moving farm equipment over roads within the Town;
- (2) Control of pests, including, but not limited to, insects, weeds, predators and disease organisms of plants and animals;
- (3) Application of manure, fertilizers and pesticides;
- (4) Conducting agriculture-related educational and farm-based recreational activities, including agritourism, provided that the activities are related to marketing the agricultural output or services of the farm;
- (5) Processing and packaging of the agricultural output of the farm and the operation of a farmer's market or farm stand, including signage thereto;
- (6) Maintenance, repair, or storage of seasonal equipment, or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management, or sale of the agricultural products; and
- (7) On-farm relocation of earth and the clearing of ground for farming operations.

§ 142-3. Right to farm declaration.

The right to farm is hereby recognized to exist within the Town of Topsfield. The above-described agricultural activities may include the attendant incidental noise, odors, dust, and fumes associated with normally accepted agricultural practices.

§ 142-4. Protections.

- A. The foregoing agricultural activities must conform with applicable federal and state laws and local bylaws, rules and regulations which regulate the lawful conduct of agricultural activities and specify the rights and obligations of the agricultural community, the Town, abutters, and the citizens of Topsfield. All applicable zoning, conservation, health, and animal inspection bylaws and rules and regulations take precedence over this bylaw.
- B. The provisions of this bylaw shall not apply whenever an impact results from negligence or willful or reckless misconduct in the operation of any such agricultural or farming operation, place, establishment or facility, or any of its appurtenances.

Chapter 153

HISTORIC DISTRICT

§ 153-1. Metes and bounds listed.

§ 153-4. Rules and regulations.

§ 153-2. Lands to be included in district.

§ 153-5. Time frame for review.

§ 153-3. Categories not included in review.

§ 153-6. Severability.

[HISTORY: Adopted by the Town Meeting of the Town of Topsfield 5-21-1974 TM by Art. 32 (Ch. XXVII of the General Bylaws). Amendments noted where applicable.]

§ 153-1. Metes and bounds listed.

There is hereby established an Historic District under the provisions of the Historic Districts Act, MGL c. 40C, as amended, bounded and described as follows:

Beginning at a point on the southwesterly side of High Street marked with a granite bound on the corner between #31 and #33; thence 177 feet along the southeasterly line of #31 to another stone bound; thence 209 feet along the southwesterly line of #31 to another stone bound; thence 127 feet more or less across Town property on which is located the fire station, to the southwest corner of #23 High Street; thence 107 feet along the southwesterly line of #23 and #95 feet by #21; thence 152 feet more or less along the southwesterly line of #17; thence 80 feet more or less along the southwesterly line of #11; thence 91 feet along the southwesterly line of the Topsfield Town Library to the easterly sideline of Main Street; thence continuing to the center line of the street and following the center line northerly to a point opposite the northerly side of South Common Street; thence north 40° west to the westerly side of Main Street and continuing 500 feet to an unmarked point at the easterly edge of Proctor Field; thence north 12°, 130 feet to the center line of High Street Extension; thence northwesterly 200 feet more or less to the center line of Washington Street; thence northeasterly 350 feet more or less to the culvert carrying School Brook; thence northerly to the southwest corner of #7 Washington Street and continuing by the westerly sideline of #7 to the rear corner; thence easterly 100 feet by #7 and continuing about 10 feet to School Brook; thence northerly along said brook, crossing #96, #100, #104, #106 and #110 Main Street to the rear corner of #12 Normandy Row; thence northeasterly along the rear property line of #12 and continuing 100 feet along the rear of #10 and 76 feet along the rear of #8 to the southwesterly corner of #2 Normandy Row; thence northerly 157 feet along the property line between #2 and #8 to Normandy; thence crossing the street to the westerly corner of #118 Main Street and continuing northeasterly along the rear property line of #118 a distance of 212 feet to the northerly corner; thence southeasterly 30 feet to a point on the southwesterly sideline of #124 Main Street, which point is 200 feet westerly from the curved sideline of Main Street; thence generally northeasterly and northerly on a line which is 200 feet westerly from, and concentric with the curve of Main Street to an angle point in the northerly line of #132 Main Street; thence 200 feet along the property line to the northeasterly corner of the lot adjacent to #4 Haverhill Street; thence crossing the street to the junction between Haverhill and Ipswich Road and running southerly 100 feet along Main

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Street to a point opposite the northerly corner of #129 Main Street; thence southeasterly to the sideline of Main Street and continuing 159 feet to the rear line of #129; thence 100 feet along the rear of #129 and continuing 192 feet along the rear of #127 and 450 feet more or less across #117 to the easterly corner of #111; thence southerly along the rear lines of #111 and #109 Main Street to the southeast corner of #109; thence northwesterly about 26 feet to the northeasterly corner of #103 Main Street; thence along the rear lot line of #103 about 50 feet to the southeasterly corner; thence 46 feet westerly to the rear corner of #99 Main Street; thence southerly along the rear lot line of #99 to the southeasterly corner of #99; thence easterly by #97 Main Street to the northwesterly corner of #2 Howlett Street; thence southerly 223 feet to the southwesterly corner of #2; thence easterly 87 feet to Howlett Street and continuing on the same course to the center line of said street; thence northerly along Howlett Street to a point opposite the corner between #1 and #5; thence easterly to the sideline of Howlett Street and continuing 201 feet to the northeasterly corner of the Parson Capen House property; thence southerly 219 feet by the easterly property line of the Capen House and continuing about 415 feet to a point on property of the Emerson Center, which is 200 feet from the sideline of East Common Street and 200 feet from the northeasterly sideline of High Street; thence southeasterly about 240 feet to the northerly corner of #14 High Street and continuing by the rear property line of #14 to Great Hill Brook; thence southeasterly about 330 feet across the property #26 High Street to the northerly corner of #32 High Street; thence along the property line between #32 and #4 Towne Lane; thence southwesterly along the sideline of Towne Lane and crossing High Street to the point of beginning.

§ 153-2. Lands to be included in district.

Wherever only part of any building or structure is within the Historic District, according to the boundary lines as heretofore defined in this bylaw, there shall be included within the Historic District the entire land area occupied or to be occupied by all of said building or structure, so that the whole building or structure shall be considered to be within the Historic District for the purposes of this bylaw.

§ 153-3. Categories not included in review.

The Historical Commission shall have all the powers and duties of Historic District Commissions as provided by the Historic Districts Act, MGL c. 40C, and of subsequent amendments thereto, except that the authority of the Commission shall not extend to the review of the following categories:

- A. Terraces, walks, driveways, sidewalks, and similar structures, provided that any such structure is substantially at grade level.
- B. Storm doors and windows, screens, window air conditioners, lighting fixtures, antennas, and similar appurtenances.
- C. The color of paint.

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§ 153-4. Rules and regulations.

The Historical Commission shall adopt rules and regulations for the conduct of its business not inconsistent with the provisions of the Historic Districts Act, MGL c. 40C, as amended, and may, subject to appropriation, employ clerical and technical assistants or consultants and may accept money gifts and expend same for such purposes.

§ 153-5. Time frame for review.

When taking action under the provisions of Section 11 of the Historic Districts Act, MGL c. 40C, as amended, the Historic District Commission shall make a determination within 45 days after the filing of the application for a certificate of appropriateness, or such further time as the applicant may in writing allow.

§ 153-6. Severability.

The provisions of this bylaw shall be deemed to be severable. If any of its provisions shall be held to be invalid or unconstitutional by any court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

Chapter 159

HUNTING AND TRAPPING

§ 159-1. Consent required for hunting, trapping or discharge of firearms on public or private property.

§ 159-2. Exceptions.

§ 159-3. Noncriminal disposition of violations.

[HISTORY: Adopted by the Town Meeting of the Town of Topsfield 11-25-1959 TM by Art. 14, as amended 3-7-1960 TM by Art. 42 and 5-13-1975 TM by Art. 23 (Ch. XXVIII of the General Bylaws). Subsequent amendments noted where applicable.]

§ 159-1. Consent required for hunting, trapping or discharge of firearms on public or private property.

No person shall hunt, trap or snare game or fire or discharge any firearm on any Town property without the written consent of the Select Board or on any private property except with the written consent of the owner or legal occupant thereof; and such consent shall be carried at all times by such person and, upon request, it shall be shown to any police officer, game warden, or to any other local or state law enforcement official or to the property owner, legal occupant, or his agent.

§ 159-2. Exceptions.

This bylaw shall not apply to the lawful defense of life or property, nor to any law enforcement officer acting in the discharge of his duties.

§ 159-3. Noncriminal disposition of violations.

This bylaw may be enforced pursuant to MGL c. 40, § 21D by any police officer of the Town. The penalty for such noncriminal enforcement shall be \$50 per violation.

Chapter 168

JUNK DEALERS

§ 168-1. Licensing of dealers and collectors.

[HISTORY: Adopted by the Town Meeting of the Town of Topsfield 3-6-1939 TM by Art. V (Ch. XXIX of the General Bylaws). Amendments noted where applicable.]

§ 168-1. Licensing of dealers and collectors.

The Select Board may issue licenses for persons to be dealers and keepers of shops for the purchase, sale, or barter of junk, old metals, or secondhand articles. They may also issue licenses for junk collectors to collect, by purchase or otherwise, junk, old metals, and secondhand articles from place to place in the Town.

Chapter 176

LICENSES AND PERMITS

ARTICLE I

Denial, Refusal or Suspension for Delinquent Taxpayers

**§ 176-1. List of persons neglecting or
refusing to pay taxes,
assessments or charges.**

**§ 176-2. Denial, revocation or
suspension of license; hearing.**

**§ 176-3. Waiver of denial, suspension
or revocation.**

§ 176-4. Exceptions.

[HISTORY: Adopted by the Town Meeting of the Town of Topsfield as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Denial, Refusal or Suspension for Delinquent Taxpayers [Adopted 5-2-1995 TM by Art. 36 (Ch. XXV of the General Bylaws)]

**§ 176-1. List of persons neglecting or refusing to pay taxes, assessments or charges.
[Amended 5-2-2017 ATM by Art. 18; 5-1-2018 ATM by Art. 30]**

The Tax Collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the "Tax Collector," shall annually, and may periodically, furnish to each department, board, commission or division, hereinafter referred to as the "licensing authority," that issues licenses or permits, including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the "party," that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges and that such a party has not filed in good faith a pending application for an abatement of such tax or appealing petition before the Appellate Tax Board.

§ 176-2. Denial, revocation or suspension of license; hearing. [Amended at time of adoption of Code]

The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers, of any party whose name appears on said list furnished to the licensing authority from the Tax Collector or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the Tax Collector; provided, however, that written notice is given to the party and the Tax Collector, as required by applicable provisions of law and the party is given a hearing, to be held not earlier than 14 days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The Tax Collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license

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denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the licensing authority receives a certificate issued by the Tax Collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the municipality as of the date of issuance of said certificate. Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder is given notice and a hearing as required by applicable provisions of law.

§ 176-3. Waiver of denial, suspension or revocation.

The Select Board may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in MGL c. 268A, § 1, in the business or activity conducted in or on said property.

§ 176-4. Exceptions. [Amended at time of adoption of Code]

This bylaw shall not apply to the following licenses and permits: open burning, MGL c. 48, § 13; bicycle permits, MGL c. 85, § 11A;¹ sales of articles for charitable purposes, MGL c. 101, § 33; children work permits, MGL c. 149, § 69; clubs, associations dispensing food or beverage licenses, MGL c. 140, § 21E; dog licenses, MGL c. 140, § 137; fishing, hunting, trapping licenses, MGL c. 131, § 12; marriage licenses, MGL c. 207, § 28; and theatrical events, public exhibition permits, MGL c. 140, § 181.

¹ Editor's Note: MGL c. 85, § 11A, was repealed by St. 2008, 525, Sec. 2.

Chapter 181

MARIJUANA ESTABLISHMENTS

§ 181-1. Establishments prohibited.

[HISTORY: Adopted by the Town Meeting of the Town of Topsfield 5-1-2018 ATM by Art. 32 (Ch. LXV of the General Bylaws). Amendments noted where applicable.]

§ 181-1. Establishments prohibited.

Consistent with MGL c. 94G, § 3(a)(2), all types of nonmedical marijuana establishments, as defined in MGL c. 94G, § 1, to include marijuana cultivators, independent testing laboratories, marijuana product manufacturers, marijuana retailers or any other types of licensed marijuana-related businesses, shall be prohibited within the Town of Topsfield.

Chapter 189

PLASTIC BAGS

§ 189-1. Findings and intent.

§ 189-2. Definitions.

§ 189-3. Use regulations.

§ 189-4. Administration and enforcement.

§ 189-5. Effective date.

[HISTORY: Adopted by the Town Meeting of the Town of Topsfield 5-1-2018 ATM by Art. 37. Amendments noted where applicable.]

§ 189-1. Findings and intent.

- A. The production and use of thin-film single-use plastic bags have significant impacts on the environment of our community, including, but not limited to: unsightly plastic bags caught in trees and shrubs defiling our shared open space, parks and forest; blowing into our yards and spoiling our view; contributing to the potential death of animals through ingestion and entanglement; contributing to pollution of the land environment; creating a burden to our solid waste collection and recycling facility; clogging our storm drainage systems; and requiring the use of millions of barrels of crude oil nationally for their manufacture.
- B. The windy nature of Topsfield makes containment of these light bags particularly challenging.
- C. The purpose of this bylaw is to eliminate the usage of thin-film single-use plastic bags by all retail establishments in the Town of Topsfield.

§ 189-2. Definitions.

As used in this bylaw, the following terms shall have the meanings indicated:

ASTM D6400 STANDARD — The testing standard developed by the American Society for Testing and Materials for compostable plastics.

BIODEGRADABLE BAG — A bag that:

- A. Contains no polymers derived from fossil fuels; and
- B. Is intended for single use and will decompose in a natural setting at a rate comparable to other biodegradable materials such as paper, leaves, and food waste.

RECYCLABLE PAPER BAG — A paper bag that is 100% recyclable and displays in a visible manner on the outside of the bag the word "recyclable" or a symbol identifying that the bag is recyclable.

RETAIL ESTABLISHMENT — A business or vendor that sells or provides food, merchandise, goods, or personal services to the public, but not a bazaar or festival operated by a noncommercial entity.

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REUSABLE BAG — A bag that is specifically designed for multiple use and is made of thick plastic, cloth, fabric, or other durable materials.

THIN-FILM SINGLE-USE PLASTIC BAGS — Bags, with integral handles and a thickness of 2.5 mils or less, that are intended to be used for the transport of products provided by a retail establishment at the point of sale.

§ 189-3. Use regulations.

- A. No retail establishment in the Town of Topsfield shall distribute, use or sell thin-film single-use plastic bags that do not meet or exceed the ASTM D6400 standards.
- B. Retail establishments may provide customers with recyclable paper bags, biodegradable bags, or reusable bags at no charge or for a fee.
- C. Thin-film plastic bags used to contain dry cleaning, newspapers, produce, meat, bulk foods, wet items and other similar merchandise, typically without handles, shall be exempt from the prohibitions of this bylaw.

§ 189-4. Administration and enforcement.

- A. Retail establishments may apply to the Select Board for approval of new single-use bag products as they come on the market that meet, or exceed, the ASTM D6400 standards.
- B. This bylaw shall be enforced through any lawful means in law or in equity, including, but not limited to, noncriminal disposition pursuant to MGL c. 40, § 21D. For purposes of noncriminal disposition, any police officer of the Town of Topsfield or the Health Agent shall be the enforcing authority.
- C. If enforced using noncriminal disposition, the following fine schedule shall apply:
 - (1) \$50 for a first offense;
 - (2) \$100 for the second offense;
 - (3) \$200 for the third and any successive offense.
- D. Subsequent offenses shall be determined as offenses occurring within two years of the date of the first noticed offense. Each day or portion thereof shall constitute a separate offense.

§ 189-5. Effective date.

While this bylaw shall be effective upon approval by the Attorney General and in accordance with MGL c. 40, § 32, it shall be applicable to retail establishments in the Town beginning July 1, 2018.

Chapter 197

SCENIC ROADS

§ 197-1. Permit required for improvements or alterations; permission required for work on public shade trees.

§ 197-2. Permit granting authority.

§ 197-3. Application for permit; public hearing.

§ 197-4. Notification of proposed work.

§ 197-5. Violations and penalties.

§ 197-6. Enforcement; noncriminal disposition.

§ 197-7. Severability.

[HISTORY: Adopted by the Town Meeting of the Town of Topsfield 5-4-2004 TM by Art. 27 (Ch. LV of the General Bylaws). Amendments noted where applicable.]

§ 197-1. Permit required for improvements or alterations; permission required for work on public shade trees.

In accordance with this bylaw and the Scenic Roads Act, MGL c. 40, § 15C, alterations or improvements along a designated scenic road shall not involve or include the cutting or removal of trees, or the tearing down or destruction of stone walls, or portions thereof, except with the prior written consent of the Planning Board. Furthermore, public shade trees shall not be cut, trimmed or removed, in whole or in part, by any person without the expressed permission of the Tree Warden or his designee.

§ 197-2. Permit granting authority.

For purposes of this bylaw, the Planning Board shall be the permit granting authority. The permit granting authority shall have the authority to review and render decisions on applications for special permits for alterations or improvements along a designated scenic road.

§ 197-3. Application for permit; public hearing.

Permits for the alteration and/or relocation of stone walls or of trees along Topsfield's scenic roads may be granted by the Planning Board after a public hearing. Applicants for such permits shall apply to the Planning Board in writing. A plan demonstrating the scope of the proposed work and plans to reconstruct the wall(s) and replant trees, along with the written approval of the Tree Warden, shall be provided with the application. A public hearing shall be held following notification of abutters and advertising of said hearing twice in a local newspaper, as to time, date, place and purpose, the last publication to occur at least seven days prior to such hearing.

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§ 197-4. Notification of proposed work.

All permit granting authorities shall notify the Planning Board of any application to perform work adjacent to a scenic road, and the Planning Board shall determine whether a permit under this bylaw is required.

§ 197-5. Violations and penalties.

- A. Without waiving any other enforcement authority, violations of the Scenic Road Bylaw may be subject to a penalty and punishable by a fine of up to \$300 for the initial violation in accordance with a notice of violation sent by the Planning Board. In addition, the property owner or whoever is responsible for the violation shall be required, within a reasonable amount of time but not less than 60 days, to:
 - (1) Restore any altered stone walls to the condition they were in prior to the alterations; and
 - (2) Plant new trees of similar species to those which may have been cut or removed; or
 - (3) Implement other mitigating measures to the satisfaction of the Planning Board.
- B. The failure of the property owner to restore or mitigate as directed by the Planning Board shall be deemed a subsequent violation for which the Planning Board may assess further penalties of up to \$300 for each subsequent violation. Each day that a subsequent violation continues shall constitute a subsequent and separate violation.

§ 197-6. Enforcement; noncriminal disposition. [Amended 5-4-2010 TM by Art. 28]

This bylaw may be enforced by the Planning Board, its agent, or any police officer of the Town of Topsfield, by any available means in law or equity, including but not limited to enforcement by noncriminal disposition pursuant to MGL c. 40, § 21D. Each day a violation exists shall constitute a separate violation. When enforced through noncriminal disposition, unless otherwise specifically provided for by bylaw, rule or regulation, the penalties shall be as follows:

- A. First violation: \$25.
- B. Second violation: \$50.
- C. Third violation: \$100.
- D. Fourth and subsequent violations: \$200.

§ 197-7. Severability.

All the clauses of this bylaw are distinct and severable, and if any clause shall be deemed illegal, void, or unenforceable, it shall not affect the validity, legality, or enforceability of any other clause or portion of this bylaw.

Chapter 203

SOIL REMOVAL

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| <p>§ 203-1. Permit required; violations and penalties.</p> <p>§ 203-2. Soil Removal Board.</p> <p>§ 203-3. Procedures.</p> <p>§ 203-4. Permit term; conditions.</p> | <p>§ 203-5. Notice of violation; hearing; revocation of permit; noncriminal disposition of violations.</p> <p>§ 203-6. Exceptions.</p> <p>§ 203-7. Waivers.</p> |
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[HISTORY: Adopted by the Town Meeting of the Town of Topsfield 1-25-1954 TM by Art. 7; amended 11-15-1954 TM by Arts. 2, 3 and 4; 3-20-1972 TM by Art. 40; 5-1-2007 TM by Art. 25 (Ch. XLIX of the General Bylaws). Subsequent amendments noted where applicable.]

§ 203-1. Permit required; violations and penalties.

- A. Permit to remove required. The removal of sod, loam, soil, sand, gravel, or stone (herein referred to as "material") from any land in Topsfield not in public use is hereby prohibited except as allowed by issuance of a permit under the provisions of this bylaw.
- B. Violations; penalty established.
 - (1) For violation of this section or § 203-4 of this bylaw, the penalty shall be \$50 for the first offense, \$100 for the second offense, and \$200 for each subsequent offense. Under this bylaw, each individual truckload removed will be considered a violation.
 - (2) Topsoil will be retained on the property and respread by the property owner.
 - (3) When, in the opinion of the Soil Removal Board, removal of topsoil from the property is necessary, a special permit conforming with all provisions of this bylaw may be issued, provided that such removal is to some other location within the Town.

§ 203-2. Soil Removal Board.

Exclusive jurisdiction to issue permits shall be in a board known as the "Soil Removal Board" (herein referred to as the "Board"), the membership of which shall consist of three members appointed by the Select Board for a period of one year each: one member from the Zoning Board of Appeals; one member from the Conservation Commission; and one member from the Planning Board.

§ 203-3. Procedures.

- A. To be considered for such permit, the applicant shall present to the Soil Removal Board the following items:
- (1) A subdivision plan approved by the Planning Board, or other plan showing ultimate use of the land conforming with the current Zoning Bylaws. Desirability as well as technical feasibility of such use of the land shall be considered in approval or disapproval of the plan.
 - (2) A topographic chart in five-foot elevation increments indicating existing contours and proposed final contours.
 - (3) A study and report indicating the effect of the proposed material removal on water tables and the effect of the resulting changes in water runoff on the height of all encompassed, bordering and downstream surface water. Effect on both the lowest and highest water levels occurring during the year shall be considered by this study. This report shall be reviewed by the Natural Resources Conservation Service or the Essex County Soil and Water Conservation District or other authority acceptable to the Board and shall be submitted to the Board along with the written recommendations of the reviewing agency, such recommendations to be made a part of the records of the Board. This requirement shall apply only when the working area, when combined with any previously worked area on the premises, exceeds one acre. **[Amended at time of adoption of Code]**
 - (4) A complete list of the names and addresses of all current abutters of the property where such removal is proposed.
 - (5) The names of all contractors authorized by the owner to remove material from the property.
 - (6) The proposed entrance and egress from the property and routes within the Town.
- B. No permit shall be issued until the above requirements in Subsection A(1) through (6) are met.
- C. In the event that the above information is shown to be inaccurate or incomplete, the permit shall be suspended until all provisions have been met.
- D. Prior to issuance of any permit, a public hearing shall be held. Before such public hearing, the applicant shall file all the above required information with the Board, which documents shall be a public record. Written notice of the public hearing shall be given each abutter, the Conservation Commission and the Planning Board. Notice shall be advertised in the newspaper of widest circulation in Topsfield at least 10 days before the hearing, with expenses to be borne by the applicant.
- E. For purposes of determining abutters under this bylaw, all contiguous land registered under names of individuals, corporations or trusts having common interest shall be considered as a single parcel. All persons owning land having at least one common boundary (including roads) with such single parcel shall be considered as abutters for purposes of this bylaw.

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§ 203-4. Permit term; conditions.

The Board shall issue such permits for a period not to exceed one year only upon conditions imposed, which in its discretion and judgment in each particular case are especially designed to prevent personal injury and to safeguard the surrounding district and the Town against possible permanent and temporary injury to values in the district during or after operations are completed or caused by methods of handling such material at the site or caused by transporting such material through the Town. As minimum requirements, permits shall require that:

A. Buffers.

- (1) The following buffer areas shall be left in their natural state on the applicant's property during the life of the permit; all areas within:
 - (a) Three hundred feet of any street line;
 - (b) Two hundred feet of any other boundary line;
 - (c) Six hundred feet of any occupied dwelling.
- (2) Reduction in the width of buffers above is allowed, provided that written consent of the affected abutters and/or occupants and the written approval of the Planning Board and/or the Conservation Commission is first obtained and filed with the Board.
- (3) Once such buffer strip has been established, no removal of trees or other natural screening within such buffer strip shall be allowed until building construction in accordance with a duly issued building permit is started.

B. Work hours shall be limited to 7:00 a.m. to 4:30 p.m., Monday through Friday. Operation of trucks (in or out) and all machinery, including, but not limited to, dozers, shovels, loaders, chain saws, shredders, screens, etc., shall be limited to these hours.

C. In material removal areas, ledge shall not be left exposed above the approved grade. Boulders and all cleared trees, stumps, and brush shall be removed, shredded or completely buried.

D. All final banking's shall be graded to a slope no steeper than one-foot vertical to two feet horizontal.

E. Following material removal, topsoil shall be spread to a minimum depth of six inches and seeded in accordance with the recommendations of the appropriate Soil District Supervisor and the County Extension Director, or their successors or other authorities acceptable to the Board. Their recommendations shall be made a part of the records of the Board.

F. No excavation shall produce standing water except as part of the final plan approved by the Planning Board and the Conservation Commission under provisions of the Wetlands Protection Act, MGL c. 131, § 40.

G. Under no circumstances and at no time shall material be removed to an elevation less than six feet above the maximum water table elevation.

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- H. A plan showing the location of all buried trees, stumps or other material subject to subsequent compacting by decay shall be filed with the Planning Board, the Building Inspector and the Board of Health.
- I. No trees, stumps or other material subject to decay shall be buried at an elevation below the maximum water table.
- J. A bond shall be posted with the Town Clerk and a covenant approved by the Town Counsel, with penal sum and surety satisfactory to the Soil Removal Board, conditioned upon the faithful performance by the applicant of the conditions of the permit. Such bond shall not be less than \$2,000 per acre of working area, i.e., any area in condition other than its natural state or reconditioned state in accordance with Subsections C, D and E above. Such bond money, if forfeited, shall be used to restore the property as required by this bylaw.
- K. The working area shall not exceed five acres at any given time.

§ 203-5. Notice of violation; hearing; revocation of permit; noncriminal disposition of violations. [Amended 5-4-2010 TM by Art. 30]

- A. Upon verbal or written notification of violation of any conditions of the permit or of this bylaw to any member of the Board or to any member of the Topsfield Police Department, such member shall immediately investigate such claim of violation. If, in the opinion of the member or officer so notified, this or any other violation has been committed, the member shall be obligated and empowered to order immediate termination of material excavation and all related activity pending a formal hearing.
- B. The Board shall, after due hearing and proof of violation of any term of the permit or this bylaw, revoke the permit. If said violation involves removal of material from the premises, all material shall be returned to proper grade or the penalties defined in § 203-1B of this bylaw shall be levied. If the infraction involves violation of the natural buffer areas, material and loam shall be replaced to the natural buffer areas, and trees destroyed shall be replaced with suitable trees of the size, type and spacing approved by the Conservation Commission. If all corrections cannot or are not made within a reasonable time stipulated by the Board, the bond will be forfeited and the penal sum provided therein paid to the Town.
- C. This bylaw may be enforced by the Soil Removal Board, its agent, or any police officer of the Town of Topsfield, by any available means in law or equity, including but not limited to enforcement by noncriminal disposition pursuant to MGL c. 40, § 21D. Each day a violation exists shall constitute a separate violation. When enforced through noncriminal disposition, unless otherwise specifically provided for by bylaw, rule or regulation, the penalties shall be as follows:
 - (1) First violation: \$25.
 - (2) Second violation: \$50.
 - (3) Third violation: \$100.
 - (4) Fourth and subsequent violations: \$200.

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§ 203-6. Exceptions.

- A. The provisions of this bylaw do not apply to removal of sand, gravel or stone:
 - (1) Solely for the purposes of construction of foundations for buildings and other allowable structures for which building permits have been issued and for which the plot plan required by the Town Building Code for issuance of a building permit has been filed with the Board; such plan to contain not less than to-scale size and location of all new construction and all existing structures on the site, distance from lot lines and the established street grades, and which shall be drawn in accordance with an accurate boundary line survey.
 - (2) For construction on the premises of roads for which plans have been approved by the Planning Board and for which plans have been filed with the Board.
- B. At any time that the Board determines that material removal is not solely for purposes of Subsection A, the Board shall require that a permit, in accordance with this bylaw, be obtained for any further removal and initial deviation from the requirements of this bylaw shall be treated under § 203-5, Notice of violation; hearing; revocation of permit; noncriminal disposition of violations.
- C. When said permit involves a working area of less than one acre and also the removal of less than 500 cubic yards of material, the Board may waive the requirements of § 203- 3A (2) and (3) and/or § 203-4J.

§ 203-7. Waivers.

Any part of this bylaw may be waived by the Soil Removal Board, with conditions, upon findings of good cause shown and written concurrences of the Planning Board, Zoning Board of Appeals and Conservation Commission as to such findings.

Chapter 207

SOLID WASTE

ARTICLE I

Littering

§ 207-2. Definition.

§ 207-3. Enforcement; violations and penalties.

§ 207-1. Littering prohibited.

[HISTORY: Adopted by the Town Meeting of the Town of Topsfield as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Littering

[Adopted 5-5-2009 TM by Art. 31 (Ch. LII of the General Bylaws)]

§ 207-1. Littering prohibited.

No person shall throw, discard, deposit, or abandon upon any public way or other property owned by the Town or on the property of another any litter, except in a designated waste receptacle or as may otherwise be directed by the Town or the property owner.

§ 207-2. Definition.

As used in this bylaw, the following terms shall have the meanings indicated:

LITTER — Includes, but is not limited to: paper wrappers; paper bags; paper towels or napkins; paper or plastic cups; cup lids; plastic bags; plastic or glass bottles; beverage cans; cigarette butts; cigarette packs; gum packs; tissues; fruit skins and containers; and any other items that would be considered trash.

§ 207-3. Enforcement; violations and penalties.

- A. The provisions of this bylaw may be enforced by any police officer of the Town of Topsfield, by any available means in law or equity, including but not limited to enforcement by noncriminal disposition pursuant to MGL c. 40, § 21D. Each day a violation exists shall constitute a separate offense.
- B. For the purposes of noncriminal disposition, the following fine schedule shall apply:
 - (1) First offense: \$50.
 - (2) Second and each subsequent offense: \$100.

Chapter 212

STORAGE TANKS, UNDERGROUND

ARTICLE I General Provisions

§ 212-1. Purpose.

§ 212-2. Authority.

§ 212-3. Applicability.

ARTICLE II Definitions

§ 212-4. Terms defined.

ARTICLE III Permit Procedures

§ 212-5. Permits required.

**§ 212-6. Permits for existing
underground tanks.**

**§ 212-7. Permits for new underground
tanks.**

**§ 212-8. Permit to reinstate service of
underground tanks temporarily
removed from service.**

ARTICLE IV Enforcement and Administration

§ 212-9. Violations and penalties.

**§ 212-10. Noncriminal disposition of
violations.**

**§ 212-11. Revocation of permit; order
to remove tank.**

§ 212-12. Rules and regulations.

ARTICLE V Severability

§ 212-13. Provisions severable.

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[HISTORY: Adopted by the Town Meeting of the Town of Topsfield 5-6-1986 TM by Art. 25 (Ch. LIII of the General Bylaws). Amendments noted where applicable.]

ARTICLE I General Provisions

§ 212-1. Purpose.

The purpose of the Underground Petroleum Product Storage Tank System Bylaw, hereinafter called the "bylaw," is to protect the safety and welfare of the inhabitants of Topsfield by minimizing the danger of explosion or fire from leaks or discharges of petroleum products from underground petroleum product storage tank systems and by ensuring that no such leakage or spillage is discharged into the groundwater, thereby contaminating Topsfield's sole source of potable water.

§ 212-2. Authority.

The adoption and administration of this bylaw is authorized pursuant to MGL c. 148, §§ 9 and 13 and to MGL c. 40, § 21, as amended.

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§ 212-3. Applicability.

The bylaw shall apply to all underground tank systems containing flammable petroleum products which are presently located within the jurisdiction of the bylaw and to all underground tank systems installed after the date of its adoption. Underground storage of liquefied petroleum gases such as propane or natural gas and nonflammable chemicals listed in the Massachusetts Substance List compiled under the applicable provisions of MGL c.111F, as amended, shall not be permitted within the jurisdiction of the bylaw.

ARTICLE II**Definitions****§ 212-4. Terms defined.**

- A. As used in this bylaw, the following terms shall have the meanings indicated:

ABANDONED — Out of service or operation for a continuous period in excess of six months for underground tanks licensed under the provisions of MGL c. 148, § 13 and in excess of two years for underground tanks exempt from the above license.

APPLICANT — Any person who submits an application for a permit to install and maintain or to discontinue the operation of an underground tank in Topsfield.

LOCAL LICENSING AUTHORITY — The Topsfield Fire Chief or his authorized deputy in his absence.

- B. All other terms used in the bylaw shall have the meaning as provided in 527 CMR 9.02, as amended.

ARTICLE III**Permit Procedures**

[Amended 5-6-1986 TM by Art. 25]

§ 212-5. Permits required.

Every person intending to install, maintain, or discontinue the operation of an underground petroleum product storage tank system, hereinafter called an "underground tank," shall secure the necessary permits from the local licensing authority.

§ 212-6. Permits for existing underground tanks.

Permits granted to owners and operators of underground tanks prior to the date of adoption of this bylaw shall remain in effect; provided, however, that:

- A. The owner of every underground tank in Topsfield installed prior to May 9, 1986, has complied with the provisions set forth in 527 CMR 9.24(3)(a).
- B. Owners and operators of underground tanks exempted from the reporting requirement under the provisions of 527 CMR 9.24(d) shall have the underground tank tested for

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tightness in accordance with the provisions of 527 CMR 9.18(2), (3) and (4), as applicable.

- C. Underground tanks used exclusively for farm or residential purposes with a total capacity of less than 1,100 gallons installed after the date of adoption of the bylaw shall be tested for tightness in accordance with the schedule contained in 527 CMR 9.18(4), unless they are of the double-wall type as set forth in 527 CMR 9.16(3).
- D. The local licensing authority may require the installation of observation wells at underground tank sites which are located in areas of high environmental risk as a result of the presence of sole-source aquifers or surface water supplies.

§ 212-7. Permits for new underground tanks.

- A. Plans. An applicant who wishes to obtain a permit to install an underground tank shall submit to the local licensing authority the following information in addition to that required under the provisions of 527 CMR 9.24(2):
 - (1) A site plan drawn at a scale of no larger than one-inch equals 20 feet.
 - (2) A locus map drawn at a scale of one-inch equals 600 feet.
 - (3) A cross-sectional representation of the underground tank (or tanks), inclusive of its bedding, piping, and leak detection system. The plan shall show the location of all man-made features, inclusive of buildings, parking lots, driveways or other permanent structures within 200 feet of the underground tank site. The plan shall also show natural features such as brooks, wetlands, ponds, or open water within 500 feet of the underground tank site. The plan shall show all sources of potable water within 300 feet of the tank site.
 - (4) The plan shall be stamped with the seal of a registered civil engineer licensed to practice in the Commonwealth of Massachusetts and shall bear his signature. The plan shall bear the engineer's certificate that the design of the underground tank installation is in compliance with the recommendations of its manufacturer and all applicable provisions of 527 CMR 9.00, as amended.
 - (5) The plan shall show that the underground tank is secured to a reinforced concrete foundation by means or devices that do not break or abrade the outer coating of the tank.
 - (6) Where the underground tank is to be installed within 300 feet of the border of land under the jurisdiction of the Topsfield Board of Water Commissioners or within 300 feet of a private potable water well or other source of potable water, the plan shall show the installation to consist of approved double-walled tanks with an interstitial monitoring system and a liquid removal port.
- B. Submission of plans.
 - (1) Copies of the above plan together with Form T, which shall be available at the Town Clerk's office and appended to the bylaw, shall be sent to the Board of

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Health, the Conservation Commission, the Inspector of Buildings, and the Board of Water Commissioners.¹

- (2) The application for a permit to install and maintain an underground tank shall be sent to the local licensing authority, together with a copy of the aforementioned plan and certificate that the respondent boards, commission, and agent have received Form T and copies of said plan.
- (3) The Board of Health, the Conservation Commission, the Board of Water Commissioners, and the Inspector of Buildings shall review the plan and indicate on Form T approval or disapproval of said plan. In the event of disapproval, the boards, Commission or agent shall cite wherein the plan is in violation of local bylaws, rules and regulatory codes.
- (4) Form T containing the boards', Commission's or agents' approval or disapproval shall be returned to the local licensing authority within 35 days of receipt of Form T. Failure to return Form T within 35 days of receipt of the form and plans shall constitute constructive approval of the plan.

C. Public hearing.

- (1) In the event of a disapproval by any one of the plan review respondents, the local licensing authority shall hold a public hearing at a time and date which is subject to advertisement in a newspaper of substantial local circulation at least one week prior to the hearing date. At that hearing, the reasons for the disapproval shall be reviewed and proposed remedies examined.
- (2) The disapproving board, Commission or agent shall determine within 20 days of the closing of the above said hearing whether or not the proposed remedies will eliminate the reasons for the disapproval of the proposed installation. the board, Commission, or agent may approve or disapprove the proposed plan on the basis of the above determination only; no other reasons for a subsequent disapproval of the plan may be considered by the local licensing authority.

D. Issuance of permit. The local licensing authority shall issue a permit to the applicant for the construction of an underground tank within 45 days of the receipt of the application in the event that no board, Commission or agent has disapproved the plan. The local licensing authority shall issue or deny issuance of the permit within 35 days of the close of the public hearing. The local licensing authority may not issue a permit for the installation of the proposed underground tank unless it has obtained approval from all respondent boards, Commissions, and agents.

E. Certificate of compliance. Upon completion of construction and prior to the commencement of service, the applicant shall submit a certificate signed and sealed by the design engineer that the underground tank has been installed in accordance with the approved plans.

F. Tightness tests. All new underground tanks shall be tested for tightness in accordance with the applicable provisions of 527 CMR 9.18, as amended.

1. Editor's Note: Form T is included as an attachment to this chapter.

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- G. Approval to commence service. The local licensing authority shall approve the commencement of service of the new underground tank, provided that the provisions of Subsections E and F have been met to the satisfaction of the local licensing authority.

§ 212-8. Permit to reinstate service of underground tanks temporarily removed from service.

Prior to the restoration of service of a tank removed from service in accordance with the provisions of 527 CMR 9.21(3), as amended, the owner or operator of said tank shall have it tested for tightness in accordance with all applicable provisions of 527 CMR 9.18, as amended, except that the local licensing authority may waive the above requirement where, in their opinion, such a test is not required.

ARTICLE IV

Enforcement and Administration

§ 212-9. Violations and penalties.

Any owner or operator who violates any provision of this bylaw shall be subject to a fine not to exceed \$300 for each offense. Each day during which such violations continue shall constitute a separate offense.

§ 212-10. Noncriminal disposition of violations.

This bylaw may be enforced, pursuant to MGL c. 40, § 21D, by a police officer or any other officer with police power. The penalty for such noncriminal enforcement shall be \$50 per violation. Upon request by the local licensing authority, the Select Board shall take such legal action as may be necessary to enforce the provisions of this bylaw.

§ 212-11. Revocation of permit; order to remove tank.

- A. In the event of any violation of the provisions of this bylaw, the local licensing authority may, instead of or in addition to the fines and legal action prescribed in §§ 212-10 and 212-11, revoke or suspend the permit to maintain the underground tank. An underground tank installed and maintained or maintained without required permits may be ordered to be removed at the owner's expense by the local licensing authority.
- B. In the event of an order to remove a tank, the local licensing authority shall hold a public hearing on the proposed order and give the owner notice of such at least 10 days in advance of the date of the hearing by certified mail, and shall record its decision in writing, with a statement of the reasons for it.

§ 212-12. Rules and regulations.

The local licensing authority may issue rules and regulations relative to the administration of this bylaw. All rules and regulations in effect on the date of the adoption of this bylaw and

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not inconsistent with same or with 527 CMR 9.00 shall remain in effect unless amended by the local licensing authority.

ARTICLE V

Severability

§ 212-13. Provisions severable.

The invalidity of any provision of the bylaw shall not affect the validity of the remainder.

STORAGE TANKS, UNDERGROUND

212 Attachment 1

Town of Topsfield

Form T

Departmental Review of Underground Tank Installation Plan

TO: Board of Health
Conservation Commission
Inspector of Buildings
Board of Water Commissioners
Topsfield, MA _____, 20____

FROM: _____
Applicant's Name, Address

SUBJECT: _____
Description of Plan, Date

1. The subject name's plan herewith attached has been submitted to the Local Licensing Authority for a permit to install an Underground Tank.
2. Please review said plan to determine if proposed installation conforms with applicable state and local requirements and if additional safety installations are required by virtue of the tank's location - e.g., proximity to wells, watercourses, presence of corrosive soil types, clay strata, etc. Please note, you have 35 days from the above date to review the plan and report to the Fire Chief's office.

TO: Local Licensing Authority (Topsfield Fire Chief)

DATE: _____

SUBJECT: _____
Description of Plan, Date

The undersigned hereby
_____ approves said plan
_____ disapproves said plan*

This plan has been disapproved for the following reasons:

Signed _____
Board, Commission, or Agent

* A disapproval requires a statement of reasons for same. A disapproval without a statement of reasons for same will be deemed as a constructive approval.

Chapter 216

STORM DRAINS

ARTICLE I	§ 216-7. Prohibited activities.
Illicit Discharges to Storm Drains	§ 216-8. Exemptions.
§ 216-1. Findings and intent.	§ 216-9. Emergency suspension of storm drainage system access.
§ 216-2. Definitions.	§ 216-10. Notification of spills.
§ 216-3. Applicability.	§ 216-11. Enforcement; violations and penalties.
§ 216-4. Authority.	§ 216-12. Compatibility with other regulations.
§ 216-5. Responsibility for administration.	§ 216-13. Severability.
§ 216-6. Regulations.	

[HISTORY: Adopted by the Town Meeting of the Town of Topsfield as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Illicit Discharges to Storm Drains

[Adopted 5-4-2010 TM by Art. 38 (Ch. LIX of the General Bylaws)]

§ 216-1. Findings and intent.

- A. Increased and contaminated stormwater runoff is a major cause of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater; contamination of drinking water supplies; alteration or destruction of aquatic and wildlife habitat; and flooding.
- B. Regulation of illicit connections and discharges to the municipal storm drain system is necessary to protect the Town of Topsfield's water bodies and groundwater, and to safeguard the environment and public health, safety and welfare.
- C. The objectives of this bylaw are:
 - (1) To prevent pollutants from entering Topsfield's municipal separate storm sewer system (MS4);
 - (2) To prohibit illicit connections and unauthorized discharges to the MS4;
 - (3) To require the removal of all such illicit connections;
 - (4) To comply with state and federal statutes and regulations relating to stormwater discharges; and
 - (5) To establish the legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.

§ 216-2. Definitions.

As used in this bylaw, the following terms shall have the meanings indicated:

AUTHORIZED ENFORCEMENT AGENCY — The Topsfield Stormwater Officer shall administer and implement this bylaw. Any powers granted to or duties imposed upon the Stormwater Officer may be delegated in writing by the Stormwater Officer to the appropriate agents of the Town, i.e., the employees and agents of the Highway Department, the Board of Health, the Police and Fire Departments, the Conservation Commission and the Inspectional Services Department.

BEST MANAGEMENT PRACTICE (BMP) — An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.

CLEAN WATER ACT — The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and as hereafter amended.

GROUNDWATER — Water beneath the surface of the ground.

ILLICIT CONNECTION — Any indoor or outdoor drain or conveyance, whether on the surface or subsurface, that allows an illicit discharge to enter the storm drain system, including but not limited to any conveyances that allow any non-stormwater discharge, including sewage, process wastewater, and wash water, to enter the storm drain system, regardless of whether said drain or connection had been previously allowed, permitted, or approved.

ILLICIT DISCHARGE — Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in § 216-8. The term does not include a discharge in compliance with an NPDES stormwater discharge permit or a surface water discharge permit.

IMPERVIOUS SURFACE — Any material or structure on or above the ground that prevents water from infiltrating the underlying soil. Impervious surfaces include without limitation roads, paved parking lots, sidewalks, and rooftops.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM — The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Topsfield.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT — A permit issued by United States Environmental Protection Agency or jointly with the state that authorizes the discharge of pollutants to waters of the United States.

NON-STORMWATER DISCHARGE — Discharge to the municipal storm drain system not composed entirely of stormwater.

PERSON — A partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such entity or an individual.

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POLLUTANT — Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnance, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; sedimentary material and noxious or offensive matter of any kind. **[Amended at time of adoption of Code]**

PROCESS WASTEWATER — Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

RECHARGE — The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

STORMWATER — Precipitation runoff, snow melt runoff, and surface water runoff and drainage.

SURFACE WATER DISCHARGE PERMIT — A permit issued by the Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.

TOXIC OR HAZARDOUS MATERIAL OR WASTE — Any material which, because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to the environment or to human health, safety, or welfare. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as toxic or hazardous under MGL c. 21C and c. 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

WASTEWATER — Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that, during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product or waste product.

WATERCOURSE — A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.

WATERS OF THE COMMONWEALTH — All waters within the jurisdiction of the commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.

§ 216-3. Applicability.

This bylaw shall apply to flows entering the municipally owned storm drainage system.

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§ 216-4. Authority.

This bylaw is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Procedures Act, and pursuant to the regulations of the Federal Clean Water Act found at 40 CFR 122.34.

§ 216-5. Responsibility for administration.

The Select Board shall appoint the Stormwater Officer. The Stormwater Officer shall administer, implement and enforce this bylaw.

§ 216-6. Regulations.

The Stormwater Management Committee may promulgate rules and regulations to effectuate the purposes of this bylaw. Failure by the Committee to promulgate such rules and regulations shall not have the effect of suspending or invalidating this bylaw.

§ 216-7. Prohibited activities.

- A. Illicit discharges. No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal separate storm sewer system (MS4).
- B. Illicit connections. No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.
- C. Obstruction of municipal storm drain system. No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written approval from the Stormwater Officer.

§ 216-8. Exemptions.

- A. Discharge or flow of water or other fire-fighting materials resulting from fire-fighting activities.
- B. The following non-stormwater discharges or flows are exempt from the prohibition of non-stormwaters, provided that the source is not a significant contributor of a pollutant to the municipal storm drain system:
 - (1) Water line flushing;
 - (2) Flow from potable water sources;
 - (3) Springs;
 - (4) Natural flow from riparian habitats and wetlands;
 - (5) Diverted stream flow;
 - (6) Groundwater;

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- (7) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater (e.g., sump pump);
- (8) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;
- (9) Discharge from landscape irrigation or lawn watering;
- (10) Water from individual residential car washing;
- (11) Discharge from dechlorinated swimming pool water (less than one ppm chlorine), provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance;
- (12) Discharge from street sweeping;
- (13) Discharge of dye for testing purposes, provided verbal notification is given to the Stormwater Officer prior to the time of the test;
- (14) Discharge of non-stormwater as permitted under an NPDES permit, or under a surface water discharge permit, or by a waste discharge order or waiver administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and
- (15) Discharge of non-stormwater for which advanced written approval is received from the Stormwater Officer as necessary to protect the environment or public health, safety, or welfare.

§ 216-9. Emergency suspension of storm drainage system access.

The Stormwater Officer may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the environment or to the public health, safety or welfare. In the event any person fails to comply with an emergency suspension order, the Stormwater Officer may take all reasonable steps to prevent or minimize harm to the environment or to public health, safety or welfare.

§ 216-10. Notification of spills.

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the commonwealth, the person shall take all necessary steps to ensure containment and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the municipal Fire, Police and Highway Departments. In the event of a release of other than oil or nonhazardous material, the reporting person shall notify the Stormwater Officer no later than the next business day. The

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reporting person shall provide to the Stormwater Officer written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

§ 216-11. Enforcement; violations and penalties.

- A. The Stormwater Officer or an authorized agent of the Stormwater Officer shall enforce this bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.
- B. Civil relief. If a person violates the provisions of this bylaw, regulations, permit, notice, or order issued hereunder, the Stormwater Officer may seek injunctive relief in a court of competent jurisdiction to restrain the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
- C. Orders. The Stormwater Officer or an authorized agent of the Stormwater Officer may issue a written order to enforce the provisions of this bylaw or the regulations hereunder, which may include:
 - (1) Elimination of illicit connections or discharges to the MS4;
 - (2) Performance of monitoring, analyses, and reporting;
 - (3) That unlawful discharges, practices or operations shall cease and desist; and
 - (4) Remediation of contamination in connection therewith.
- D. If the enforcing person determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town may, at its option, seek a court order requiring the property owner to perform the work or allowing the Town to perform the work and recover its costs.
- E. Criminal penalty. Any person who violates any provision of this bylaw, regulation, order or permit issued hereunder shall be punished by a fine of not more than \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- F. Noncriminal disposition. As an alternative to criminal prosecution or civil action, the Town of Topsfield may elect to utilize the noncriminal disposition procedure set forth in MGL c. 40, § 21D, in which case the Stormwater Officer shall be the enforcing person. The penalty for the first violation shall be \$25. The penalty for the second violation shall be \$50. The penalty for the third and subsequent violations shall be \$100. Each day that such violation occurs or continues shall constitute a separate offense.
- G. Entry to perform duties under this bylaw. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Stormwater

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Officer, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this bylaw and regulations and may make or cause to be made such examinations, surveys or sampling as the Stormwater Officer deems reasonably necessary.

- H.** Appeals. The decisions or orders of the Stormwater Officer shall be final; except that relief may be sought in a court of competent jurisdiction. **[Amended at time of adoption of Code]**
- I.** Remedies not exclusive. The remedies listed in this bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

§ 216-12. Compatibility with other regulations.

This bylaw is not intended to modify or repeal any other bylaw, rule, regulation, or other provision of law. The requirements of this bylaw are in addition to the requirements of any other bylaw, rule, regulation, or other provision of law, and where any provision of this bylaw imposes restrictions different from those imposed by any other bylaw, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

§ 216-13. Severability.

The provisions of this bylaw are hereby declared to be severable. If any provision, paragraph, sentence, or clause of this bylaw or the application thereof to any person, establishment or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this bylaw.

Chapter 220

STORMWATER MANAGEMENT AND EROSION CONTROL

§ 220-1. Findings.

§ 220-2. Purposes.

§ 220-3. Definitions.

§ 220-4. Authority.

§ 220-5. Administration.

§ 220-6. Permit required.

§ 220-7. Procedures.

§ 220-8. Enforcement.

§ 220-9. Severability.

[HISTORY: Adopted by the Town Meeting of the Town of Topsfield 5-3-2005 TM by Art. 44, as amended 5-4-2010 TM by Art. 29 and 5-1-2012 ATM (Ch. LI of the General bylaws). Subsequent amendments noted where applicable.]

§ 220-1. Findings.

It is hereby determined that:

- A. Land development projects and other land use conversions, and their associated changes to land cover, permanently alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, which in turn increase flooding, stream channel erosion and sediment transport and deposition, and decrease groundwater recharge;
- B. Land development projects and other land use conversions also contribute to increased nonpoint source pollution and degradation of receiving waters;
- C. The impacts of construction site/alteration and post-development stormwater runoff quantity and quality can adversely affect public safety, public and private property, surface water drinking water supplies, groundwater resources, drinking water supplies, recreation, aquatic habitats, fish and other aquatic life, property values and other uses of lands and waters;
- D. These adverse impacts can be controlled and minimized through the regulation of stormwater runoff quantity and quality from construction site/alteration, new development and redevelopment, by the use of both structural and nonstructural best management practices;
- E. Localities in the Commonwealth of Massachusetts are required to comply with a number of both state and federal laws, regulations and permits which require a locality to address the impacts of construction site/alteration runoff, post-development stormwater runoff quality and nonpoint source pollution.
- F. Therefore, the Town of Topsfield has established this stormwater management bylaw to provide reasonable guidance for the regulation of construction site/alteration and post-development stormwater runoff for the purpose of protecting local water resources from degradation. This bylaw regulates the construction site/alteration and post-construction stormwater controls for both new and redevelopment projects.

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- G. It has been determined that it is in the public interest to regulate construction site/ alteration and post-development stormwater runoff discharges in order to control and minimize increases in stormwater runoff rates and volumes, construction site/alteration and post-construction soil erosion and sedimentation, stream channel erosion, and nonpoint source pollution associated with post-development stormwater runoff.

§ 220-2. Purposes.

- A. The purposes of this bylaw are to:
- (1) Protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff and nonpoint source pollution associated with new development and redevelopment;
 - (2) Protect, maintain and enhance the public safety, environment and general welfare by establishing minimum standards and procedures to control runoff and prevent soil erosion and sedimentation resulting from construction/alteration and development.
- B. It has been determined that proper management of construction site/alteration and post-development stormwater runoff will minimize damage to public and private property and infrastructure, safeguard the public health, safety, environment and general welfare of the public, protect water and aquatic resources, and promote groundwater recharge to protect surface and groundwater drinking supplies. This bylaw seeks to meet that purpose through the following objectives:
- (1) Establish decision-making processes surrounding land development activities that protect the integrity of the watershed and preserve the health of water resources;
 - (2) Require that new development, redevelopment and all land conversion activities maintain the after-development runoff characteristics as equal to or less than the pre-development runoff characteristics in order to reduce flooding, stream bank erosion, siltation, nonpoint source pollution, property damage, and to maintain the integrity of stream channels and aquatic habitats;
 - (3) Establish minimum construction/alteration and post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality; establish minimum design criteria for the protection of properties and aquatic resources downstream from land development and land conversion activities from damages due to increases in volume, velocity, frequency, duration, and peak flow rate of stormwater runoff; establish minimum design criteria for measures to minimize nonpoint source pollution from stormwater runoff which would otherwise degrade water quality;
 - (4) Establish design and application criteria for the construction and use of structural stormwater control facilities that can be used to meet the minimum construction/alteration and post-development stormwater management standards;
 - (5) Encourage the use of nonstructural stormwater management, stormwater better site design practices or "low-impact development practices," such as reducing

impervious cover and the preservation of greenspace and other natural areas, to the maximum extent practicable; coordinate site design plans, which include greenspace, with the Town's greenspace protection plan;

- (6) Establish provisions for the long-term responsibility for and maintenance of structural stormwater control facilities and nonstructural stormwater management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety;
 - (7) Establish provisions to ensure there is an adequate funding mechanism, including surety, for the proper review, inspection and long-term maintenance of stormwater facilities implemented as part of this bylaw;
 - (8) Establish administrative procedures for the submission, review, approval or disapproval of stormwater management plans, and for the inspection of approved active projects, and long-term follow up; establish certain administrative procedures and fees for the submission, review, approval or disapproval of stormwater plans, and the inspection of approved projects.
- C. Nothing in this bylaw is intended to replace the requirements of either the Town of Topsfield Floodplain Zoning Bylaw, the Town of Topsfield General Wetlands Protection Bylaw,¹ or any other bylaw that may be adopted by the Town of Topsfield. Any activity subject to the provisions of the above-cited bylaws must comply with the specifications of each.

§ 220-3. Definitions.

The following definitions shall apply in the interpretation and implementation of this bylaw. Additional definitions may be adopted by separate regulation.

ALTER — Any activity which will measurably change the ability of a ground surface area to absorb water or will change existing surface drainage patterns. "Alter" may be similarly represented as "alteration of drainage characteristics" and "conducting land disturbance activities."

BEST MANAGEMENT PRACTICE (BMP) — Structural, nonstructural and managerial techniques that are recognized to be the most effective and practical means to prevent and/or reduce increases in stormwater volumes and flows, reduce point source and nonpoint source pollution, and promote stormwater quality and protection of the environment. Structural BMPs are devices that are engineered and constructed to provide temporary storage and treatment of stormwater runoff. Nonstructural BMPs use natural measures to reduce pollution levels, do not require extensive construction efforts and/or promote pollutant reduction by eliminating the pollutant source.

BETTER SITE DESIGN — Site design approaches and techniques that can reduce a site's impact on the watershed through the use of nonstructural stormwater management practices. Better site design includes conserving and protecting natural areas and green space, reducing impervious cover, and using natural features for stormwater management.

1. Editor's Note: See Ch. 250, Wetlands.

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COMMON PLAN OF DEVELOPMENT — A contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan. **[Added 5-5-2015 ATM by Art. 39]**

HOTSPOT — Land uses or activities with higher potential pollutant loadings, inclusive of auto salvage yards, auto fueling facilities, fleet storage yards, commercial parking lots with high-intensity use, road salt storage areas, commercial nurseries and landscaping, outdoor storage and loading areas of hazardous substances or marinas.

MASSACHUSETTS STORMWATER MANAGEMENT POLICY — The policy issued by the Department of Environmental Protection, and as amended, that coordinates therequirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act, MGL c. 131, § 40 and the Massachusetts CleanWaters Act, MGL c. 21, §§ 23 through 56. The policy addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.

NEW DEVELOPMENT — Any construction or land disturbance of a parcel of land that is currently in a natural vegetated state and does not contain alteration by man-made activities.

NONPOINT SOURCE POLLUTION — Pollution from many diffuse sources caused by rainfall or snowmelt moving over and through the ground. As the runoff moves, it picks upand carries away natural and human-made pollutants, finally depositing them into water resource areas.

PERSON — Any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the commonwealth or political subdivision thereof to the extent subject to Town bylaws, administrative agency, public or quasi-public corporation or body, the Town of Topsfield, and any other legal entity, its legalrepresentatives, agents or assigns.

POORLY DRAINED SOILS — "Poorly drained soils" shall have the meaning as contained in the list of definitions set forth in the glossary under the heading of "drainage class" in the Soil Survey of Essex County, Massachusetts - Northern Part prepared by the United States Department of Agriculture, Natural Resources Conservation Service - Donald Fuller, editor, first printed 1981 and following editions. Poorly drained soils shall include all such soilslisted as "moderately poorly drained," "poorly drained" and "very poorly drained" as well as soils that contain a fragipan layer in the section entitled "Soil Series and Morphology" beginning on page 75 and ending on page 101 of the Soil Survey of Essex County, Massachusetts - Northern Part. **[Amended at time of adoption of Code]**

POST-DEVELOPMENT — The conditions that reasonably may be expected or anticipated to exist after completion of the land development activity on a specific site or tract of land. "Post-development" refers to the phase of a new development or redevelopment project after completion, and does not refer to the construction phase of a project.

PRE-DEVELOPMENT — The conditions that exist at the time that plans for the land development of a tract of land are submitted to the Planning Board. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first plan submission shall establish pre- development conditions.

RECHARGE — The replenishment of underground water reserves.

REDEVELOPMENT — Any construction, alteration, or improvement of land that has been subject to previous development.

SLOPE — The vertical rise divided by the horizontal distance and expressed as a fraction or percentage, e.g. 1/5 or 20%.

STORMWATER AUTHORITY — The Town of Topsfield Planning Board or its authorized agent(s). The Topsfield Planning Board or its authorized agent(s) are responsible for coordinating the review, approval and permit process as defined in this bylaw. Other boards and/or departments of the Town of Topsfield, including (but not limited to) the Conservation Commission, Board of Health and Highway Department, may participate in the review process as defined in the Stormwater Regulations adopted by the Planning Board.²

STORMWATER MANAGEMENT PERMIT (SMP) — A permit issued by the Planning Board, after review of an application, plans, calculations and other supporting documents, which is designed to protect the environment of the Town from the deleterious effects of uncontrolled and untreated stormwater runoff.

§ 220-4. Authority.

This bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34, and as authorized by the residents of the Town of Topsfield at Town Meeting, dated May 3, 2005, and as amended at the May 1, 2012, Annual Town Meeting.

§ 220-5. Administration.

- A. The Planning Board shall administer, implement and enforce this bylaw. Any powers granted to or duties imposed upon the Planning Board may be delegated in writing by the Planning Board to its employees or agents.
- B. Stormwater Regulations.³ The Planning Board may adopt, and periodically amend, rules and regulations relating to the terms, conditions, definitions, enforcement, fees (including application, inspection and/or consultant fees), procedures and administration of this Stormwater Management Bylaw by majority vote of the Planning Board, after conducting a public hearing to receive comments on any proposed rules and regulations, or revisions thereto. Such hearing dates shall be advertised in a newspaper of general local circulation, at least 14 days prior to the hearing date. The Planning Board may promulgate rules and regulations to effectuate the purposes of this bylaw. Failure by the Planning Board to promulgate such rules and regulations or a legal declaration of their invalidity by a court shall not act to suspend or invalidate the effect of this bylaw.

2. Editor's Note: See Ch. 364, Stormwater and Erosion Control Regulations.

3. Editor's Note: See Ch. 364, Stormwater and Erosion Control Regulations.

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- C. Stormwater Management Manual. The Planning Board will utilize the policy, criteria and information, including specifications and standards, of the latest edition of the Massachusetts Stormwater Management Policy, for execution of the provisions of this bylaw. This policy includes a list of acceptable stormwater treatment practices, including the specific design criteria for each stormwater practice. The policy may be updated and expanded periodically, based on improvements in engineering, science, monitoring, and local maintenance experience. Unless specifically altered in the Stormwater Regulations, stormwater management practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to be protective of Massachusetts's water quality standards.
- D. Actions by the Planning Board. The Planning Board may take any of the following actions as a result of an application for a stormwater management permit as more specifically defined as part of Stormwater Regulations promulgated as a result of this bylaw: approval, approval with conditions, disapproval or disapproval without prejudice.
- E. Appeals of action by the Planning Board. A decision of the Planning Board shall be final. A decision by the Planning Board made under this bylaw shall be reviewable in the court.

§ 220-6. Permit required. [Amended 5-5-2015 ATM by Art. 39]

- A. Applicability. No person shall alter land within the Town of Topsfield, including without limitations any new development or redevelopment, other activity that will alter the drainage characteristics of a parcel of land, or any activity that may result in stormwater flowing from the parcel under development onto an adjacent parcel of land, without obtaining a stormwater management permit, unless exempt pursuant to Subsection B of this section. In addition, any alteration or redevelopment of a hotspot, or conversion of land to a hotspot, shall require a stormwater management permit and shall not be subject to the exemptions set forth in Subsection B of this section.
- B. Exemptions. The following activities shall be exempt from the requirement to obtain a stormwater management permit. The exemptions in Subsection B (1) and (2) below shall not be applied to projects entirely or in any part on poorly drained soils, or for projects consisting of the installation of any drain system designed to transport stormwater or groundwater beyond the boundaries of the property on which it is located. The exemptions in Subsection B (1) and (2) shall also not apply to an activity that is part of a common plan of development that, considered as a whole, would alter an area greater than the area permitted by Subsection B (1) and (2) below. In applying the exemptions in Subsection B (1) and (2) below, the area subject to alteration pursuant to such exemptions may not exceed, in the aggregate, 7,500 square feet.
 - (1) Any activity that will alter an area of 7,500 square feet or less of land where the existing or proposed slopes are both less than 15%;
 - (2) Any activity that will alter an area of 4,000 square feet or less of land where the existing or proposed slopes are between 15% and 25%, inclusive;

- (3) Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation, 310 CMR 10.04 and MGL c. 40A, § 3;
- (4) Maintenance of existing landscaping, gardens or lawn areas associated with a single-family dwelling; construction of patios, walkways, driveways less than the minimum square foot thresholds, swimming pools below the minimum square foot thresholds or replacement of wells or septic systems on lots having an existing dwelling;
- (5) Repair or replacement of an existing roof of a single-family or multifamily dwelling;
- (6) The construction of any fence that will not alter existing terrain or drainage patterns;
- (7) Construction of utilities (gas, water, electric, telephone, etc.) other than drainage, which will not alter terrain, ground cover, or drainage patterns, the reconstruction of or resurfacing of any public way; the construction and associated grading of a street that has been approved by the Planning Board;
- (8) For the removal of earth products undertaken in connection with a sand, gravel or similar enterprise where such activity is allowed by zoning;
- (9) Emergency repairs to any utilities (gas, water, electric, telephone, etc.), stormwater management facility or practice that poses a threat to public health or safety, or as deemed necessary by the Planning Board;
- (10) Any work or projects for which all necessary approvals and permits have been issued before the effective date of this bylaw.

§ 220-7. Procedures.

Permit procedures and requirements shall be defined and included as part of any rules and regulations promulgated as permitted under § 220-5 of this bylaw.⁴

§ 220-8. Enforcement.

The Stormwater Coordinator, the Planning Board or an authorized agent of the Planning Board shall enforce this bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations. Enforcement shall be further defined and included as part of any Stormwater Regulations promulgated as permitted under § 220-5 of this bylaw.⁵ This bylaw may also be enforced by the Planning Board, its agent or any police officer of the Town of Topsfield, by any available means in law or equity, including but not limited to enforcement by noncriminal disposition pursuant to MGL c. 40, § 21D. Each day a violation exists shall constitute a separate violation. When enforced

4. Editor's Note: See Ch. 364, Stormwater and Erosion Control Regulations.

5. Editor's Note: See Ch. 364, Stormwater and Erosion Control Regulations.

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through noncriminal disposition, unless otherwise specifically provided for by bylaw, rule or regulation, the penalties shall be as follows:

- A. First violation: \$25.
- B. Second violation: \$50.
- C. Third violation: \$100.
- D. Fourth and subsequent violations: \$200.

§ 220-9. Severability.

The invalidity of any section, provision, paragraph, sentence or clause of this bylaw shall not invalidate any section, provision, paragraph, sentence or clause thereof, nor shall it invalidate any permit or determination that previously has been issued.

Chapter 224

STREETS AND SIDEWALKS

ARTICLE I **Snow Removal**

§ 224-2. Violations and penalties.

§ 224-1. Plowing or pushing snow into streets or sidewalks prohibited.

[HISTORY: Adopted by the Town Meeting of the Town of Topsfield as indicated in article histories. Amendments noted where applicable.]

ARTICLE I **Snow Removal** **[Adopted 5-3-1994 TM by Art. 29 (Ch. L of the General Bylaws)]**

§ 224-1. Plowing or pushing snow into streets or sidewalks prohibited.

No person except an agent of the Town of Topsfield shall plow, push, throw or otherwise relocate snow or ice from private land onto a public way and/or sidewalk.

§ 224-2. Violations and penalties.

According to the provisions of MGL c. 40, § 21D, any person violating this bylaw shall be deemed guilty of a misdemeanor, and shall be punished by a fine of \$25 for the first offense and \$50 for each subsequent offense.

Chapter 238

VEHICLES

ARTICLE I **Unregistered Vehicles**

- § 238-1. Outdoor storage prohibited.**
- § 238-2. Permit for outdoor storage.**
- § 238-3. Permit restrictions.**
- § 238-4. Exception for farm vehicles.**
- § 238-5. Violations and penalties.**

ARTICLE II **Recreational Vehicles**

- § 238-6. Overnight parking on streets prohibited.**

ARTICLE III **Commercial Vehicles**

- § 238-7. Weight restrictions.**
- § 238-8. Exceptions.**

[HISTORY: Adopted by the Town Meeting of the Town of Topsfield as indicated in article histories. Amendments noted where applicable.]

ARTICLE I **Unregistered Vehicles**

[Adopted 11-23-1965 TM by Art. 3; amended 3-3-1969 TM by Art. 21 (Ch. LIV of the General Bylaws)]

§ 238-1. Outdoor storage prohibited. [Amended at time of adoption of Code]

The keeping of more than one unregistered motor vehicle, assembled or disassembled, except by a person licensed under MGL c. 140, § 59, or pursuant to a permit issued in accordance with §§ 238-2 and 238-3 of this bylaw, on any premises shall not be permitted unless the vehicles are stored within an enclosed building.

§ 238-2. Permit for outdoor storage.

A permit to keep more than one unregistered motor vehicle on any premises not within an enclosed building, after a duly called public hearing to which all abutters to the premises have received notice, may be granted by the Select Board if it finds that such keeping:

- A. Is in harmony with the general purposes and intent of this bylaw;
- B. Will not adversely affect the neighborhood; and
- C. Will not be a nuisance.

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§ 238-3. Permit restrictions.

All such permits shall limit the number of unregistered motor vehicles to be kept on the premises by the permit holder, shall not run with the land and shall be limited to a reasonable length of time.

§ 238-4. Exception for farm vehicles.

This bylaw shall not apply to motor vehicles which are designed for and used for farming purposes.

§ 238-5. Violations and penalties.

Whoever violates any provision of this bylaw shall be liable to penalty of \$5 per day for each day of violation, commencing 10 days following the date of receipt of written notice of such violation from the Select Board.

ARTICLE II

Recreational Vehicles

[Adopted 5-3-2000 TM by Art. 45 (Ch. LVII of the General Bylaws)]

§ 238-6. Overnight parking on streets prohibited.

There shall be no parking on Topsfield streets between 12:00 midnight and 5:00 a.m. of recreational vehicles (or other vehicles) that have sleeping facilities, such as motor homes or "Winnebago"-type vehicles which are greater than 20 feet in length.

ARTICLE III

Commercial Vehicles

[Adopted 3-7-1960 TM by Art. 41 (Ch. LX of the General Bylaws)]

§ 238-7. Weight restrictions.

No person shall operate or use, or permit to be operated or used, a commercial vehicle having a weight when loaded which is in excess of three tons upon all public ways in the Town of Topsfield, other than state and county ways.

§ 238-8. Exceptions.

Nothing contained in this bylaw shall be construed to prohibit the use of such Town ways by commercial vehicles having a weight when loaded which is in excess of three tons which are public service or public utility vehicles or which are engaged in the delivery or collection of merchandise, construction supplies or equipment, or engaged in the collection of garbage or rubbish within the Town.

Chapter 245

WATER

ARTICLE I

Water Supply Betterment Assessment

§ 245-1. Title.

§ 245-2. Purpose.

§ 245-3. Authority.

§ 245-4. Applicability.

§ 245-5. Definitions.

§ 245-6. Betterment zones.

§ 245-7. Certification of assessment.

§ 245-8. Method of payment.

§ 245-9. Abatements.

§ 245-10. Reassessments and subdivisions.

§ 245-11. Existing betterment zones.

ARTICLE II

Water Use Restrictions

§ 245-12. Authority.

§ 245-13. Purpose.

§ 245-14. Definitions.

§ 245-15. Declaration of State of Water Supply Conservation.

§ 245-16. Conservation measures.

§ 245-17. Public notification of State of Water Supply Conservation.

§ 245-18. Termination of State of Water Supply Conservation.

§ 245-19. State of Water Supply Emergency.

§ 245-20. Violations and penalties.

§ 245-21. Right of entry.

§ 245-22. Severability.

ARTICLE III

Automatic Lawn Sprinklers

§ 245-23. Registration.

§ 245-24. Backflow prevention.

§ 245-25. Rain sensor devices.

§ 245-26. Enforcement; violations and penalties.

§ 245-27. Severability.

[HISTORY: Adopted by the Town Meeting of the Town of Topsfield as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Water Supply Betterment Assessment

[Adopted 5-3-1987 TM by Art. 38; amended 5-2-1989 TM by Art. 52 (Ch. LVIII, § 58-1, of the General Bylaws)]

§ 245-1. Title.

This article sets forth the purpose, authority and applicability of the Topsfield Water Supply Betterment Bylaw hereinafter called "bylaw."

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§ 245-2. Purpose.

The purpose of this bylaw is to establish a procedure:

- A. For creating water supply betterment zones in accordance with the applicable requirements of MGL c. 40, §§ 42G through 42I. **[Amended at time of adoption of Code]**
- B. For a fair and acceptable method of apportioning part or all of the cost among those who benefit from any proposed water supply construction in said zones.
- C. For granting abatements as provided under the applicable sections of MGL c. 80.

§ 245-3. Authority.

This bylaw has been adopted pursuant to the provisions of MGL c. 40, §§ 42G, 42H, and 42I.

§ 245-4. Applicability.

- A. The provisions of this bylaw shall apply and be binding upon all owners of land that benefit from water supply betterments constructed in water supply betterment zones established in accordance with the provisions of the bylaw, except that if the Town accepts the provisions of MGL c. 80, § 13B, owners of land affected by the provisions of this bylaw may apply for an exemption thereof with the Board of Water Commissioners.
- B. The provisions of the bylaw shall not apply to land owners located in these zones that do not receive benefit from water supply betterments constructed in these zones, nor shall they apply to construction authorized by the Board for the purpose of maintaining or improving the existing public water supply system.

§ 245-5. Definitions.

The following terms used in the bylaw shall be defined as set forth herein. Terms not herein listed shall have definitions as contained in the General Laws or the Topsfield Zoning Bylaw.

ABUTTER — Any person who owns land that fronts on a public way along which a water supply pipe has been installed under the provisions of the bylaw.

BENEFIT — For the purposes of the bylaw, benefit shall accrue to all property which abuts upon the public way in which the water pipes are to be laid for the conveyance or distribution of water in any betterment zone established under the provisions of the provisions of this bylaw and may also include such property as does not abut upon said public way but whose owner requests that the property be supplied by remote means.

FRONTAGE — The length of the front line of a property abutting a public way.

WATER MAIN — A pipe laid in the public way for the purpose of conveying and distributing water to abutters on said public way.

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§ 245-6. Betterment zones.

In the following, the procedure for establishing a water supply betterment zone is described.

A. Preparation of the plan.

- (1) The Board of Water Commissioners, hereinafter called the "Board," upon its own motion or upon petition by 10 registered voters owning land fronting on public ways, may determine the advisability of constructing water mains in said public ways.
- (2) If the Board determines that the proposed betterment should proceed, the Board shall issue an "order of betterment" wherein it is declared that all costs and damages connected with said betterment shall be assessed upon and apportioned among those owners of land that receive benefit from the betterment.
- (3) The order of betterment shall also contain a record of the Board's vote to proceed with the proposed betterment. Thereafter, the Board shall request the Town Engineer to prepare a plan for the construction of water mains in said public ways and a cost estimate of that construction. The plan and cost estimate shall be submitted to the Board within six months from the date of the request or such further time as may be requested by the Town Engineer and granted by the Board.
- (4) The plan shall, at a minimum, contain the following information:
 - (a) That portion of each public way in which a water main is to be constructed.
 - (b) The location of each such water main within the right-of-way.
 - (c) All lots that front on the ways referred to in Subsection A(4)(a), together with the names of the owners of record of each of said lots as contained in the most recent tax records.
 - (d) The measured frontage of each lot referred to in Subsection A(4)(c) and reconciled with the Assessor's records.
 - (e) Any land abutting the public way in the betterment zone which is registered with the Land Court.

B. Public hearing.

- (1) Upon receipt of the plan and cost estimate from the Town Engineer, the Board shall hold a public hearing, which shall be advertised in a newspaper of local circulation at least five days prior to the date of said hearing. Additionally, all land owners listed on the plan prepared under the provisions of Subsection A shall be notified of said hearing by registered mail.
- (2) The Board shall determine, by majority vote of all abutters present and voting, which of the four methods of assessment set forth in MGL c. 40, § 42H shall be used to apportion the cost of the proposed water betterment.
- (3) The record of vote shall be notarized and submitted to the Town Clerk within three days after the conclusion of the public hearing.

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- (4) Thereafter, the Board may recommend to the Select Board that funds for the proposed water betterment be appropriated by the Town.
 - (5) Where Town-owned land is subject to the special assessment for the proposed water betterment, the amount of said assessment shall be computed and approved by vote of the Board. The Select Board shall thereupon be notified of said assessment.
- C. Recordation of water betterment plan. In the event that the Town approves funds for the construction of the water betterment, the Board shall, within 30 days of the date of the Town Meeting, cause the order of betterment, the plan and cost estimate to be recorded at the Registry of Deeds. In the event that registered land is included in the water betterment zone as indicated on the plan, the above-mentioned documents shall also be filed with the Land Court.

§ 245-7. Certification of assessment.

Upon completion of construction, and in any event no later than six months thereafter, the Board shall certify the actual expenditures incurred in the construction, inclusive of debt service and legal fees, and determine the actual assessment to be apportioned on every property owner to receive benefits from the betterment in accordance with the assessing methods selected under the provisions of § 245-6B (2) and all applicable provisions of MGL c. 40, § 42I. The certificate of expenditures and the schedule of assessments shall be signed by the majority of the Board and submitted to the Board of Assessors. The Board of Assessors shall thereupon notify said persons of the amount assessed by the Water Commissioners.

§ 245-8. Method of payment.

All persons assessed under the provisions of this bylaw shall be given the option of paying the amount assessed over a period of 20 years at an annual interest on the unpaid balance that may not be greater than 2% above the interest rate of the water betterment bond issue four by the Town as provided under MGL c. 80, § 13.

§ 245-9. Abatements.

The Board shall adopt rules and regulations for hearing and acting on appeals for abatements of assessments levied under the provisions of this bylaw. Such rules and regulations shall be consistent with the provisions of MGL c. 80, §§ 5 and 6. Said rules and regulations shall be available upon request at the Town Clerk's office.

§ 245-10. Reassessments and subdivisions.

The applicable provisions of MGL c. 80 to the reassessment of land or the subdivision thereof shall apply to all land assessed under the provisions of this bylaw.

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§ 245-11. Existing betterment zones.

This amendment shall not apply to any existing betterment zone and said vote waives any requirements for amendment in the bylaw or any other law and hereby ratifies and confirms all existing and previous procedures concerning the adoption of the existing betterment zone.

ARTICLE II

Water Use Restrictions

[Adopted 5-2-2000 TM by Art. 43; amended 5-6-2008 TM by Art. 28 (Ch. LVIII, § 58-2, of the General Bylaws)]

§ 245-12. Authority.

This bylaw is adopted by the Town under its police powers to protect public health and welfare and its powers under MGL c. 40, § 21 et seq., as amended from time to time, and implements the Town's authority to regulate water use pursuant to MGL c. 41, § 69B. This bylaw also implements the Town's authority under MGL c. 40, § 41A, conditioned upon a declaration of water supply emergency issued by the Department of Environmental Protection.

§ 245-13. Purpose.

The purpose of this bylaw is to protect, preserve and maintain the public health, safety and welfare whenever there is in force a State of Water Supply Conservation or State of Water Supply Emergency providing for enforcement of any duly imposed restrictions, requirement, provisions or conditions imposed by the Town or by the Department of Environmental Protection and to comply with Water Management Act requirements as administered by the Department of Environmental Protection.

§ 245-14. Definitions.

As used in this bylaw, the following terms shall have the meanings indicated:

CONSERVATION MEASURES — Restrictions on water use as defined in § 245-16.

DEP — The Massachusetts Department of Environmental Protection.

ESSENTIAL USE — Includes uses of water that have a health or safety impact, are required by regulation or are needed to meet the core functions of a business or other organization. All other uses shall be considered "nonessential."

NONESSENTIAL USE — Includes uses of water that are not essential uses.

OFF-PEAK HOURS — Between 5:00 p.m. and 9:00 a.m. the following day.

OUTDOOR WATER USE — Includes but is not limited to outdoor watering, filling of swimming pools and the washing of automobiles, boats or other vehicles.

OUTDOOR WATERING — Includes watering of lawns, shrubbery, bushes or other outdoor vegetation.

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PEAK HOURS — Between 9:00 a.m. and 5:00 p.m. each day.

PERSON — Any individual, corporation, trust, partnership or association or other entity.

STATE OF WATER SUPPLY CONSERVATION — A State of Water Supply Conservation declared by the Town pursuant to § 245-15 of this bylaw.

STATE OF WATER SUPPLY EMERGENCY — A State of Water Supply Emergency declared by the Department of Environmental Protection under MGL c. 21G, §§ 15 through 17.

WATER CUSTOMERS — All users of the Town's public water system, irrespective of any person's responsibility for billing purposes for water used at any particular location.

WATER USERS — All persons, regardless of their geographic location, using water withdrawn from water sources located within the Town of Topsfield.

WMA — The Water Management Act, MGL c. 21G, and any requirement or special condition imposed under the Town under said Act.

§ 245-15. Declaration of State of Water Supply Conservation.

- A. The Town, through its Board of Water Commissioners, may declare a State of Water Supply Conservation upon a determination by a majority vote of the Board that one or more of the following conditions exist:
 - (1) A shortage of water exists. When a shortage exists, conservation measures will be imposed on water customers to ensure an adequate supply of water for all customers. A shortage of water may be caused by drought, loss of water storage, or other condition that impairs the Town's ability to meet water demand for its customers.
 - (2) Water use may exceed permitted limits. When the water system's use may exceed that which is permitted through the WMA, conservation measures will be imposed on water customers in order to comply with WMA limits.
 - (3) Ipswich River streamflow is low. When Ipswich River streamflow falls below limits specified through the WMA, requiring the implementation of the conservation measure specified as "outdoor water use peak hours ban," an outdoor water use peak hours ban will be imposed on all water users in order to comply with the WMA requirements.
 - (4) Ipswich River streamflow is very low. When Ipswich River streamflow falls below limits specified through the WMA, requiring the implementation of the conservation measure specified as "outdoor water use restriction," an outdoor water use restriction will be imposed on all water users in order to comply with the WMA requirements.
- B. Public notice of a State of Water Supply Conservation shall be given under § 245-17 of this bylaw before it can be enforced.

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§ 245-16. Conservation measures.

A declaration of a State of Water Supply Conservation shall specify one or more of the following conservation measures and shall specify whether the measure(s) are voluntary or mandatory and whether the measure(s) apply to water customers only or to all water users. The applicable restrictions, conditions or requirements shall be included in the public notice required under § 245-17 and shall not apply to essential uses.

- A. Outdoor watering odd/even day restriction. Outdoor watering at odd-numbered addresses is restricted to odd-numbered days; outdoor watering at even-numbered addresses is restricted to even-numbered days.
- B. Outdoor water use peak hours ban. Outdoor water use is prohibited during peak hours.
- C. Outdoor water use restriction. Outdoor water use is prohibited during peak hours and outdoor water use during off-peak hours is limited to hand-held hoses, buckets or watering cans.
- D. Total outdoor water use ban. Outdoor water use is prohibited.

§ 245-17. Public notification of State of Water Supply Conservation.

Notification of any provision, restriction, or condition imposed by the Town as part of a State of Water Supply Conservation shall be published in a newspaper of general circulation within the Town, or by such means reasonably calculated to reach and inform all users of water of the State of Water Supply Conservation. Any restriction imposed under § 245-16 shall not be effective until such notification is provided. Notification of the State of Water Supply Conservation may also be simultaneously provided to the Massachusetts Department of Environmental Protection.

§ 245-18. Termination of State of Water Supply Conservation.

- A. A State of Water Supply Conservation may be terminated by a majority vote of the Board of Water Commissioners, upon a determination that the conditions requiring the State of Water Supply Conservation no longer exist. Public notification of the termination of a State of Water Supply Conservation shall be given in the same manner required by § 245-17.
- B. All water usage restrictions issued by the Board pursuant to this bylaw shall be superseded by water usage restrictions issued by the DEP under its declaration.

§ 245-19. State of Water Supply Emergency.

Upon notification to the public that a declaration of a State of Water Supply Emergency has been issued by the DEP, no person shall violate any provision, restriction, requirement or condition of any order approved or issued by the DEP intended to bring about an end to the state of emergency.

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§ 245-20. Violations and penalties.

- A. Any person violating any section of this bylaw shall be liable to the Town in the amount listed below:
 - (1) First violation: warning.
 - (2) Second violation: \$50.
 - (3) Third violation: \$100.
 - (4) Fourth and subsequent violations: \$300.
- B. The fines and charges shall inure to the Town. Fines shall be recovered by indictment or on complaint before the District Court or by noncriminal disposition in accordance with MGL c. 40, § 21D. For purposes of noncriminal disposition, the enforcing person shall be any police officer of the Town or the Water Superintendent. Each day of violation within a declared State of Water Supply Conservation or State of Water Supply Emergency shall constitute a separate offense.

§ 245-21. Right of entry.

Entrance to any building, dwelling or business property shall be restricted as follows:

- A. Public buildings may only be entered during normal business hours and in areas normally available to the general public, or upon the order of a court of law having jurisdiction.
- B. Private property may be entered only with the advice and consent of the owner, or upon the order of a court of law having jurisdiction.

§ 245-22. Severability.

If any portion or provision of this bylaw is deemed invalid, the remaining portions and provisions shall remain binding.

ARTICLE III

Automatic Lawn Sprinklers

[Adopted 5-2-2000 TM by Art. 43 (Ch. LVIII, § 58-3, of the General Bylaws)]

§ 245-23. Registration.

- A. All automatic lawn sprinkler systems connected to the municipal water system in the Town of Topsfield shall be registered with the Board of Water Commissioners. A fee may be charged for this registration. Registration fees shall be set by the Board of Water Commissioners.
- B. All sprinkler systems subject to this bylaw shall be plumbed so that a shutoff valve is located outside the building and situated so that it may be shut off if found to be in

violation of this bylaw and/or the Water Use Restriction Bylaw.¹ For the purposes of this section only, police officers of the Town and/or agents of the Board of Water Commissioners may enter upon any property to enforce this section.

§ 245-24. Backflow prevention.

- A. All automatic lawn sprinkler systems connected to the municipal water system in the Town of Topsfield shall be protected from a backflow condition by the installation of a backflow prevention device approved by the Board of Water Commissioners. Each backflow prevention device shall be registered with the Board of Water Commissioners. A fee may be charged for this registration. Registration fees shall be set by the Board of Water Commissioners.
- B. The Board of Water Commissioners shall maintain a list, available to the public, of approved backflow prevention devices.
- C. Each backflow prevention device shall be installed in accordance with Massachusetts General Laws and the manufacturer's instructions. Each device shall be tested upon its installation and annually thereafter, in accordance with Massachusetts General Laws. A Massachusetts certified backflow device tester shall perform all testing. Copies of results of all testing shall be filed with the Water Department.

§ 245-25. Rain sensor devices.

- A. Installation of new automatic lawn sprinkler systems connected to the municipal water supply in the Town of Topsfield shall be equipped with a rain sensor device, approved by the Board of Water Commissioners, so that watering will be automatically prevented during rain storms.
- B. Any service or repair to an existing automatic lawn sprinkler system shall include the installation of an approved rain sensor device, if the same is not already installed and in good working condition.
- C. The Board of Water Commissioners shall maintain a list, available to the public, of approved rain sensor devices.

§ 245-26. Enforcement; violations and penalties.

- A. This bylaw may be enforced using the Noncriminal Disposition Bylaw. The enforcing person shall be any police officer of the Town as well as duly appointed agents of the Board of Water Commissioners.
- B. The noncriminal penalties for violations of this bylaw shall be:
 - (1) First violation: warning.
 - (2) Second violation: \$50.

¹ Editor's Note: See Art. II of this chapter.

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(3) Third and subsequent violations: \$100.

C. The fines and charges shall inure to the Town. Each day of violation shall constitute a separate violation.

§ 245-27. Severability.

The invalidity of any portion or provision of this bylaw shall not invalidate any other portion or provision thereof.

Chapter 250

WETLANDS

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| § 250-1. Purpose. | § 250-11. Amendments to permits. |
| § 250-2. Jurisdiction. | § 250-12. Appeals. |
| § 250-3. Definitions. | § 250-13. Emergency projects. |
| § 250-4. Filing procedures. | § 250-14. Preacquisition violations. |
| § 250-5. Entry upon private property. | § 250-15. Rules and regulations. |
| § 250-6. Request for determination of applicability. | § 250-16. Severability. |
| § 250-7. Public hearing. | § 250-17. Security. |
| § 250-8. Administrative permits. | § 250-18. Enforcement; violations and penalties. |
| § 250-9. Burden of proof. | § 250-19. Recording of permits and adjustments. |
| § 250-10. Issuance or denial of permit; terms and conditions. | |

[HISTORY: Adopted by the Town Meeting of the Town of Topsfield 5-2-1989 TM by Art. 58 (Ch. LXII of the General Bylaws). Amendments noted where applicable.]

§ 250-1. Purpose.

The purpose of this bylaw is to protect the wetlands, floodplains, water resources and adjoining land areas in the Town of Topsfield by prior review and control of activities deemed by the Conservation Commission ("the Commission") likely to have a significant or cumulative effect on wetland values, including but not limited to the following (collectively, the "interests protected by this bylaw"):

- A. Public or private water supply;
- B. Groundwater or surface water;
- C. Flood control;
- D. Erosion or sedimentation control;
- E. Storm damage prevention;
- F. Water quality;
- G. Water pollution prevention;
- H. Fisheries;
- I. Wildlife habitat;
- J. Recreation.

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§ 250-2. Jurisdiction. [Amended 5-2-2000 TM by Art. 42; 5-3-2005 TM by Art. 33]

- A. Except as permitted by the Conservation Commission or as provided in this bylaw, no person shall remove soil or vegetation from, fill, dredge, build upon, discharge into or alter the following resource areas:
 - (1) Freshwater wetlands;
 - (2) Bodies of water;
 - (3) Land under water;
 - (4) Banks;
 - (5) Vernal pools;
 - (6) Land within 100 feet of freshwater wetlands, bodies of water, land under water, banks or vernal pools;
 - (7) Riverfront area;
 - (8) Land subject to flooding;
 - (9) Isolated wetlands 5,000 square feet or less in size that are within the one-hundred-foot resource area of a wetland, stream, or within riverfront area.
- B. Any activity proposed or undertaken outside the above areas is not subject to regulation under this bylaw and does not require the filing of a permit application unless and until that activity actually affects or alters any of the resource areas.
- C. In the event that the Commission determines that such activity has, in fact, affected or altered a resource area as identified in this bylaw, it shall impose such conditions on the activity or any position thereof as it deems necessary to contribute to the protection of the interests identified in this bylaw.

§ 250-3. Definitions. [Amended 5-2-2000 TM by Art. 42; 5-3-2005 TM by Art. 33]

- A. Except as otherwise provided in this bylaw or regulations of the Commission, the definitions of terms in this bylaw shall be as set forth in the Wetlands Protection Act, MGL c. 131, § 40, and in 310 CMR 10, as amended from time to time.
- B. The following definitions shall apply in the interpretation and implementation of this bylaw:

ALTER — To change the condition of any area subject to protection under this bylaw. Examples of alterations include, but are not limited to, the following:

- (1) Removal, excavation or dredging of soil, sand, gravel or aggregate materials of any kind;
- (2) Changing of preexisting drainage characteristics, flushing characteristics, sedimentation patterns, flow patterns or flood retention characteristics;
- (3) Drainage or other disturbances of water level or water table;

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- (4) Dumping, discharging or filling with any material which may degrade water quality;
- (5) Placing of fill, or removal of material, which would alter elevation;
- (6) Driving of piles, erection or repair of buildings, or structures of any kind;
- (7) Placing of obstructions or objects in water;
- (8) Destruction of plant life, including cutting of trees;
- (9) Changing water temperature, biochemical oxygen demand or other physical or chemical characteristics of water;
- (10) Any activities, changes or work which may cause or tend to contribute to pollution of any body of water or groundwater;
- (11) Application of pesticides or herbicides.

BODY OF WATER — Any lake, pond, river or stream, whether intermittent or not, man-made or natural.

FLOODPLAIN — Bordering land subject to flooding as defined by 310 CMR 10.57(2)(a), as may be amended from time to time.

FRESHWATER WETLAND — Includes any marsh, bog, swamp or wet meadow, whether or not it borders on water. The wetland may be defined by its vegetational community, soil composition or hydrologic regime. A wetland not bordering on a body of water and not exceeding 5,000 square feet shall not be subject to protection under this bylaw.

LAND SUBJECT TO FLOODING — Includes all land subject to inundation by ground- or surface water, including land within the one-hundred-year floodplain, isolated land subject to flooding and bordering land subject to flooding.

RIVERFRONT AREA — The area of land measured horizontally 200 feet from the mean annual high-water line of a perennial river or stream. "Mean annual high water" shall mean the farthest horizontal extent of flooding in an average year. When determining the extent of said flooding, the Commission shall employ indicators such as changes to vegetational communities; stain lines on abutments, rocks, trees and culverts; fluvial deposits; changes in slope; bank undercuts; and other easily identifiable indicators of the presence or flow of water. When available from a reliable public source, gauged data may also be used to aid in the determination of the extent of the flooding in an average year.

STREAM —

- (1) A body of running water, including rivers, brooks, creeks and seasonal watercourses, that moves in a channel or swale, with or without banks, over the ground due to a hydraulic gradient. A portion of a stream may flow through a culvert or subsurface drain or under a bridge. A stream may be natural or man-made, continuous or intermittent.

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- (2) A perennial stream is one that normally flows year-round. There are various reasons for a perennial stream to have low flow, such as during times of drought, due to water withdrawals, as the result of beaver activity and as the result of human activities such as dam construction or water diversion. Perennial streams in Topsfield include, but shall not be limited to, the following:

Ipswich River	Boxford Town line to the Ipswich Town line
School Brook	Howlett Street to the Ipswich River
Cleveland Brook	Gail Street to School Brook
Pye Brook	Boxford Town line and Hood's Pond to Howlett Brook
Howlett Brook	Pye Brook to the Ipswich River
Mile Brook	Pye Brook to the Ipswich River
Fish Brook	Boxford Town line to the Ipswich River
Nichols Brook	Danvers Town line to the Ipswich River
Cow Pen Brook	Wetland behind Perkins Row to Mile Brook
Slough Brook	Washington Street to the Ipswich River
Hobbs Brook	Ipswich Town line near East Street to Howlett Brook
Unnamed Stream	behind 10 Surrey Lane to Fish Brook
Wheel Brook	Salem Beverly Water Supply Board pond at Route 1 to the Danvers Town line

§ 250-4. Filing procedures.

- A. Permit applications, which may be identical in form to state notices of intention as required pursuant to MGL c. 131, § 40, shall, at a minimum, have the same content as that required by those notices of intention. The applications must include such plans as may be necessary to describe the proposed activity and its effect upon the interest protected by this bylaw. No work shall begin until the permit, which may be the same as the order of conditions issued under MGL c. 131, § 40, has been issued, all appeal periods have expired, and said permit has been recorded with the Registry of Deed or Land Court in accordance with § 250-19 of this bylaw.
- B. The application shall be sent by certified mail, return receipt, or hand delivered to the Administrator of the Topsfield Conservation Commission at the Town Hall, or in his/her absence to the Town Clerk. No such applications shall be sent before all permits, variances and approvals required by local bylaw with respect to the proposed activity have been obtained. Except that, at the option of the applicant, such notice may be sent, at the option of the applicant, after the filing of an application or applications for said permits, variances and approvals; provided that such notice shall include any information submitted in connection with such permits, variances and approvals which is necessary to describe the effect of the proposed activity on the interests protected by this bylaw.

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- C. The applicant shall pay fees as specified in the regulations adopted under this bylaw. The Commission may waive the fees, costs and expenses for an application or request filed by a government agency. **[Amended 5-2-2000 TM by Art. 42]**

§ 250-5. Entry upon private property.

The Commission, its agents, officers and employees may enter upon privately owned land for the purpose of performing their duties under this bylaw.

§ 250-6. Request for determination of applicability.

An applicant may submit a written request to the Commission for a determination of the applicability of this bylaw to any land or work thereon. Upon receipt of said request, the Commission shall, within 21 calendar days, make a written determination as to whether this bylaw is applicable to the land or work as described by plans submitted with the request, unless an extension is authorized in writing by the applicant.

§ 250-7. Public hearing. [Amended 5-2-2000 TM by Art. 42; 5-4-2010 TM by Art. 26]

- A. When an application for a determination of applicability or for a permit as provided in §§ 250-4 and 250-6 has been submitted to the Commission, a public hearing on said application shall be scheduled by the Commission within 21 calendar days of the date of submission as determined by the date of receipt, unless an extension is authorized in writing by the applicant. Notice of the time and place of such hearing and of the subject matter, sufficient for identification, shall be given by the Commission (at the expense of the applicant) by advertisement in a newspaper of general circulation in Topsfield at least five business days prior to the date of such hearing and by mailing a copy of such advertisement to the applicant. For applications filed only under this bylaw, and not concurrently under the Wetlands Protection Act, the Commission may allow publication of such notice on the Town's web page, in lieu of publication in a local newspaper.
- B. The applicant shall notify all owners of land within 100 feet of the land included in such plan of the Commission hearing and the subject matter. The applicant shall present evidence of having complied with this requirement prior to the advertised hearing.

§ 250-8. Administrative permits. [Added 5-4-2010 TM by Art. 26]

The provisions of § 250-7 notwithstanding, the Commission may, by regulation, provide for the issuance of administrative permits for the maintenance or improvement of land within 100 feet of freshwater wetlands, bodies of water, land under water, or banks, but excluding riverfront area, in connection with existing residential uses. Such administrative permits maybe issued by the Commission or the Conservation Administrator without a hearing.

§ 250-9. Burden of proof.

- A. The applicant shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the application will not adversely affect the interests

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protected by this bylaw. The Commission may, if a majority of its members deems it necessary in order to make a decision before issuing a permit, require that the applicant provide an engineering, hydrogeological or other study. No engineering, hydrogeological or other study shall commence until such time as the applicant has agreed in writing to the specified study. The costs of such studies are to be borne by the applicant. Selection of a consultant to perform a required study shall be subject to the approval of the Commission, which approval shall be based on the experience, qualifications and credentials of the consultant.

- B. Failure to provide adequate evidence to the Commission supporting a determination that the proposed work will not adversely affect the interests protected by this bylaw shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions, or in the Commission's discretion to continue the hearing to another date to enable the applicant or others to present additional evidence. The Commission and the applicant may also mutually agree to continue the hearing.

§ 250-10. Issuance or denial of permit; terms and conditions.

- A. The Commission shall issue a permit to the applicant or, if in the opinion of the Commission the proposed work described in the application may adversely affect the interests protected by this bylaw, deny such permit within 21 calendar days after the conclusion of the public hearing or such further time as may be agreed upon at the written request of the applicant. In the permit or denial, the Commission shall set forth in what manner the interests of this bylaw are affected. The Commission may impose such conditions as it determines are necessary to protect those interests. All work shall conform to the conditions set forth in the permit.
- B. In the event of a denial of an application, the Commission shall set forth in detail the reasons for the denial. The Commission shall send notice of such action to the applicant by certified mail at the address stated on the application.
- C. Permits shall expire three years from the date of issuance. An applicant may apply for an extension at least 30 calendar days prior to the expiration of the permit or extension and the Commission may grant extensions for one or more periods of up to three years each. **[Amended 5-2-2000 TM by Art. 42]**

§ 250-11. Amendments to permits.

- A. The conditions contained in the permit issued under the provisions of § 250-10 may be amended by the Commission with the consent of the applicant. Amendments that may be approved by the Commission shall be limited to the following:
 - (1) Amendments by deletion, provided that such deletions do not derogate from the intent and purpose of the permit conditions.
 - (2) Perfecting amendments, inclusive of, but not limited to, the correction of typographical errors and errors of reference.
 - (3) Amendments that alter the scope but not the intent of the particular condition being amended.

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- B. The Commission shall not approve any amendments to conditions contained in permits for work that have been completed in accordance with the provisions contained in the original permit.
- C. For good cause, the Commission may revoke or modify a permit issued under this bylaw, after notice to the holder of the permit, notice to the public, abutters and a public hearing.

§ 250-12. Appeals.

Any aggrieved party may appeal the action or inaction of the Commission. Appeals may be taken as provided by MGL c. 249, § 4, as amended.

§ 250-13. Emergency projects. [Amended 5-2-2000 TM by Art. 42]

The notice provisions of this bylaw shall not apply to emergency projects initiated by the Town of Topsfield or other governmental boards, agencies or commissions necessary for the immediate protection of public health, safety and welfare within Topsfield. However, the Commission shall be notified within 24 hours of the commencement of such projects. In the absence of members of the Commission, notification may be made to the Select Board or Board of Health. A certificate of emergency condition shall be filed with the Commission by the board, agency or commission which authorized the project, within 14 days after the initiation of work.

§ 250-14. Preacquisition violations. [Amended at time of adoption of Code]

Any person who purchases, inherits or otherwise acquires real estate upon which work has been done in violation of the provisions of this bylaw or in violation of any order issued pursuant to this bylaw, shall forthwith comply with an order to restore such real estate to its condition prior to any such violations or to comply with conditions determined by the Commission if restoration is impractical. No action by the Town of Topsfield, civil or criminal, shall be brought against such person unless commenced within three years of the acquisition of the real estate.

§ 250-15. Rules and regulations.¹

After due notice and public hearing, the Commission shall promulgate regulations and procedures for compliance with this bylaw, a copy of which shall be filed with the Town Clerk. Failure by the Commission to promulgate such procedures or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effects of this bylaw.

¹ Editor's Note: See Ch. 384, Wetland Regulations.

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§ 250-16. Severability.

The invalidity of any section or provision of this bylaw shall not invalidate any other section, nor shall it invalidate any permit or determination which previously had been issued.

§ 250-17. Security.

As part of a permit issued under this bylaw, in addition to any security required by any other municipal or state board, agency or official, the Commission may require that the performance and observance of the conditions imposed hereunder be secured wholly or in part by one or more of the methods described below and which have been approved by Town Counsel:

- A. By a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Commission;
- B. By a conservation restriction, easement or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality, whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed.

§ 250-18. Enforcement; violations and penalties. [Amended 5-2-2000 TM by Art. 42]

- A. The Commission shall have authority to enforce this bylaw, its regulations and permits issued thereunder by violation notices, enforcement orders and civil and criminal court actions.
- B. Upon request of the Commission, the Select Board and the Town Counsel shall take legal action for enforcement under civil law. Upon request of the Commission, the Chief of Police shall take legal action for enforcement under criminal law.
- C. In addition to the duties previously set forth in this bylaw, the Commission, its agents, officers and employees, and any officer with police powers may issue enforcement orders directing compliance with this bylaw and may undertake any other enforcement action authorized by law. Any person who violates the provisions of this bylaw may be ordered to restore property to its original condition and take other actions deemed necessary to remedy such violations.
- D. No person shall remove, fill, dredge or alter any area subject to protection under this bylaw without the required authorization, or cause, suffer or allow such activity or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with an enforcement order issued pursuant to this bylaw. Each day such violation continues shall constitute a separate offense, except that any person who fails to remove unauthorized fill or otherwise fails to restore illegally altered land to its original condition after giving written notification of said violation to the Conservation Commission and the Department shall not be subject to additional penalties unless said person thereafter fails to comply with an enforcement order or order of conditions.

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- (1) Criminal complaint. Whoever violates any provision of the General Wetlands Bylaw, regulations thereunder or permits issued thereunder may be penalized by indictment or on complaint brought in District Court. Except as may otherwise be provided by law, and as the District Court may see fit to impose, the maximum penalty for any violation of these provisions shall be \$300 for each offense. Each day on which any violation exists shall be deemed to be a separate offense.
- (2) Noncriminal disposition. In addition to the procedure set forth in Subsection D (1), the provisions of the General Wetlands Bylaw may also be enforced by the Conservation Administrator or a police officer of the Town, by a noncriminal complaint pursuant to the provisions of MGL c. 40, § 21D. Each day on which any violation continues to exist shall be deemed to be a separate offense.

E. The penalties for violation of any provision of the General Wetlands Bylaw shall be as follows:

	Buffer Zone	Bylaw Resource Area (other than buffer zone)	Noncompliance with Order of Conditions or Enforcement Order
First offense	\$50	\$100	\$200
Second offense	\$200	\$200	\$300
Third offense and any subsequent	\$300	\$300	\$300

§ 250-19. Recording of permits and adjustments. [Amended 5-3-1983 TM by Art. 30; 5-2-2000 TM by Art. 42; 5-3-2005 TM by Art. 33]

Prior to the commencement of work subject to any permit issued under the provisions of § 250-10 and any amendment thereof approved under the provisions of § 250-11, the permits and amendments thereto shall be recorded with the Essex County Registry of Deeds; or in the event that the permit has been issued for work on registered land, with the Land Court of the commonwealth. A copy of the recorded permit shall be submitted to the Commission.

DIVISION 2

RULES AND REGULATIONS

Chapter 303

ALCOHOLIC BEVERAGE LICENSES

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- § 303-2. Factual findings.
- § 303-3. Statement of purpose.

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- § 303-4. Statutory authority.
- § 303-5. Additional rules.
- § 303-6. Single license for sale of wine and malt beverages to be drunk on premises.
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- § 303-13. Filing of applications; fees.
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ARTICLE VI

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- § 303-33. Applicability of rules and regulations.

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| § 303-40. Business arrangements of licensees for all licenses. | § 303-50. Permission to close premises required. |
| § 303-41. Alcoholic beverage sales and laws for on-premises licenses. | § 303-51. Bankruptcy and court proceedings. |
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| § 303-43. Inspections and investigations. | § 303-53. Service training. |

[HISTORY: Adopted by the Select Board of the Town of Topsfield 9-27-2004, as amended through 10-20-2014. Subsequent amendments noted where applicable.]

INTRODUCTION: In issuing these regulations, the Select Board, as the licensing authority of the Town of Topsfield, is setting forth the expectations of the citizenry as to a) the process and standards for issuance of the single alcoholic beverage licenses authorized by Chapters 58 and 61 of the Acts of 2003, Chapter 225 of the Acts of 2006, Chapter 127 of the Acts of 2008 and Chapter 135 of the Acts of 2013, b) the process and standards for the issuance of the eight alcoholic beverage pouring licenses authorized by Chapter 315 of the Acts of 2014 and c) the conduct of holders of the foregoing licenses. The significant objectives of these regulations are the assurance that i) the holder of the Chapter 58 license operates a restaurant with broad appeal to the citizens of Topsfield; ii) the holders of the Chapters 61, 127 and 225 licenses respectively operate food stores which sell beer and wine pursuant to legal requirements and these regulations and incidental to the sale of food or other products; iii) the holder of the Chapter 135 license operates a farmer winery pursuant to legal requirements and these regulations; and iv) the holders of any Chapter 315 licenses serve alcoholic beverages in compliance with Chapter 138 of the General Laws, these regulations and other applicable legal requirements. In familiarizing themselves with these regulations, both applicants and license holders will realize that much is expected of them. The Select Board believes that these regulations will require license holders to operate in accordance with a clearly defined, high standard.

ARTICLE I

Purpose and Findings**§ 303-1. Procedural history.**

- A. The Select Board ("Select Board") of the Town of Topsfield appointed a Special Alcohol License Advisory Committee ("Advisory Committee") on September 22, 2003, to study and make recommendations on the implementation of Chapters 57, 58 and 61 of the Acts of 2003 in the Town of Topsfield.
- B. The Advisory Committee studied these issues extensively for one year and filed reports with the Select Board on January 26, 2004, and August 17, 2004. The January 26, 2004 Report dealt with the issuance of "special" or one-day licenses for the sale of wine and/or malt beverages by nonprofit organizations and made certain recommendations to the Select Board regarding the process for issuance of such licenses pursuant to Chapter 57 of the Acts of 2003. The Select Board studied the First Report and on March 15, 2004, adopted the rules and regulations suggested by the Advisory Committee, with some modifications.
- C. The Second Report of the Advisory Committee related to the issuance and administration of the licenses to sell or serve wine and/or malt beverages authorized by Chapters 58 and 61 of the Acts of 2003. The Advisory Committee also proposed an initial draft of these regulations. The Select Board studied the Second Report and solicited public comment with respect to the issuance and administration of the licenses. A public hearing was held by the Select Board relative to the adoption of regulations to implement Chapters 58 and 61 of the Acts of 2003 on August 17, 2004. The Select Board adopted these regulations on September 27, 2004.
- D. Following the passage of Chapter 225 of the Acts of 2006, the Advisory Committee proposed modifications to these regulations to incorporate the provisions of Chapter 225. Those modifications were adopted by the Select Board after public hearing on November 27, 2006. Following the passage of Chapter 127 of the Acts of 2008, the Advisory Committee proposed modifications to these regulations to incorporate the provisions of Chapter 127. Those modifications were adopted by the Select Board after public hearing on September 29, 2008. Following the passage of Chapter 135 of the Acts of 2013, the Advisory Committee proposed modifications to these regulations to incorporate the provisions of Chapter 135. Those modifications were adopted by the Select Board at its meeting on July 28, 2014.
- E. Following the passage of Chapter 315 of the Acts of 2014, the Town of Topsfield was authorized to issue up to eight all alcoholic beverage pouring licenses to licensed common victualler's subject of the provisions of Chapter 138 of the General Laws. The Advisory Committee proposed further modifications to the Regulations to incorporate the provisions of Chapter 315. After hearing, the Select Board adopted further modifications to these Regulations on October 20, 2014.

§ 303-2. Factual findings.

In issuing these regulations, the Select Board makes the following factual findings:

- A. There are no traditional restaurants in Topsfield open to the public and where adults can congregate for purely social purposes on a daily basis for the service of a meal after 5:00 p.m.
- B. A major factor contributing to the absence of any traditional restaurant in Topsfield is that it has not accepted the provisions of Chapter 138 of the General Laws.
- C. There is no market or grocery store in Topsfield which sells fresh produce, meats, fish or poultry or fresh bakery goods. Topsfield does not have a traditional grocery store. Every grocery store in the last 30 years operating in Topsfield has closed. Town wide surveys have indicated a widespread belief that the presence of one or more restaurants or grocery stores would help rejuvenate the downtown area. The majority of citizens in Topsfield believe the downtown business area lacks a more complete range of businesses.
- D. The citizenry of Topsfield generally believes that the public good would be served and the quality of life in Topsfield would be enhanced by the presence of a restaurant and a food store.
- E. The citizenry of Topsfield generally believes that it is highly unlikely that either a restaurant or food store can attract sufficient business to operate profitably unless allowed to augment revenue by selling beer and wine.
- F. The citizens of Topsfield have been reluctant to accept Chapter 138 of the General Laws in its entirety for fear that multiple alcoholic beverages licenses would significantly and adversely change the character of the Town.
- G. The citizens of Topsfield desire that the licenses authorized by Chapters 58 and 61 of the Acts of 2003 and Chapter 127 of the Acts of 2008 be issued to businesses which will provide services (i.e., a restaurant and a food-type store) desired generally by the citizens but which cannot function profitably without the ability to augment revenues from the sale of beer and wine.
- H. The citizens of Topsfield desire that licenses authorized by Chapters 58 and 61 of the Acts of 2003 and Chapter 127 of the Acts of 2008 be issued to qualified individuals or businesses who are both responsible and have an acceptable plan of operation which is likely to enhance the quality of life in Topsfield. An acceptable "plan of operation" is an indispensable requirement to the issuance of either license.
- I. There are only single licenses authorized by Chapters 58 and 61 of the Acts of 2003 and Chapter 127 of the Acts of 2008. Applications will be accepted for these licenses using a competitive process if there are multiple applicants. The Authority is not required to issue a license if only one application is submitted and the Authority decides that the grant of the application is not in the public interest. In addition to site control and demonstrated character, a successful applicant will be expected to produce an acceptable plan of operation and to satisfy all zoning, parking, septic, Board of Health and other public health and safety requirements as a precondition to the issuance of any license. The Select Board shall reject any application which does not meet all

such requirements. The Select Board will not issue any licenses pursuant to Chapter 58 or 61 of the Acts of 2003 or Chapter 127 of the Acts of 2008 if all requirements are not satisfied.

- J. The single license authorized by Chapter 135 of the Acts of 2013 is a license for a limited purpose and is nontransferable. The license authorized by Chapter 135 to Alfalfa Farm Winery shall not require a competitive process but only a determination that the owner of Alfalfa Farm Winery is a responsible individual who will operate his premises in accordance with all legal requirements pursuant to an acceptable plan of operation which is likely to improve the quality of life in Topsfield.
- K. The eight licenses authorized by Chapter 315 of the Acts of 2014 are pouring licenses permitting the sale of all alcoholic beverages to be drunk on premises. Those licenses will be awarded only to qualified businesses and individuals with sufficient resources and good character and having an acceptable plan of operation, with the primary objective being to promote business and enhance the quality of life in Topsfield.

§ 303-3. Statement of purpose.

- A. The following policy statement sets forth the goals and objectives of the Select Board for the issuance and regulation of licenses for the sale of beer and wine pursuant to Chapters 58 and 61 of the Acts of 2003 and Chapter 127 of the Acts of 2008:
 - (1) It is the goal of the Topsfield Select Board, as the licensing authority, to provide for a) one quality restaurant with a seating capacity of 100 or less for the responsible sale and service of food and drink to the public, and b) two quality establishments for the sale of beer and wine incidental to the sale of food and other products; and to regulate all such establishments to ensure they are operated responsibly, do not detract from the quality of life in the surrounding neighborhood or in the Town of Topsfield as a whole. The Select Board believes the licensing for sale of beer and wine is a serious matter. Accordingly, it considers location of any proposed licensed establishment or gathering and its potential impact on the surrounding neighborhood, particularly when in proximity to a school or religious institution. In addition, the potential traffic and noise impact created by licensing an establishment for the sale of alcoholic beverages is also a consideration.
 - (2) In particular, the Select Board recognizes the public's need for a quality restaurant for dining and socializing and for at least one quality food store and believes that the beer and wine licenses afforded the Town by Chapters 58 and 61 of the Acts of 2003 and Chapter 127 of the Acts of 2008 should fulfill the public need and be issued only upon compelling evidence that their issuance will be in the common good and significantly improve the quality of life in the Town by facilitating the availability of a restaurant and food store.
 - (3) Applications or transfers shall be scrutinized closely to ensure that principals and managers are of good character and qualified. They must show the Select Board that they will operate a closely supervised restaurant or food store which will present some new or continued, in the event of a transfer, benefits to the citizens

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of Topsfield. Past performance of owner and management in the operation of a restaurant or food service establishment will also be considered.

- (4) Hours of operation shall be regulated so as to protect the quality of life in Town and discourage excessive drinking. Server training and other conditions may be imposed to ensure the responsible service of alcoholic beverages.
 - (5) Any licensed premises may be subject to regular inspections by the police or other authorized agents of the Select Board. Violators may be subject to possible suspension or revocation of license. Discipline for violations may also include reducing hours or other suitable restrictive conditions.
- B. With respect to the ability to grant a license to Alfalfa Farm Winery pursuant to Chapter 135 of the Acts of 2013, it is the goal of the Topsfield Select Board, as the licensing authority, to issue any license pursuant to Chapter 135 of the Acts of 2013 only if the applicant provides an acceptable plan of operation in which a farmer winery is operated consistent with the public interest and welfare and subject to appropriate conditions consistent with Chapter 138 of the General Laws and these regulations.
 - C. With respect to the ability to grant any of the eight all alcoholic beverage pouring licenses pursuant to Chapter 315 of the Acts of 2014, it is the goal of the Topsfield Select Board, as the licensing authority, to issue any license pursuant to Chapter 315 of the Acts of 2014 only if the applicant provides an acceptable plan of operation in which a licensed facility is operated consistent with the public interest and welfare and subject to appropriate conditions consistent with Chapter 138 of the General Laws and these regulations.
 - D. The following rules and regulations have been promulgated to achieve these goals and objectives.

ARTICLE II

Scope of and Statutory Basis for Promulgation of Rules

§ 303-4. Statutory authority.

The statutory basis for the promulgation of these rules is set forth within the applicable sections of MGL c. 138, Chapters 58 and 61 of the Acts of 2003, Chapter 127 of the Acts of 2008, Chapter 135 of the Acts of 2013 and Chapter 315 of the Acts of 2014. Each reference to a statute shall include any amendment thereto. These regulations are adopted, and may be amended from time to time, by the Select Board. All alcoholic beverage and common victualler's licenses issued by the Select Board shall be governed by these regulations.

§ 303-5. Additional rules.

These rules are supplementary to any statutory requirements and to the rules of the Alcoholic Beverages Control Commission.

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§ 303-6. Single license for sale of wine and malt beverages to be drunk on premises.

Pursuant to the provisions of Chapter 58 of the Acts of 2003, accepted by the voters of the Town of Topsfield at the Town Election held May 7, 2002, the Select Board is authorized to grant a single license for the sale of wines and malt beverages to be drunk on the premises in a restaurant having not more than 100 seats.

§ 303-7. Single license for sale of wine and malt beverages not to be drunk on premises.

Pursuant to the provisions of Chapter 61 of the Acts of 2003, the Select Board is also authorized to grant a single license for the sale of wines and malt beverages not to be drunk on premises and incidental to the sale of food products.

§ 303-8. One-day licenses for nonprofit organizations.

Pursuant to the provisions of Chapter 59 of the Acts of 2003, the Select Board is also authorized to grant special or "one day" licenses for the sale of wines and malt beverages by nonprofit organizations. These regulations do not apply to the issuance of any such licenses.

§ 303-9. Single license for sale of wine and malt beverages incidental to other sales.

Pursuant to the provisions of Chapter 127 of the Acts of 2008, the Select Board is also authorized to grant a single license for the sale of wines and malt beverages not to be drunk on premises and incidental to the sale of food and other products.

§ 303-10. License for Alfalfa Farm Winery.

Pursuant to the provisions of Chapter 135 of the Acts of 2013, the Select Board is also authorized to grant a single license to Alfalfa Farm Winery for the sale of wines to be drunk on premises as part of a farmer winery.

§ 303-11. Pouring licenses.

Pursuant to the provisions of Chapter 315 of the Acts of 2014, the Select Board is also authorized to grant eight licenses for the sale of all alcoholic beverages to be drunk on premises.

ARTICLE III

Identification of Town Licensing Authority

§ 303-12. Select Board to act as licensing authority.

The licensing authority for the Town of Topsfield shall consist of the Select Board. This authority is granted to the Select Board by MGL c. 138 and Chapters 58, 59 and 61 of the Acts of 2003, Chapter 127 of the Acts of 2008, Chapter 135 of the Acts of 2013 and Chapter 315 of the Acts of 2014.

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ARTICLE IV

License Application Procedural Summary; Definitions**§ 303-13. Filing of applications; fees.**

All license applications must be "complete" to be considered by the Select Board. An application shall be considered "complete," and eligible for consideration, when it has been filed in accordance with the Town's procedural instructions, all forms required have been fully completed and executed and the plan of operation and all required supporting documentation have been filed. Application filing fees must be paid prior to processing of the application by the Select Board. Annual license fees shall be payable immediately upon approval of the license by the Select Board. All filing fees shall be paid by certified check or money order. Filing fees are not refundable once the Select Board has accepted an application. License fees shall not be prorated and are not refundable.

§ 303-14. License and application fees.

- A. Effective January 1, 2014, the annual fee for licenses issued pursuant to these regulations shall be as follows:
 - (1) Restaurant license, sale of wine and malt beverages: \$1,200.
 - (2) Food store license, sale of wine and malt beverages: \$1,200.
 - (3) Farmer winery license, sale of wine by Alfalfa Farm Winery: \$500.
 - (4) All alcohol pouring license, sale of all alcoholic beverages: \$1,200.
- B. The application filing fee for licenses issued pursuant to these regulations shall be as follows:
 - (1) Restaurant license, sale of wine and malt beverages: \$300.
 - (2) Food store license, sale of wine and malt beverages: \$375.
 - (3) Farmer winery license, sale of wine by Alfalfa Farm Winery: \$300.
 - (4) All alcohol pouring license, sale of all alcoholic beverages: \$300.

§ 303-15. License application rejections.

If the Select Board rejects all applicants for a license in a competitive process pursuant to § 303-18, it shall not accept or consider new applications for such license for a period of six months.

§ 303-16. Compliance with laws, regulations and conditions.

Licensees shall maintain their premises and operations in compliance with all applicable state and local building and sanitary codes, laws and regulations and all conditions attached to any license granted pursuant to these regulations. All taxes and charges owed the Town of Topsfield must be paid in accordance with applicable law. Failure to comply with any of

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these laws, regulations and conditions shall be deemed an illegality or disorder and may result in disciplinary action.

§ 303-17. Multiple applicants.

If multiple applicants seek the same license, the Select Board shall consider all such applications for that license in an open, competitive process. As part of such process, every applicant shall be given an opportunity to comment upon the strengths of its application vis a vis other applications. (This provision shall not apply to the Chapter 135 license, if granted.)

§ 303-18. Competitive process.

The Select Board may hold a competition among applicants to apply for on-premises licenses and/or food store licenses using a uniform time frame and set of rules. If the Select Board determines that no application for a license satisfies the standard for evaluation of applications set forth in § 303-19, it shall reject all such applications. (This provision shall not apply to the Chapter 135 license, if granted.)

§ 303-19. Standard for evaluation of applications.

- A. The Select Board shall not approve any application for an all alcohol pouring license, a restaurant license or a food store license unless it determines that such application and its accompanying plan of operation and other documentation present clear and convincing evidence that it is in the public interest of the citizens of the Town of Topsfield and its issuance will promote the public welfare, result in net new benefits (independent of the sale of wine and malt beverages) and otherwise significantly improve the quality of life in the Town. Applications failing to meet this standard will be rejected. The Select Board may impose such conditions as it determines to be appropriate in connection with the grant of any license.
- B. The Select Board shall not approve any application for the Chapter 135 license unless it determines that such application and its accompanying plan of operation and other documentation are in the public interest of the citizens of the Town of Topsfield and that its issuance will promote the public welfare.

§ 303-20. Licenses for premises near school or church.

In accordance with MGL c. 138, § 16C, no license shall be issued for premises located within 500 feet of a school or church unless the Select Board determines, in writing and after hearing, that the operation of the licensed business on the premises will not be detrimental to the education or spiritual activities of said school or church. The Select Board may impose conditions on the grant of a license to ensure that the operation of a licensed business at the premises will not be so detrimental.

§ 303-21. Definitions.

As used in these rules and regulations, the following terms shall have the meanings indicated:

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AGENT — A member of the Police Department or any other authorized licensing agent of the Town of Topsfield.

ALL ALCOHOL POURING LICENSE — A license authorized by Chapter 315 of the Acts of 2014.

AUTHORITY — The Select Board.

CHAPTER 135 LICENSE — The license authorized by Chapter 135 of the Acts of 2013.

CONFERENCE AND EVENT FACILITY — A facility as defined in Section 1.22 of the Topsfield Zoning Bylaw.

FOOD STORE LICENSE — A license authorized by Chapter 61 of the Acts of 2003 or Chapter 127 of the Acts of 2008.

FULL-SERVICE RESTAURANT — A restaurant as defined in Section 1.88A of the Topsfield Zoning Bylaw.

INCIDENTAL TO — With respect to a food store license, that wine and malt beverage products shall not constitute more than 30% of the total interior display or shelf space of the premises (Gasoline products shall be disregarded in determination as to whether wine and malt beverages are incidental to the sale of food.) and, with respect to the restaurant license, that wine and malt beverage products are served as part of a meal in a traditional restaurant environment.

LICENSE — A revocable privilege granted by the Authority. When used in these regulations, the term collectively refers to the food store licenses, the restaurant license, the all alcohol pouring licenses and, where applicable, the Chapter 135 license.

LICENSEE — An individual licensee, each member of a partnership or limited-liability company licensee, each officer, director, member, manager, and stockholder of a corporate licensee and any agent of a licensee, including those employees who work in the public areas of the premises.

ON-PREMISES LICENSE — An all alcohol pouring license, restaurant license and/or Chapter 135 license which authorizes the holder of such a license to serve the type of alcohol beverage authorized to be drunk on premises.

PATRON — A customer who is legally on the licensed premises.

PREMISES — The store, restaurant, farmer winery or specific location or area within a conference and event facility at which the licensed business is operated, including all land and buildings associated with the operation of the licensed business.

RESTAURANT LICENSE — The license authorized by Chapter 58 of the Acts of 2003.

RULES AND REGULATIONS — These rules and regulations and compilation of regulations, ordinances and laws set up by a licensing authority to regulate the manner in which businesses under its authority shall operate.

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ARTICLE V

Application Process General Requirements

§ 303-22. Proof of citizenship.

Every applicant for a license either individually or as a member of a partnership, association, or business shall furnish proof of U.S. citizenship by production of a certificate of birth, naturalization or as a registered voter.

§ 303-23. Application formats.

- A. Individual. Every application for a license made by an individual shall be signed by the applicant, who shall give his or her full name and home address.
- B. Partnership. Every application for a license made by a partnership shall state the full names and home addresses of all the members of the partnership and shall be signed by a majority thereof.
- C. Corporation/LLC. Every application for a license made by a corporation or limited-liability company shall state the full names and home addresses of the president, treasurer, clerk, manager, and/or members and be signed by an officer or manager duly authorized by a vote of its board of directors or members. A copy of such vote certified by the clerk or secretary of the corporation or limited-liability company, together with a copy of the certificate of its organization, shall accompany the application.

§ 303-24. Certificate of real name of person conducting business.

Every applicant for a license required by the provisions of MGL c. 110, § 5 to file a certificate stating the real name of a person conducting a business shall file with its application a certified copy thereof.

§ 303-25. Qualifications and appointment of manager.

Every applicant for a license made by a partnership, limited-liability company or corporation, pursuant to § 303-23B and C above, shall include the name, home address and telephone number, and all previous relevant experience, if any, of a duly qualified manager or other principal representative who is a citizen of the United States and resident of the Commonwealth of Massachusetts and who is of character satisfactory to the Authority. A copy of the vote appointing its manager or other principal representative, and vesting in such person full authority and control of the proposed premises and of the conduct of all business therein relative to alcoholic beverages, shall also accompany the application.

§ 303-26. List of other alcoholic beverage licenses.

An applicant for a license shall disclose all other alcoholic beverage licenses presently or formerly held in any capacity, individually or as part of a corporate or other entity. An applicant shall also disclose any previous denials of an application for a license.

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§ 303-27. Submission of financial records and statements.

The Authority may require an applicant for a license to supply complete financial records and statements relating to the proposed licensed business and/or the applicant's ability to operate the proposed licensed business.

§ 303-28. Plan of operation.

Every applicant for a license shall file as part of its application a plan of operation setting forth in detail:

- A. A description of the type of facility (i.e., restaurant, food store, conference and event facility or farmer winery) the applicant proposes to operate and the applicant's experience or qualifications to operate such a business;
- B. The capital investment and other financial commitments and resources the applicant is willing to commit to the licensed facility;
- C. Any net new benefits which the proposed facility will bring to the Town of Topsfield;
- D. The location where the applicant proposes to operate the licensed business and satisfactory evidence of site control for the proposed location;
- E. A proposed opening date;
- F. Any zoning, parking, traffic or public health or safety issues presented by the application or raised by the Authority or other Town boards and the applicant's plans to address or mitigate such issues; and
- G. The reasons why the applicant believes its application presents compelling evidence that its issuance will:
 - (1) Be in the public interest of the citizens of the Town of Topsfield;
 - (2) Promote the public welfare;
 - (3) Result in any net new benefits (independent of the sale of alcoholic beverages) to Topsfield; and
 - (4) Otherwise significantly improve the quality of life in Topsfield.

[Subsections C and G (3) shall not apply to the Chapter 135
license.]

§ 303-29. Description of food served and/or sold.

- A. Restaurant. Every applicant for the restaurant license shall file with its plan of operation a summary of its proposed menu, description of food to be served and the manner in which such food shall be served and a floor plan of the premises where the restaurant will operate.
- B. Food store. Every applicant for a food store license shall file with its plan of operation a detailed description of food and other nonalcoholic products it proposes to sell and

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the conditions under which such food and other nonalcoholic products shall be sold, and a floor and shelf space plan of the premises showing:

- (1) The amount of shelf space; and
 - (2) The allocation of such space among food products, licensed wine and malt beverages and other products; and
 - (3) The shelf space for wine and malt beverage products will be incidental to (i.e., less than 30% of shelf/display space) the sale of food or nonalcoholic beverage products.
- C. Farmer winery. The applicant for the farmer winery license shall file with its plan of operation a detailed description of the wine, food and other nonalcoholic products it proposes to sell and the conditions under which such products shall be sold.
- D. All alcohol pouring license. The applicant for an all alcohol pouring license shall file with its plan of operation a detailed description of the alcoholic beverages and food it will to sell and the condition, hours and specific location under which such products will be sold and distributed.

§ 303-30. Preparation of application forms.

All applications for licenses shall be made upon forms approved by the Authority, shall be fully answered in detail and shall be typewritten or legibly printed in ink. Applications which are not complete will not be accepted.

§ 303-31. Penalties for false statements on applications.

All applications shall be made under the penalties of perjury. Any false statement contained in any application, including but not limited to the true names of those with a beneficial interest in the application for a license, shall be cause for refusing to grant the license or for suspending, canceling, modifying or revoking a license already granted.

§ 303-32. Filing of forms in duplicate.

Two duplicate originals of every application for a license other than an application for the renewal of such license, shall be filed with the Authority. One original shall be forwarded by the Authority to the Massachusetts Alcoholic Beverages Control Commission. The second original filed may be redacted to not include nonpublic personal information (e.g., social security and bank account numbers) as determined by the Authority.

ARTICLE VI
Operating Rules for Licenses

§ 303-33. Applicability of rules and regulations.

This Article VI shall apply to all licensees, unless specifically provided otherwise.

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§ 303-34. Availability of rules and regulations; compliance.

- A. Regulations available. A licensee shall keep a copy of these rules and regulations on the premises at all times and make them available for inspection upon request by a member of the public or an agent of the Authority.
- B. Employee awareness. A licensee is responsible for ensuring that all employees who work in the public areas of the premises read the rules and regulations of the licensing authority and comply with all rules, regulations and laws.

§ 303-35. Posting and signs.

- A. License posted. A licensee shall post a copy of the license in a conspicuous place where it can be easily seen by the public and read without difficulty.
- B. Other permits. A licensee shall post all other licenses, permits and certificates affecting the premises in a conspicuous place. No such document shall be posted in such a way as to cover over any part of the license issued by the Authority.

§ 303-36. Admissions to premises.

- A. No discrimination. A licensee shall not permit any rule, policy or action, express or implied, which makes any distinction, discrimination or restriction on account of race, color, religious creed, national origin, sex, or ancestry, physical or mental disability, relative to the admission of or services to persons from the general public or employees at the premises; provided, however, that such licensee may make rules regulating the admission of minors to the premises when such rules are not inconsistent with other rules and regulations stated herein.
- B. Dress codes. A restaurant or Chapter 135 licensee shall not institute dress requirements of any kind except according to the following rules:
 - (1) A sign shall be posted at the entrance stating dress requirements or dress restrictions with specificity, which may also include restrictions as to footwear.
 - (2) No signs shall be posted which state "Proper dress required" or which otherwise announce a dress policy without stating what dress is required or what dress is prohibited.
- C. Unruly persons. An on-premises licensee shall refuse entrance to the premises to a person who appears to be intoxicated or unruly, and shall evict such a patron; except that in such a case the licensee should call the police and should offer assistance to an intoxicated person when possible.
- D. Maximum occupancy. An on-premises licensee shall not permit entrance to the premises by more persons than the maximum occupancy limit established by the Building Inspector.
- E. Waiting lines. If an on-premises licensee permits persons to wait in line for a table or a seat or for entrance to the premises, it shall keep such persons in an orderly line without blocking aisles or exits.

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- F. No locked doors. An on-premises licensee shall not lock the front door of the premises until the last patron has exited.
- G. After-hours access. An on-premises licensee shall not allow any patron or guest to enter the premises after the closing hour posted on the license or prior to the opening hour posted on the license; provided that a licensee may allow guests to enter the premises at times other than when the sale, distribution or consumption of wine or alcoholic beverages is authorized, provided no product containing alcohol shall be sold, distributed, consumed or otherwise made available during such times.

§ 303-37. Hours of operation.

- A. Hours restricted. The hours of operation involving the sale of alcoholic beverages shall be restricted to those set by the licensing authority and stated on the face of the license. Except as may be otherwise permitted under these rules and regulations, no patron shall be on the premises before the official opening hour nor after the official closing hour.
- B. Employee access. Employees of an on-premises licensee must be off the premises no later than 60 minutes after the "official closing hour"; provided, however, that such employees or other hired personnel may be on the premises at any time for the purpose of cleaning, making emergency repairs, providing security for the premises or preparing food for the next day's business or in opening or closing the business in an orderly manner.
- C. Departure of patrons. An on-premises licensee shall ensure that its patrons leave the premises in a quiet and orderly manner.

§ 303-38. Physical premises of on-premises licenses.

- A. Floor plan. The premises for any on-premises license shall conform to the floor plan approved by the Authority with regard to the layout of the facility, including its tables, chairs, booths, railing partitions and any other barriers. Any changes in the floor plan or any renovations of any kind shall not be made without notification and approval of the Authority. This includes any substantial change in the arrangement of moveable furniture. The service or consumption of alcoholic beverages in specific outdoor areas may be authorized.
- B. Cleanliness. All premises covered by the license shall be kept in a clean and sanitary condition.
- C. Outside gatherings. No outside area shall be used as a gathering place for patrons or the service of alcoholic beverages unless specifically approved by the Authority.
- D. Lighting. All public areas of the premises shall be lighted in a manner to assure the safety of patrons and to allow the agents of the Authority to make observations without the need to identify themselves or seek assistance.
- E. No access to private areas. An on-premises licensee shall not allow the general public access to private areas of the premises approved by the Authority for storage, office

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use, a kitchen or any other nonpublic use. Only the licensee and its employees shall be in these areas.

- F. No screens. No advertising matter, screen, curtain or other obstruction which, in the opinion of the Authority or its agents, prevents a clear view of the interior of the premises shall be maintained in or on any window or door thereof after the Authority has ordered the removal of such obstruction.
- G. Lighting; exits. All exits from the premises shall be properly designated by lighted "Exit" signs, as same may be mandated by the Building Inspector or the Fire Department of the Town of Topsfield.

§ 303-39. Physical premises of food store licenses and Chapter 135 licenses.

- A. Incidental sales. A food store license shall not be granted unless the sale of such products is "incidental to" the sale of food or other approved nonalcoholic products (excluding gasoline). The shelf space used to display wine or malt beverage products shall not be more than 30% of the total shelf space in the premises. The Authority may further limit or condition the amount of shelf space available for the sale of wine and malt beverages if an applicant's inventory of food products falls below 40% of shelfspace and applicant does not sell fresh food products on a minimum of 15% of shelf space.
- B. Cleanliness. All premises covered by a food store or on-premises license shall be kept in a clean and sanitary condition.
- C. No outside gatherings. No outside area of the premises shall be used as a gathering place for patrons or the service of alcoholic beverages unless specifically approved by the Authority.
- D. Lighting. The premises shall be lighted in a manner to assure the safety of the patrons and to allow the agents of the Authority to make observations without the need to identify themselves or seek assistance.
- E. Segregated displays. Alcoholic beverages shall be kept in separate displays or cases and shall be covered or locked at times when the licensee is open for business but the sale of such products is not authorized.

§ 303-40. Business arrangements of licensees for all licenses.

- A. Site control. An applicant shall not obtain or renew a license unless it can demonstrate proof of a legal right to use the premises proposed for the restaurant, conference and event facility or food store for the term of the license. Such proof may include evidence of fee ownership, a lease, a management contract or a binding commitment for purchase or lease; provided, however, that all parties participating in such ownership, leasehold interest or management contract shall be known to the Authority and the terms of such agreements or contracts shall be fully disclosed to the Authority. Failure to have the legal right to use and control the premises may result, after public hearing, in the revocation or nonrenewal of the license.

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- B. Contracts. A licensee shall not hire any employee or contract for goods or services in any name other than its own, nor shall the licensee pay for any such employment, goods or services by any means other than its own bank accounts standing in its own name. Cash transactions shall be recorded in a manner suitable for review by the Authority. Such records shall be kept for a period of three years.
- C. No undisclosed statements. A licensee shall not permit any person to have a direct or indirect financial or beneficial interest in the licensed business or to receive any revenue from the business or to manage the premises other than the persons properly approved of by the Authority and the salaried employees of such persons.
- D. No undisclosed principals. A licensee shall not permit any person to work at the premises or to hold himself or herself out as being in a position of authority unless such person is an owner, officer or salaried employee for whom payroll records are available. A licensee shall not pay an employee any percentage of the profits of the business or pay an employee in any manner other than by salary or hourly rate except upon approval of the Authority.
- E. No percentage arrangements. A licensee shall not pay any landlord or creditor a percentage of the profits of the business unless complete disclosure has been made to the Authority and the Authority's approval received.
- F. No subleases. A licensee shall not lease out or otherwise license any part of the premises or its food or beverage service without the prior approval of the Authority.
- G. No concessions. A licensee shall not enter into an agreement with an independent contractor to provide beverages or food or management at the premises without the prior approval of the Authority.
- H. No security interest. A licensee or owner thereof shall not pledge any stock in the licensee, or grant any security interest in its license or the assets of the licensee without the approval of the Authority pursuant to MGL c. 138, § 15A. This includes kitchen equipment, furniture or any other type of equipment.
- I. Change in manager. A licensee shall not change its manager until the Authority and the Alcoholic Beverages Control Commission have both approved such change.
- J. Opening required. A licensee may not close its place of business or cease selling alcoholic beverages without first notifying the Authority in writing before such closing or cessation and stating the reason therefor.
- K. No assignee rights. An assignee or creditor who succeeds to the interest of a licensee may not conduct the business of licensee at the premises without the approval of the Authority. A licensee shall immediately notify the Authority when an assignee or creditor succeeds to its rights or when foreclosure or other legal proceedings are brought which affect the economic and financial rights and abilities of the licensee.
- L. No minimum sales. A licensee shall not enter into an agreement or understanding which sets a minimum requirement for gross sales of food and beverages at the premises.
- M. Trade name. A licensee shall not use any trade name, assumed name, or abbreviated name in connection with the licensed business unless the same appears on the license

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issued by the Authority or unless written permission is first obtained from the Authority. A licensee shall not use an unauthorized name on the books, records, stationery, or interior or exterior of the premises or for advertising purposes or telephone listing without written permission from the Authority.

- N. Common victualler's license. A licensee holding an all alcohol pouring license or the restaurant license shall also be licensed as a common victualler under MGL c. 140 as a condition of the restaurant license. The Chapter 135 licensee shall also be so licensed as a common victualler under MGL c. 140 if required by law.
- O. Annual statement. A licensee shall furnish an annual financial statement indicating the gross sales for food and gross sales for alcoholic beverages for the preceding calendar year with any renewal application.
- P. Games of chance. A licensee shall not operate nor permit any other person to operate a keno or similar game at the licensed premises unless specifically authorized by the Authority.
- Q. No multiple licenses. No licensee shall have an ownership or other interest in more than one license relating to the sale of alcohol, except the Chapter 135 licensee, who may also hold state-issued farmer winery licenses.

§ 303-41. Alcoholic beverage sales and laws for on-premises licenses.

- A. No below-cost sales. An on-premises licensee shall not sell alcoholic beverages for less than their actual cost.
- B. Prices. An on-premises licensee shall maintain a schedule of the prices charged for all drinks to be served and drunk on the premises. Such prices shall be effective for not less than one calendar week.
- C. Prohibited practices. An on-premises licensee or its respective employees or agents shall not:
 - (1) Offer or deliver any free drinks to any person or group of persons;
 - (2) Deliver more than one drink to one person at one time;
 - (3) Deliver more than four drinks to one person on any one day without the approval of the manager;
 - (4) Sell, offer to sell or deliver to any person or group of persons any drinks at a price less than the price regularly charged for such drinks during the same calendar week, except at private functions not open to the general public;
 - (5) Sell, offer to sell or deliver to any person an unlimited number of drinks during a set period of time for a fixed price, except at private functions not open to the general public;
 - (6) Sell, offer to sell or deliver drinks to any person or group of persons on any one day at prices less than those charged the general public on that day, except at private functions not open to the public;

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- (7) Sell, offer to sell or deliver malt beverages or wine by the pitcher except to two or more persons at any one time;
- (8) Encourage or permit, on the licensed premises, any game or contest which involves drinking or the awarding of drinks as prizes; or
- (9) Advertise or promote in any way, whether within or without the licensed premises, any of the practices prohibited under this section.
- D. Authorized practices. Nothing in the preceding Subsection C shall be construed to prohibit a licensee from offering free food at any time or including a drink as part of a meal package; or to prohibit the sale or delivery of wine by the bottle or carafe when sold with meals or to more than one person; or to prohibit free wine tastings.
- E. No other alcohol. An on-premises licensee shall not permit alcoholic beverages to be brought onto the premises by patrons or employees under "bring your own bottle" arrangements or otherwise.
- F. Service to minors prohibited. A licensee shall be responsible for ensuring that minors are not served alcoholic beverages and are not drinking alcoholic beverages on the premises, whether served to them by an employee or handed to them by another patron.
- G. Posting of penalties. A licensee shall conspicuously post at the premises a current copy of the penalties for driving under the influence as set forth in MGL c. 90, § 24.
- H. No removal of alcoholic beverages. A licensee shall not allow patrons or employees to leave the premises with open containers of alcoholic beverages, such as glasses or bottles.

§ 303-42. Environs of licensed premises for all licenses.

- A. Responsibility. A licensee is obligated to ensure that a high degree of supervision is exercised over the conduct of the licensed establishment at all times. The licensee shall be accountable for all violations that occur on the premises in any determination by the licensing authority as to whether or not the licensee acted properly in the given circumstances.
- B. Amusement machines. A licensee shall not allow any automatic amusement machine upon the premises unless same has been approved and separately licensed by the Town of Topsfield.
- C. Loiterers. A licensee shall act promptly and diligently to disperse loiterers or patrons who attempt to congregate in front of or at the premises. Failure of the licensee to keep persons from congregating at the premises may lead to disciplinary action against the licensee for allowing a public nuisance. Actions expected to be taken by the licensee shall include:
 - (1) Maintaining the front door in a closed position;
 - (2) Asking loiterers to disperse;
 - (3) Promptly notifying the police if loiterers refuse to disperse;

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- (4) Hiring a security guard or stationing a security employee at the front door to disperse loiterers;
 - (5) Refusing to allow patrons to walk in and out of the premises at short intervals;
 - (6) Maintaining order in lines of patrons awaiting entry; and
 - (7) Announcing that no further patrons will be allowed into the premises if lines become too long, disorderly or loud.
- D. Disturbances. When any noise, disturbance, misconduct, disorder, act or activity occurs in the premises, or in the area in front of or adjacent to the premises, or in any parking lot provided by the licensee for the use of its patrons, which in the judgment of the Authority adversely affects the protection, health, welfare, safety or repose of the residents of the area in which the premises are located, or results in the premises becoming the focal point for police attention, the licensee shall be held in violation of the license and subject to proceedings for suspension, revocation or modification of the license.

§ 303-43. Inspections and investigations.

- A. Inspections. The premises shall be subject to inspection by the licensing authority or its duly authorized agents. It shall be the responsibility of the licensee to ensure that procedures are in place to allow police and authorized agents of the Authority immediate entrance into the premises at any time employees are on the premises.
- B. Employees. The licensee shall maintain a current list of all employees and shall have it available at all times for inspection upon the request of an authorized agent of the Authority.
- C. Complaints. All complaints and reports shall continue in force until they have been reviewed and disposed of by the licensing authority.

§ 303-44. Standards of conduct on premises.

- A. No service to minors. No alcoholic beverages shall be served or sold to anyone under 21 years of age.
- B. No employee consumption. No manager or employee of a licensee shall consume any alcoholic beverages while on the premises.

§ 303-45. Illegal activity on licensed premises.

- A. Illegal activity. The licensee shall make all reasonable and diligent efforts to ensure that illegal activities do not occur at the premises. Such efforts shall include:
 - (1) Frequent monitoring of restrooms and other nonpublic areas of the premises for signs of drug activity or other illegalities;

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- (2) Calling for police assistance as necessary to protect patrons against injury or to evict unruly patrons or to uncover unlawful conduct or to give medical assistance and providing police with requested information.
- B. No disorder. There shall be no disorder, prostitution, illegal gambling, illegal drug possession, use or sales or other illegal activity on the premises.

§ 303-46. Injuries to persons at premises.

- A. Disruptive patrons. The licensee shall instruct employees not to make bodily contact with an unruly patron except to protect other patrons or themselves from being subjected to body blows from that unruly patron. In all circumstances, employees are to call the police to have such patrons removed from the premises when being disruptive and refusing to leave voluntarily.
- B. Inquiries. Licensees shall call the police or 911 and take all other reasonable steps to assist patrons or persons who are injured in or on the premises or whose injuries have occurred outside the premises but have been brought to the attention of the licensee.

§ 303-47. Other causes for license revocation, suspension and modification.

A license may be modified, suspended or revoked for any of the following causes:

- A. Violations of law. Violation by the licensee of any provision of the relevant General Laws of the Commonwealth, of the regulations of the Alcoholic Beverages Control Commission or of the regulations of the Authority;
- B. Misrepresentation. Fraud, misrepresentation, false material statement, concealment or suppression of facts by the licensee in connection with an application for a license or other permit or for renewal thereof or in connection with an application for the renovation or alteration of the premises or in connection with any other petition affecting the rights of the licensee or in any interview or hearing held by the Authority in connection with such petition, request or application affecting the rights of the licensee;
- C. Failure to operate. Failure to operate or cessation of the sale of alcoholic beverages at the premises covered by the license for more than 30 days without approval of the Authority, with the exception of event and conference facilities.
- D. Failure to furnish information. Failure or refusal of the licensee to furnish or disclose any information required by any provision of the General Laws or by any rule or regulation of the Alcoholic Beverages Control Commission or any rule or regulation of the Authority;
- E. Bribery. Extension of a bribe, gift or offer of any money or anything of value or payment for or reimbursement or forgiveness of a debt for services provided to any employee or agent of the Authority, either as a gratuity or for any service;
- F. Noncompliance. Failure by the licensee to comply with any condition, stipulation or agreement upon which any license was issued or renewed by the Authority or upon which any application or petition relating to the premises was granted by the Authority.

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It shall be the duty of the licensee to ensure that all appropriate personnel at the premises are familiar with these rules and regulations and with any conditions on the license;

- G. Failure to appear. Failure or refusal by any licensee or any manager, officer or director thereof to appear at an inquiry or hearing held by the Authority with respect to any application or matter bearing upon the conduct of the licensed business or bearing upon the character and fitness of such licensee to continue to hold a license; or
- H. Nonadherence. Failure by the licensee to properly observe final suspension and modification orders.

§ 303-48. Violations and penalties.

- A. Penalties. A licensee who violates the applicable laws of the commonwealth, regulations of the Alcoholic Beverages Control Commission and/or these regulations may be subject to the following range of discipline:
 - (1) First offense: warning to seven-day suspension.
 - (2) Second offense: warning to thirty-day suspension.
 - (3) Third offense: seven-day suspension to revocation.
- B. Prior violations. Offenses which occurred more than two years prior to the date of violation shall not be used in calculating the number of offenses for purposes of these guidelines.
- C. Authority discretion. The Authority may use its discretion in determining whether the facts surrounding a violation warrant a penalty which is more lenient or severe than that suggested by the guidelines.
- D. Alternative dispositions. These guidelines shall not be construed so as to limit the Authority's power to consider alternative dispositions, impose further conditions on a license or even assess alternate penalties (e.g., roll back of operating hours).

§ 303-49. Service of suspension orders.

- A. Posting of suspensions. When the Authority suspends the license of any licensee, it shall provide the licensee with an order of suspension for public display that must contain the words, "No alcohol served per order of the Select Board for the Town of Topsfield." Such order shall be publicly displayed by the licensee.
- B. Defacement of orders. Suspension orders of the Authority, as above, shall remain affixed throughout the entire period of suspension.
- C. No renovations. Suspension periods shall not be used as a time to do renovations at the premises unless such renovations have previously been approved by the Authority.

§ 303-50. Permission to close premises required.

- A. Notice. A licensee intending to close its place of business, or cease the sale of alcoholic beverages, whether on a temporary or permanent basis, must notify the Authority in writing before such closing, stating the reason and length of such closing, and obtain the Authority's approval. Failure to provide such notice or obtain approval for such closing or cessation for more than 30 days may result in the suspension or revocation of the license.
- B. Emergencies. The restriction in the preceding Subsection A shall not apply to a closing due to an act of God, natural disaster, illness or some other business problem for which request had been made to the Authority and approval granted.

§ 303-51. Bankruptcy and court proceedings.

The licensee shall immediately notify, in writing, the Authority of any proceedings brought by or against the licensee under the bankruptcy laws or of any other court proceedings which may affect the status of the license.

§ 303-52. Management.

- A. Manager required. A licensee who is not a natural person must appoint a manager by a properly authorized and executed delegation.
- B. Responsibilities. The responsibilities of every licensee and its manager shall be as follows:
 - (1) To obey all statutes of the commonwealth, rules of the Alcoholic Beverages Control Commission, rules and regulations of the Authority;
 - (2) To promptly notify the police of any disturbances or illegal activity on the premises of which he or she becomes aware;
 - (3) As to licensees which are not natural persons, to sign the annual application for renewal of license, unless unavailable; and
 - (4) To cooperate with authorized agents of the Authority, including the police, in their investigation or inspection of the premises.
- C. Notice. Any such notice sent to the manager as named in the records of the Authority or the owner at the address of the premises shall constitute valid legal notice to the licensee.
- D. Transfers restricted. A licensee shall not change managers, officers or directors, sell or transfer corporate stock, pledge corporate stock or license as security or accept a loan or credit from another licensee without first obtaining the approval of the Authority. No person or entity may have a direct or indirect beneficial interest in a license without first obtaining the approval of the Authority.

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§ 303-53. Service training.

- A. Training program. The licensee shall provide an employee training program on the proper procedures for verifying that patrons are at least 21 years of age and not intoxicated. A written description of such program, along with a written policy outlining the employees' responsibilities and the disciplinary measures which will be taken against any employee for violating said policy, shall be provided to the Authority as part of the original or renewal application materials and maintained on the premises at all times.
- B. Certification. A signed certification of each employee who handles alcohol, indicating that the employee has received the described training and has reviewed and understands the written policy describing his or her responsibilities and the disciplinary action which will be taken for violations, shall be maintained on the premises at all times. Copies of all such documents and certifications shall be available to the licensing authority, or any authorized agent thereof, upon demand.
- C. Training requirement. Each new employee who handles alcohol shall obtain server training within 30 days of commencing employment.
- D. Retraining. Upon a finding by the Authority of a violation of the laws or regulations concerning service of alcohol to a minor or intoxicated person, the employees involved in the violation who continue to be employed by the licensee shall be retrained forthwith and receive a new server training certification.
- E. Approval program. The training and certification referenced in this section shall be pursuant to a training program approved by the Authority (e.g., TIPS or equivalent).

Chapter 310

CEMETERY REGULATIONS

§ 310-1. Purpose; applicable law.

§ 310-2. Purchase of lots; specifications and restrictions.

§ 310-3. Monuments, stones and foundations.

§ 310-4. Funerals and interments.

§ 310-5. General rules and regulations.

[HISTORY: Adopted by the Parks and Cemetery Commission of the Town of Topsfield May 2005. Amendments noted where applicable.]

§ 310-1. Purpose; applicable law.

- A. The Town of Topsfield Parks and Cemetery Commission, in order to provide information about the operation of the Topsfield Park and Cemetery Department, has established the following rules, regulations and guidelines. Special cases may arise in which the literal enforcement of these rules and regulations may impose a hardship. The Parks and Cemetery Commission reserves the right, without prior notice, to make exceptions, suspensions or modifications to any of these rules and regulations when, in its judgment, the same appears advisable. Such temporary exceptions, suspensions or modifications shall in no way be construed as affecting the general application of the rules and regulations.
- B. Note. Beyond these established rules and regulations, the Town bylaws, state and federal laws also apply.

§ 310-2. Purchase of lots; specifications and restrictions.

- A. Persons wanting to purchase a burial site in one of the Town of Topsfield cemeteries should apply to the Parks and Cemetery Superintendent.
- B. Lot sizes.
- (1) Lots may be purchased as indicated below:

Pine Grove Cemetery	
1 grave lot	4 feet x 10 feet
2 grave lots	8 feet x 10 feet
3 grave lots	12 feet x 10 feet
4 grave lots	16 feet x 10 feet
5 grave lots	20 feet x 10 feet

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- (2) Larger lots are available by special arrangement with the Superintendent. Price lists for lots and perpetual care are available from the Cemetery Office.
- C. Lot owners of any lot shall have the right to use the lot for burial of the human dead and for placing a suitable memorial, subject to cemetery regulations.
- D. Only current residents may purchase lots in the Town of Topsfield cemeteries. Exceptions to this rule may be allowed due to extenuating circumstances or when special situations arise. All exceptions must be approved by the Parks and Cemetery Commissioners.
- E. Lots must be paid for in full at the time of purchase. A deed will be issued upon receipt of the full purchase price.
- F. Lot owners may not privately resell or subdivide their lots. Arrangement must be made with the Park and Cemetery Department.
- G. Lot owners wishing to sell their lots must contact the Parks and Cemetery Superintendent. No private sales or subdivisions are allowed. There will be a charge of \$25 for the deed research and the processing of a new deed. The cemetery will buy back the grave lots, with some exceptions, at the amount that the owners originally paid for them.

§ 310-3. Monuments, stones and foundations.

- A. Only one upright monument will be allowed per family lot, consisting of at least two grave sites. Upright stone sizes may be no larger in length than three feet and in height no higher than three feet, including the base.
- B. Two or more grave lots must be purchased to install an upright memorial stone. These lots must be paid for in full before the stone foundation can be constructed. Four corner markers must be purchased for flat or upright stones at the same time that the memorial stone is purchased. This applies to owners of two or more lots. The Park and Cemetery Department will install the four corner markers at a cost of \$40.
- C. Flush markers will be allowed on single-grave lots only, in the designated areas. Flush markers should not exceed one foot in width by two feet in length. Upright monuments will not be allowed.
- D. Monuments and markers may not be placed on a family lot until at least two lots are paid for in full.
- E. The cemetery staff will construct all monuments and stone foundations. Foundation orders must be processed through a monument company. Written orders must indicate the exact location for the placement of the stone.
- F. Flower gardens may be set adjacent to the upright stone, but not exceed the length of the stone. The garden can extend one foot in width from the upright stone, and can only be on one side.

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- G. No large rocks will be used for monuments without first checking with the Superintendent. The Park and Cemetery Department reserves the right to reject any or all rocks for such usage, if the application is not reasonable for the location.
- H. Memorial stone foundations will be poured when the weather permits. The Park and Cemetery Department will establish a deadline in the fall for the pouring of cement. This will be approximately the first or second week in November.
- I. The Park and Cemetery Department requires a minimum period of two weeks to three weeks for the pouring of a foundation. If the family or monument company requests a foundation sooner, an overtime rate will be put into effect and completed if work schedules allow.

§ 310-4. Funerals and interments.

- A. Undertakers normally assume the responsibility for making arrangements for a funeral. A twenty-four-hour notice must be provided to the cemetery staff. Sunday and holiday funerals are not permitted. The Superintendent reserves the right to refuse a funeral when, in his best judgment, the conditions within the cemetery makes the burial unsafe and/or impossible.
- B. Undertakers and/or family shall pay the additional expense for snow and frost removal and for the removal of large boulders or ledge during the grave opening. The fee will be established by the Park and Cemetery Department.
- C. Interments will take place only after the cemetery has received full payment for the lot, payment of appropriate fees, and permits have been submitted to the Parks and Cemetery Superintendent by the undertaker and/or family of the deceased.
- D. The Park and Cemetery Department shall not be liable for the interment permit or the identity of the person to be interred.
- E. An outer container made of reinforced concrete, metal or the equivalent must be used for ash burials. There will be no liners or grave boxes allowed in the cemeteries. Vaults only will be acceptable.
- F. Any grave shall be opened and closed for interments by the Park and Cemetery staff only. All funerals will be under the direction of cemetery staff when the funerals arrive at the cemetery.
- G. Bodies of the deceased may not be removed from the cemetery grounds for reinterment elsewhere within the cemetery, without the appropriate family approval and the obtaining of the pertinent permits. Application must be made to the of the Parks and Cemetery Superintendent.
- H. Any notification of interment after 12:00 noon on Friday, or anytime on Saturday or Sunday, or any interment to take place before 12:00 noon on Monday will be considered the weekend funeral rate.
- I. Any funeral that is scheduled to arrive at the cemetery after 3:00 p.m. during weekdays will be charged the funeral rate plus overtime, which is incurred by the Park and Cemetery Department employees. Any weekend funeral scheduled to arrive after 3:00

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p.m. will also be charged an overtime rate for each Park and Cemetery employee present. This is above and beyond the normal weekend rate.

§ 310-5. General rules and regulations.

- A. Persons shall not mark upon, deface or injure any grave marking or monument.
- B. Persons shall not gather any flowers, either wild or cultivated, in the cemeteries.
- C. No one shall break or mark any tree, shrub, plant, etc.
- D. Firearms shall not be discharged in cemeteries, except at military funerals.
- E. The use of all other implements calculated to annoy or destroy wildlife is strictly forbidden.
- F. Persons shall not be allowed to bring alcoholic beverages on the grounds of the cemeteries.
- G. Rocks, loam, sod or other materials shall not be taken from the cemeteries without the authorization of the Superintendent.
- H. All vehicles should be operated on the established roadways within the cemeteries at a speed no greater than 10 miles per hour.
- I. Private plantings of trees, shrubs, vines and ground cover will not be allowed on the cemetery lots. Sites for memorial plantings are available; also, no new planting of same after it has been removed.
- J. The park and cemetery staff will remove decorations and flowers from lots whenever it is necessary to do so.
- K. Only Park and Cemetery Department staff will remove any tree or shrub in the cemetery that becomes detrimental to a lot or to an adjacent lot, avenues or paths.
- L. Only the Park and Cemetery Department staff may build fires on the cemetery property.
- M. The Park and Cemetery Department staff shall have the right to enter upon any lot or any other part of the cemetery to perform regular duties.
- N. The Park and Cemetery Department is not responsible for acts of vandalism on cemetery property.
- O. Gravestone rubbing requires the permission of the Parks and Cemetery Superintendent.
- P. The cemeteries will not be used for active recreational purposes, i.e., skateboarding, winter sports, bicycling, etc. Passive recreation, i.e., walking, picnicking, nature observation, etc., is encouraged.
- Q. All pets must be on a leash or some kind of restraint. Pick up after your pet.
- R. No metal detectors, golfing, horses or unauthorized motor vehicles will be allowed into the Topsfield cemeteries or parks.

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- S. No grave markers of any kind may be put in place without first checking with the Parks and Cemetery Superintendent.
- T. Flower trust fund. Fee schedule is based on the average annual interest rate and the price of the desired arrangement, plus a yearly \$20 service charge. Example: \$750 deposit may make approximately \$60 in interest; subtract the service charge, leaving \$40 for the flowers. Some years more and some years less money, based on the interest for the year. The Park and Cemetery Department will purchase the flowers and arrange them at the grave site.
- U. No recreational vehicles, registered or unregistered, may be operated in the Topsfield cemeteries. Example: motorbikes, skimobiles, ATVs, etc.
- V. The Park and Cemetery Department will not be responsible for flags, flag holders, flowers or decorations which are placed at grave sites.
- W. The cemetery reserves the right, without prior notification, to move any grave stone or memorial, in order to perform their duties and responsibilities on neighboring lots or owner's lots.
- X. All flower beds or ornamentation not conforming to the listed regulations will be corrected by the Park and Cemetery Department at the family's expense and without prior notification.
- Y. If financial hardship assistance is needed for interments, please inquire at the Park and Cemetery Office. Special arrangements can be made.
- Z. No eternal flames or lit candles in open or closed containers in Topsfield cemeteries (fire safety) are allowed.

Chapter 325

HISTORIC DISTRICT RULES AND REGULATIONS

§ 325-1. Regulations of Historical Commission.

§ 325-2. Commission.

§ 325-3. Frequency of meetings.

§ 325-4. Election of officers.

§ 325-5. Powers and duties of Commission.

§ 325-6. Application for certificate of appropriateness.

§ 325-7. Approval or denial of applications.

§ 325-8. Approval of construction drawings.

§ 325-9. Changes to approved drawings.

§ 325-10. Request for review; appeals.

[HISTORY: Adopted by the Select Board of the Town of Topsfield. Amendments noted where applicable.]

§ 325-1. Regulations of Historical Commission.

The following rules, regulations and procedures are in keeping with the specifications of MGL c. 40C, as amended, and the Town of Topsfield Historic District Commission Bylaw, as amended.¹

§ 325-2. Commission.

This Commission shall be known as the "Topsfield Historic District Commission" (aka "Topsfield Historical Commission" as the result of merger of Topsfield Historic District Commission and Topsfield Historical Commission in 1989), herein afterwards referred to as the "Commission."

§ 325-3. Frequency of meetings.

The Commission shall meet on a regular monthly basis, and at such other times as the Commission shall determine.

§ 325-4. Election of officers.

The Commission shall annually elect a Chairman and Vice Chairman from within the Commission and a Secretary from within or without the Commission.

1. Editor's Note: See Ch. 153, Historic District.

§ 325-5. Powers and duties of Commission.

The Commission shall have all of the powers and duties of an Historic District Commission authorized by MGL c. 40C, as amended, and as modified by the Town of Topsfield Historic District Commission Bylaw, as amended.² It shall concern itself with the duties of an Historic District Commission and with the requests and applications of the residents, business properties and property owners within the District regarding changes in exterior architectural features, new buildings, additions, demolition, exterior renovations, appurtenances, fences, walls, signs and the like pursuant to the bylaw and in accordance with MGL c. 40C, as amended. Excluded from review are the following: a) terraces, walks, driveways, sidewalks and similar structures, provided they are substantially at grade; b) storm doors and storm windows, screens, window air conditioners, lighting fixtures, antennas and similar appurtenances, or any one or more of them; and c) the color of paint. "Exterior architectural features" shall mean such portion of the exterior of a building or structure as is open to view from a public street, public way, public park or public building, whether within or without the district, including but not limited to the architectural style and general arrangement and setting thereof; the kind and texture of exterior building materials; and the type and style of windows, doors, signs and other appurtenant exterior features.

§ 325-6. Application for certificate of appropriateness.

Each application for a certificate of appropriateness shall be made in writing upon the forms available at the office of the Town Clerk. Such application shall be submitted to the Commission. The request for a certificate of appropriateness shall normally be processed in three stages:

A. Stage One: Preliminary.

- (1) The applicant shall outline the general nature of the proposed work in sufficient detail to determine the completeness of the application and whether or not a public hearing will be required. Photographs of existing conditions and sketches of changes must be submitted to allow the Commission to make informed decisions regarding the appropriateness of the proposed work. Within 14 days of receipt of the application, the Commission must determine if the proposed work is subject to approval. If the work is not subject to approval by the Commission or if it does not involve an exterior architectural feature, as defined above, a certificate of non-applicability shall be issued to the applicant so that work may proceed. If the work is subject to review, the Commission shall determine if a public hearing is to be held, in accordance with MGL c. 40C, which states that if the work to be done is so insubstantial in its effect on the historic district, the application may be reviewed by the Commission without a public hearing. If the Commission determines that a public hearing is not necessary, it must notify all abutters and those deemed to be materially affected by the project at least 10 days prior to the Commission acting upon the application. A public hearing also need not be held if waivers are filled out by the abutters and those who are deemed to be materially affected by the work. The applicant is responsible for seeing that

2. Editor's Note: See Ch. 153, Historic District.

the forms are filled out by the abutters and those who are deemed to be materially affected by the work.

- (2) If a public hearing is to be held, the Commission must notify the public at least 14 days in advance and must mail a copy of the notice to the applicant, owners of adjoining properties and other property owners deemed to be materially affected by the work (as outlined in MGL c. 40C). MGL c. 40C also states that the Planning Board should be sent a copy of the public hearing notice as well.
- B. Stage Two: Construction Drawings. Prior to the Commission acting upon the application, the applicant shall submit to the Commission fully detailed construction drawings indicating dimensions and materials, for consideration by the Commission. A building permit will not be issued without the Commission's approval. Changes visible from a public way which do not require a building permit are also subject to review by the Commission.
- C. Stage Three: Completed Construction. Should construction changes be necessary, the applicant shall revise construction drawings to reflect actual as-built conditions. Changes in the work affecting appropriateness will require review and possible corrective work prior to the Commission's approval of completed work.

§ 325-7. Approval or denial of applications.

- A. The Commission must act upon an application within 45 days of its filing (or longer if an extension is received from the applicant in writing) in accordance with MGL c. 40C, as amended, and Chapter 153, Historic District, § 153-5, as amended. Failure to make a determination within this time will result in the issuance of a certificate of hardship, which allows the applicant to proceed. If the application is approved by the Commission, a certificate of appropriateness will be issued to the owner.
- B. If the Commission determines that the proposed work is inappropriate, it must make record of the reasons and send a notice of the determination, along with the reasons, to the owner. A copy of such notice must be sent to the Building Inspector as well. The Commission may also make recommendations as to what modifications to the proposal would bring it into acceptability. Prior to issuing this notice, the Commission may notify the applicant of its proposed action and give the recommendations for making the application acceptable. If, within 14 days, the applicant files written modifications to the plans, in conformity with the recommended changes of the Commission, the Commission may issue a certificate of appropriateness.
- C. If the Commission determines that the work proposed is inappropriate but finds that declining the applicant would bring about substantial hardship, financial or otherwise, it may issue a certificate of hardship, as long as it will not bring substantial detriment to the public welfare.
- D. Any certificates issued must be signed and dated by the Chairman or Vice-Chairman and the vote of each member present must be recorded. A copy of the certificates must be sent to the Town Clerk, Building Department, and another should be sent to the Select Board's liaison to the Historical Commission. A copy should also be filed in the property files of the Topsfield Historical Commission.

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§ 325-8. Approval of construction drawings.

The Building Inspector shall not issue a building permit until the construction drawings shall be in accordance with the drawings approved by the Commission, in accordance with MGL c. 40C, § 6.

§ 325-9. Changes to approved drawings.

When drawings have been approved by the Commission, no changes or modification shall be made unless an amendment to the original drawings has been filed with and approved by the Commission.

§ 325-10. Request for review; appeals.

An applicant who disagrees with the findings of the Commission may, within 20 days after filing of the notice of determination with the Town Clerk, file a written request with the Commission for a review by a person(s) of competence and experience in such manners, to be designated by the regional planning agency of which the Town is a member. The finding of such a person(s) making the review must be filed with the Town Clerk within 45 days after the request and shall be binding unless further appeal is sought in Superior Court. Within 20 days of the filing of the determination of the Commission or person(s) assigned by the regional planning agency, the applicant may appeal to the Superior Court of Essex County.

Chapter 347

PARK REGULATIONS

ARTICLE I **Park Use**

- § 347-1. Permit required for use; fees.**
- § 347-2. Prohibited conduct.**
- § 347-3. Fires.**
- § 347-4. Hours of operation.**
- § 347-5. Denial of field usage applications.**

ARTICLE II **Use of Fields**

- § 347-6. Use by nonprofit organizations only.**
- § 347-7. Trespassing prohibited.**
- § 347-8. Permit required.**
- § 347-9. Prioritization of use.**

[HISTORY: Adopted by the Parks and Cemetery Commission of the Town of Topsfield as indicated in article histories. Amendments noted where applicable.]

ARTICLE I **Park Use** **[Adopted May 2005]**

§ 347-1. Permit required for use; fees.

- A. All groups and organizations must file an application with the Park and Cemetery Department for the usage of any Town-owned or -maintained property. All groups or teams must pay a user's fee set forth by the Parks and Cemetery Commission, if a time slot is allotted. At this time, a permit will be issued. The permit must be on the coach or team manager at all times when using the properties or athletic fields. Any violations of the rules and regulations or any conduct that is deemed unacceptable will result in forfeiture of field use and loss of any fee(s) paid.
- B. Permits are available at the Parks and Cemetery Office. All groups are liable to adhere to state laws, Town bylaws and park regulations.
- C. The field usage fees are as follows:
 - (1) For a single use: \$75 per field.
 - (2) For a team for the season: \$300 per field.
 - (3) For a league for the season: \$800 per field.

§ 347-2. Prohibited conduct.

- A. No person shall possess any alcoholic beverages on Parks and Cemetery property or discard trash, cans or bottles other than in proper locations.

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- B. No person shall remove any plants, soils, flowers or shrubs, except employees working for the Park and Cemetery Department.
- C. There will be no excessive speed in any parking lots or driveways. Speed limit is five miles per hour in parks.
- D. No person shall deface or molest any sign, equipment or building.
- E. No person shall camp or remain overnight on any Park and Cemetery Department properties, without the permission of the Parks and Cemetery Commission.
- F. No person shall possess any firearm, weapon or trap, remove, destroy or hunt any wildlife or engage in target practice on any of the Park and Cemetery Department properties.
- G. No person shall golf or use metal detectors on any owned or maintained properties of the Park and Cemetery Department.
- H. No person shall drive any registered or unregistered motor vehicles such as motorbikes, snowmobiles, etc. on Park and Cemetery Department properties; the exception being police, fire, municipal or emergency vehicles.
- I. No person shall sail, drive or float any boat or raft, nor construct any dams in or on any waterways or ponds of the Park and Cemetery Department.
- J. No person may ride or walk a horse on any Park and Cemetery Department properties, with the exception of parades, fairs or carnivals.
- K. No person shall trespass onto Park and Cemetery Department properties after closing hours, before opening hours or during the closed season.

§ 347-3. Fires.

Only the Park and Cemetery Department staff may build fires on the park or cemetery property.

§ 347-4. Hours of operation.

- A. The parks are closed for the season from approximately mid-November to a date determined by the Parks and Cemetery Commission.
- B. During the open season, the parks are open from 7:00 a.m. to 8:00 p.m. sunset or earlier, depending on the time of sunset.
- C. Klock Park and other parks may be closed for a period during the summer for maintenance purposes. Please observe notices on gates prior to the closure.

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§ 347-5. Denial of field usage applications.

Applications for field usage may be denied to any or all groups when the Park and Cemetery Department has determined that an overplaying situation has begun to occur and/or becomes detrimental to park maintenance.

ARTICLE II
Use of Fields

§ 347-6. Use by nonprofit organizations only.

All park usage be limited to nonprofit resident user groups against whom Parks and Cemetery will not assess a permit fee.

§ 347-7. Trespassing prohibited.

All fields be posted with signs stating: "NO TRESPASSING - Police take Notice: Use by Permit Only."

§ 347-8. Permit required.

- A. Every user group must apply for a field use permit.
- B. The field use permit form shall:
 - (1) Be created by the Superintendent consistent with this article;
 - (2) Require each user to:
 - (a) Identify itself;
 - (b) Supply proof of liability insurance;
 - (c) Certify compliance with CORI check requirements of its volunteers if required by MGL c. 6, § 172H;
 - (d) List the park, date and time of the requested use; and
 - (e) Acknowledge that:
 - [1] The Superintendent reserves upon himself the absolute right to cancel events and/or suspend, revoke or modify any permit;
 - [2] Changes to requested use must be submitted to the Superintendent and posted to the website before such changes are approved;
 - [3] Permitted uses and Superintendent's notices will be posted on the Parks and Cemetery schedule page of the Topsfield website and such postings will be determinative of any "on-field" issues; and

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- [4] Proposals by the user group for donations of services and/or materials to Parks and Cemetery must be made in writing on the permit and approved by the Commission.

§ 347-9. Prioritization of use.

The Commission shall issue permits prioritizing user athletic groups in the following order:

- A. All resident leagues;
- B. Teams comprised of all residents competing in a league against nonresident rostered teams; and
- C. Teams comprised of some residents competing in a league against nonresident rostered teams.

Chapter 355

SCENIC ROADS

§ 355-1. Special permit fees and costs.

§ 355-4. Enforcement authority.

§ 355-2. Application procedures.

§ 355-5. Fines.

§ 355-3. Action of permit granting authority.

[HISTORY: Adopted by the Planning Board of the Town of Topsfield 3-5-2013. Amendments noted where applicable.]

§ 355-1. Special permit fees and costs.

The application fee for a special permit to change or alter a part of a wall on a designated scenic road shall be \$75. The application fee for a special permit to remove or significantly alter a tree on a designated scenic road shall be \$75. The cost of mailings and advertising as described below will be borne by the applicant.

§ 355-2. Application procedures.

- A. The applicant shall apply using the scenic road application form. A clear and legible plan demonstrating the scope of the proposed work shall be submitted with the application. The plan shall include all proposed changes, including any alteration and/or removal of trees, modifications to sections of stone wall(s) on the scenic road, reconstruction of walls and replanting of trees. Written approval of the proposed changes by the Highway Superintendent and the Tree Warden shall accompany the application.
- B. Under the direction of the permit granting authority, notification of a public hearing shall be advertised in local papers on two successive weeks prior to the date of the hearing. The last notification shall be at least seven days prior to the public hearing. The cost of advertising shall be borne by the applicant.
- C. The applicant shall follow the general filing procedures as outlined in the Topsfield Planning Board Rules and Procedures.
- D. The applicant shall be the owner of the property. The applicant shall appear before the Planning Board at said public hearing and present the plan for changes on the scenic road.
- E. The Planning Board reserves the right to continue the public hearing if the application is incomplete, additional information is deemed necessary or corrective action needs to be taken by the applicant.

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§ 355-3. Action of permit granting authority.

The permit granting authority may approve, approve with modifications or disapprove an application filed under the Scenic Road Bylaw.¹ The decision of the permit granting authority shall be filed with the Town Clerk. Should the Board disapprove the application, the Highway Superintendent and Tree Warden shall be notified.

§ 355-4. Enforcement authority.

The enforcing authority for all actions within the scope of the Scenic Road Bylaw² shall be the Planning Board and/or its agents; i.e., the Highway Superintendent and the Tree Warden or any police officer of the Town of Topsfield.

§ 355-5. Fines.

Fines for violations of the Scenic Road Bylaw shall be as cited in the bylaw.³

1. Editor's Note: See Ch. 197, Scenic Roads.

2. Editor's Note: See Ch. 197, Scenic Roads.

3. Editor's Note: See Ch. 197, Scenic Roads.

Chapter 359

SIGN REGULATIONS

- | | |
|---|--|
| § 359-1. Purpose; compliance with Zoning Bylaw. | § 359-5. Public hearing on special permit; burden of proof. |
| § 359-2. Application for permit from Building Inspector. | § 359-6. Grant of special permit approval. |
| § 359-3. Decision on application by Building Inspector. | § 359-7. Appeal of denial of special permit. |
| § 359-4. Application procedure for special permit from Select Board. | § 359-8. Removal of delinquent signs. |

[HISTORY: Adopted by the Select Board of the Town of Topsfield 12-13-2004. Amendments noted where applicable.]

§ 359-1. Purpose; compliance with Zoning Bylaw.

These rules and regulations are intended to specify the rules, regulations and procedures relative to the Sign Regulations contained in Article XIII of the Zoning Bylaw (the "Bylaw"). These rules and regulations are intended to supplement said Article XIII, which also contains certain rules, regulations and procedures, and must therefore be read in conjunction with these rules and regulations.

§ 359-2. Application for permit from Building Inspector.

- A. No sign except one in conformance with the Bylaw shall be erected, reworded or changed in the Town of Topsfield.
- B. All signs not specifically exempted from a permit requirement pursuant to the Bylaw shall require a permit from the Inspector of Buildings. In the event of a question as to whether or not a sign is exempted, the Inspector of Buildings shall issue such determination.
- C. Applications for sign permits shall be available at the Inspectional Services Office. Permit applications shall be filed with the Inspector of Buildings. The permit application shall be accompanied by the following:
 - (1) Two scaled drawings of the sign, supporting structure, source of illumination and location;
 - (2) If the sign is in an Historic District, a certificate of appropriateness from the Historical Commission;
 - (3) Any relevant special permit.

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§ 359-3. Decision on application by Building Inspector.

- A. The Inspector of Buildings shall issue a permit for the erection and maintenance of a sign or signs which he/she determines are in compliance with the Bylaw or deny the issuance thereof within 30 days of the date on which the application for a permit was received.
- B. Should the Building Inspector fail to take appropriate action within the above stated period, the permit shall be deemed to have been approved, and the Town Clerk shall issue a certificate of constructive approval of the application.
- C. Should the Inspector of Buildings deny the application, the Inspector shall state, in writing and with sufficient detail, the reason for the denial.
- D. Any dispute of a decision by the Inspector of Buildings may be appealed to the Select Board by the applicant or any other party having standing pursuant to Section 13.3 of the Topsfield Zoning Bylaw.

§ 359-4. Application procedure for special permit from Select Board.

- A. Pursuant to Section 13.3 of the Zoning Bylaw, applications for special permits for signs not in conformance with the provisions of said Article XIII and not exempted from a permit requirement pursuant to said Article XIII shall be made to the Select Board.
- B. Applications for nonconforming sign permits shall be available at the office of the Select Board.
- C. An original permit application and three copies with all supporting documentation shall be filed with the Select Board and a copy of the application filed with the Town Clerk. The permit application shall be accompanied by the following:
 - (1) Three prints of scaled drawings of the sign, including supporting structure, source of illumination and location;
 - (2) If the sign is in an Historic District, a certificate of appropriateness from the Historical Commission;
 - (3) Any relevant special permit;
 - (4) The names and addresses of all abutters within 300 feet from property lines (certified abutters list);
 - (5) Three copies of a picture of the existing sign if a change is being requested; and
 - (6) A fee of \$100.
- D. Upon receipt of the application, the Select Board shall schedule a hearing, and shall give notice thereof pursuant to MGL c. 40A, § 1 et seq.

§ 359-5. Public hearing on special permit; burden of proof.

The Select Board shall hold a public hearing on all permit applications for nonconforming signs filed pursuant to § 359-4 above. In conjunction with such a hearing, the burden shall be on the applicant to establish the following:

- A. That the sign is or will be in harmony with the interests cited in Section 1 of Article XIII of the Zoning Bylaw (Sign Regulations); and
- B. That an overriding public benefit is derived and that the general purpose of the Sign Bylaw is not defeated.

§ 359-6. Grant of special permit approval.

- A. The Select Board shall grant approval of a special permit for a nonconforming sign if it determines:
 - (1) That the sign is or will be in harmony with the interests cited in Section 1 of Article XIII of the Zoning Bylaw (Sign Regulations); and
 - (2) That an overriding public benefit is derived and that the general purpose of the Sign Bylaw is not defeated.
- B. In granting approval of the application, the Select Board shall specify the size and location of the sign and impose such other terms, restrictions and conditions as it may deem to be in the public interest.

§ 359-7. Appeal of denial of special permit.

Appeals from the denial of a special permit application for a nonconforming sign permit shall be made in accordance with MGL c. 40A, § 1 et seq.

§ 359-8. Removal of delinquent signs.

Should the Inspector of Buildings determine that a sign has been erected or maintained in violation of the Sign Regulations of the Zoning Bylaw, he/she shall issue an order requiring the removal thereof and shall mail said notice to the landowner and the owner of the sign if different. The landowner shall have 30 days to remove said sign. Notwithstanding the foregoing, the landowner may, within that thirty-day period, make application for a sign permit as set forth in these rules and regulations. However, the filing of the application shall not affect the removal order issued by the Inspector of Buildings in the event approval is not obtained by the applicant prior to that thirty-day period.

Chapter 364

STORMWATER AND EROSION CONTROL REGULATIONS

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|---|---|
| § 364-1. Purpose. | § 364-7. Post-development stormwater management criteria. |
| § 364-2. Definitions. | § 364-8. Surety. |
| § 364-3. Authority; additional regulations; amendments. | § 364-9. Construction inspections. |
| § 364-4. Administration and enforcement. | § 364-10. Inspection and maintenance. |
| § 364-5. Applicability. | § 364-11. Enforcement; violations and penalties. |
| § 364-6. Permit procedures and requirements. | § 364-12. Severability. |

[HISTORY: Adopted by the Planning Board of the Town of Topsfield 3-19-2013. Amendments noted where applicable.]

§ 364-1. Purpose.

- A. The purposes of these Stormwater and Erosion Control Regulations are to:
- (1) Protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff, decreased groundwater recharge and nonpoint source pollution associated with new development and redevelopment;
 - (2) Protect, maintain and enhance the public safety, environment and general welfare by establishing minimum standards and procedures to control runoff and prevent soil erosion and sedimentation resulting from site construction/alteration and development, as more specifically addressed in the Stormwater Management and Erosion Control Bylaw of the Town of Topsfield.¹
- B. These Stormwater Regulations address, among other issues, the difficulties of controlling stormwater runoff from developed areas located on drumlins within the Town of Topsfield. Drumlins are hills that consist of generally poorly drained soils, which moreover contain fragipan horizons in the subsoil. In a major rainstorm event, the presence of these fragipan layers causes the uppermost region of the soil (from grade to about two feet below grade) to become saturated, which in turn causes stormwater to run off as if the area was an impervious surface. Moreover, in the presence of a grade the subsurface water between surface and fragipan horizon has been found to move at rates up to 30 feet per day. The combination of these runoff mechanisms may cause substantial flooding and damage to properties adjacent to a development that does not take drumlin soil conditions into account. Since the Town's

1. Editor's Note: See Ch. 220, Stormwater Management and Erosion Control.

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residential and agricultural zones encompass a number of drumlins, the Stormwater Management and Erosion Control Bylaw and these Stormwater and Erosion Control Regulations have been implemented to take into account soil classifications to reflect stormwater runoff controls and protocols required to prevent damage to and flooding of adjacent properties.

§ 364-2. Definitions.

The definitions contained herein apply to issuance of a stormwater management permit (SMP) established by the Town of Topsfield Stormwater Management and Erosion Control Bylaw and implemented through these Stormwater Regulations. Terms not defined in this section shall be construed according to their customary and usual meanings unless the context indicates a special or technical meaning.

ALTER — Any activity which will measurably change the ability of a ground surface area to absorb water or will change existing surface drainage patterns. "Alter" may be similarly represented as "alteration of drainage characteristics" and "conducting land disturbance activities."

APPLICANT — A property owner or agent of a property owner who has filed an application for a stormwater management permit.

BEST MANAGEMENT PRACTICE (BMP) — Structural, nonstructural and managerial techniques that are recognized to be the most effective and practical means to prevent and/or reduce increases in stormwater volumes and flows, reduce point source and nonpoint source pollution and promote stormwater quality and protection of the environment. Structural BMPs are devices that are engineered and constructed to provide temporary storage and treatment of stormwater runoff. Nonstructural BMPs use natural measures to reduce pollution levels, do not require extensive construction efforts and/or promote pollutant reduction by eliminating the pollutant source.

BETTER SITE DESIGN — Site design approaches and techniques that can reduce a site's impact on the watershed through the use of nonstructural stormwater management practices. Better site design includes conserving and protecting natural areas and greenspace, reducing impervious cover and using natural features for stormwater management.

CERTIFIED PROFESSIONAL IN EROSION AND SEDIMENT CONTROL (CPESC) — A recognized specialist in soil erosion and sediment control. This certification program, sponsored by the Soil and Water Conservation Society, provides the public with evidence of professional qualifications.

CONVEYANCE — Any structure or device, including pipes, drains, culverts, curb breaks, paved swales or man-made swales of all types, designed or utilized to move or direct stormwater runoff or existing water flow.

DEVELOPER — A person who undertakes or proposes to undertake land disturbance activities.

DEVELOPMENT — The modification of land to accommodate a new use or expansion of use, usually involving construction.

DISTURBANCE OF LAND — Any action that causes a change in the position, location or arrangement of soil, sand, rock, gravel or similar earth material.

DRAINAGE EASEMENT — A legal right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes.

DRUMLIN — A hill, mount or ridge composed of compacted glacial till.

EROSION CONTROL — The prevention or reduction of the movement of soil particles or rock fragments.

EROSION CONTROL PLAN — A document containing narrative, drawings and details developed by a qualified professional civil or environmental engineer (PE), professional land surveyor (PLS), certified landscape architect, or certified professional in erosion and sediment control (CPESC), which includes best management practices, or equivalent measures designed to control surface runoff, erosion and sedimentation during all phases of construction-related land disturbance activities.

ESTIMATED HABITAT OF RARE WILDLIFE AND CERTIFIED VERNAL POOLS — Habitats delineated for state-protected rare wildlife and certified vernal pools for use with the Wetlands Protection Act Regulations (310 CMR 10.00) and the Forest Cutting Practices Act Regulations (304 CMR 11.00).

FLOOD CONTROL — The prevention or reduction of flooding and flood damage.

FLOODING — A local and temporary inundation or a rise in the surface of a body of water, such that it covers land not usually under water.

FRAGIPAN — A loamy, brittle subsurface layer low in porosity and organic matter, low in clay, and moderate to high in silt and fine sand content. A fragipan appears cemented when dry and restricts the growth of roots.

GRADING — Changing the level or shape of the ground surface.

GROUNDWATER — All water beneath any land surface, including water in the soil and bedrock beneath water bodies.

GRUBBING — The act of clearing land by digging up roots and stumps.

HOTSPOT — Land uses or activities with higher potential pollutant loadings, such as auto salvage yards, auto fueling facilities, fleet storage yards, commercial parking lots with high-intensity use, road salt storage areas, commercial nurseries and landscaping, outdoor storage and loading areas of hazardous substances, or marinas.

IMPERVIOUS SURFACE — Any material or structure on or above the ground that prevents water from infiltrating through the underlying soil. Impervious surface is defined to include, without limitation, parking lots, sidewalks, rooftops, driveways, patios and paved, gravel, compacted dirt surfaced roads and similar surfaces with a runoff coefficient (Rational Method) greater than 85.

INFILTRATION — The act of conveying surface water into the ground to permit groundwater recharge and the reduction of stormwater runoff from a project site.

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MASSACHUSETTS ENDANGERED SPECIES ACT — MGL c. 131A, with its implementing regulations (321 CMR 10.00), prohibits the taking of any rare plant or animal species listed as "endangered," "threatened" or "of special concern" [321 CMR 10.04 (1)].

MASSACHUSETTS STORMWATER MANAGEMENT POLICY — The policy issued by the Department of Environmental Protection, and as amended, that coordinates therequirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act (MGL c. 131, § 40) and Massachusetts Clean Waters Act (MGL c. 21, §§ 23 through 56). The policy addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM — The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir and other drainage structure that together comprise thestorm drainage system owned or operated by the Town of Topsfield.

NEW DEVELOPMENT — Any construction or land disturbance of a parcel of land that is currently in a natural vegetated state and does not contain alteration by man-made activities.

NONPOINT SOURCE POLLUTION — Pollution from many diffuse sources caused by rainfall or snowmelt moving over and through the ground. As the runoff moves, it picks upand carries away natural and human-made pollutants, finally depositing them into water resource areas.

OPERATION AND MAINTENANCE PLAN — A plan that defines the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to ensure that it continues to function as designed.

OWNER — A person with a legal or equitable interest in a property.

PERSON — Any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the commonwealth or political subdivision thereof to the extent subject to Town bylaws, administrative agency, public or quasi-public corporation or body, the Town of Topsfield and any other legal entity, its legal representatives, agents or assigns.

POINT SOURCE — Any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure or container from which pollutants are or may be discharged.

POORLY DRAINED SOILS —

- A. Poorly drained soils shall have the meaning as contained in the list of definitions set forth in the glossary under the heading of "drainage class" in the Soil Survey of Essex County, Massachusetts - Northern Part, prepared by the U.S. Department of Agriculture, Natural Resources Conservation Service - Donald Fuller, editor, first printed 1981 and following editions. Poorly drained soils shall include all such soilslisted as "moderately poorly drained," "poorly drained" and "very poorly drained" aswell as soils that contain a fragipan layer in the section entitled "Soil Series and

Morphology" beginning on page 75 and ending on page 101 of the Soil Survey of Essex County, Massachusetts - Northern Part.

- B. These soils are shown on the map adopted as part of the Stormwater and Erosion Control Regulations entitled "Topsfield, MA Areas of Severe Soil Limitations," dated May 11, 2012, and are listed in Table 2-1 of the above publication, reproduced here.

**Poorly Drained Soil Types Listed in the Natural Resources Conservation Service
Soil Survey of Essex County North**

Soil Type (Series)	Origin	Features	Drainage
Leicester	Upland soils		P
Limerick	Floodplain areas		P
Maybid	Lacustrine		V
Paxton	Drumlins	Well drained, but has a fragipan 18 to 32 inches below grade	N/A
Pipestone	Outwash plains		M
Raynham	Lacustrine		P
Ridgebury	Drumlins	Fragipan 18 inches below grade	P
Saco	Floodplains		V
Scantic	Outwash, lacustrine		P
Scarboro	Outwash plains		V
Swanton	Outwash plains		P
Walpole	Outwash plains		P
Wareham	Outwash plains		P
Whately	Lacustrine		V
Whitman	Upland soils	Fragipan 18 inches below grade	V
M: Moderately poorly drained			
P: Poorly drained			
V: Very poorly drained			

POST-DEVELOPMENT — The conditions that reasonably may be expected or anticipated to exist after completion of the land development activity on a specific site or tract of land.

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"Post-development" refers to the phase of a new development or redevelopment project after completion, and does not refer to the construction phase of a project.

PRE-DEVELOPMENT — The conditions that exist at the time that plans for the land development of a tract of land are submitted to the Conservation Commission or Planning Board. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first plan submission shall establish pre-development conditions.

RECHARGE — The replenishment of underground water reserves.

REDEVELOPMENT — Any construction, alteration or improvement of land that has been subject to previous development.

REGULATIONS — These Stormwater and Erosion Control Regulations as currently adopted and amended.

RESOURCE AREA — Any area protected under, including, without limitation: the Massachusetts Wetlands Protection Act, Massachusetts Rivers Act, or Town of Topsfield Wetlands Protection Bylaw.

RUNOFF — Rainfall, snowmelt or irrigation water flowing over the ground surface.

SEDIMENTATION — A process of depositing material that has been suspended and transported in water.

SITE — The parcel of land being developed, or a designated planning area in which the land development project is located.

SOILS MAP — The map adopted as part of the Stormwater and Erosion Control Regulations entitled "Topsfield, MA Areas of Severe Soil Limitations," dated May 11, 2012.

STOP-WORK ORDER — An order issued which requires that all construction activity on a site be stopped.

STORMWATER AUTHORITY — The Town of Topsfield Planning Board or its authorized agents. The Topsfield Planning Board or its authorized agents are responsible for coordinating the review, approval and permit process as defined in the bylaw. Other boards and/or departments participate in the review process as defined in § 364-5 of these Stormwater Regulations.

STORMWATER MANAGEMENT — The use of structural or nonstructural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes and/or peak flow discharge rates.

STORMWATER MANAGEMENT PERMIT (SMP) — A permit issued by the Planning Board, after review of an application, plans, calculations and other supporting documents, which is designed to protect the environment of the Town from the deleterious effects of uncontrolled and untreated stormwater runoff.

TSS — Total suspended solids.

WATER QUALITY VOLUME (WQ_v) — The storage needed to capture a specified average annual stormwater runoff volume. Numerically, (WQ_v) will vary as a function of drainage area or impervious area.

§ 364-3. Authority; additional regulations; amendments.

- A. The rules and regulations contained herein have been adopted by Planning Board in accordance with the Town of Topsfield Stormwater and Erosion Control Bylaw.²
- B. Nothing in these rules and regulations is intended to replace or be in derogation of the requirements of the Town of Topsfield Wetlands General Bylaw and Regulations³ or the Town of Topsfield Floodplain Zoning Bylaw, the Town of Topsfield Rules and Regulations Governing the Subdivision of Land,⁴ the Ipswich River Protection District, the Groundwater Protection District or any rules and regulations adopted thereunder.
- C. These Stormwater Regulations may be periodically amended by the Topsfield Planning Board in accordance with the procedures outlined in Chapter 220, Stormwater Management and Erosion Control, § 220-5.

§ 364-4. Administration and enforcement.

The Planning Board shall administer, implement and enforce these regulations.

§ 364-5. Applicability.

- A. These Stormwater and Erosion Control Regulations apply to all activities in accordance with the applicability section of the Town of Topsfield Stormwater Management and Erosion Control Bylaw and further described in this section. Projects and/or activities not within the jurisdiction of any of the Town of Topsfield boards, commissions or departments but still within the jurisdiction of the Town of Topsfield Stormwater Management and Erosion Control Bylaw must obtain a stormwater management permit from the Topsfield Planning Board in accordance with the permit procedures and requirements defined in § 364-6 of these Stormwater and Erosion Control Regulations. For projects and/or activities within the jurisdiction of any of the Town of Topsfield boards, commissions or departments, the specific application submission requirements, public notices and fee requirements of the applicable board, commission and/or department shall govern. Notwithstanding those requirements, the stormwater management and erosion control plan contents, operation and maintenance plan contents and stormwater review fee, under § 364-6L and M of these Stormwater and Erosion Control Regulations, must also be met, except as modified in Subsections B, C and D below.
- B. If a project falls entirely within the jurisdiction of the Conservation Commission, pursuant to 310 CMR 10.05(6)(k) through (q), the Topsfield General Wetlands Bylaw and the Regulations for the General Wetlands Bylaw, the Planning Board will accept the Conservation Commission's hearing process and order of conditions in lieu of the requirements stated below. The applicant must submit to the Planning Board only two copies of the application cover sheet along with copies of the Conservation Commission's order of conditions. The Planning Board shall issue a stormwater and

2. Editor's Note: See Ch. 220, Stormwater Management and Erosion Control.

3. Editor's Note: See Ch. 250, Wetlands; and Ch. 384, Wetlands Regulations.

4. Editor's Note: See Ch. 368, Subdivision Regulations.

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erosion control permit at its next regularly scheduled meeting after receipt of said materials. The filing fee shall be waived.

- C. If a project is reviewed by the Planning Board for approval under the Town of Topsfield Subdivision Control Rules and Regulations, the Town of Topsfield Zoning Bylaw, Article IX, Site Plan Review, or other rules and regulations, the stormwater and erosion control permitting process shall run concurrently with that process. The standards described below shall apply to the stormwater management components of such review processes and must be met for approval of the project. The applicant must submit to the Planning Board such number of copies of the application for a stormwater and erosion control permit as it is required to submit under that process. The filing fee shall be waived. The Planning Board may issue a stormwater and erosion control permit in conjunction with approval of the following:

- (1) Definitive plan for the subdivision of land. Any stormwater and erosion control permit issued in conjunction with a definitive plan for the subdivision of land shall apply to the alteration of the land approved in said plan, i.e., alteration associated with the construction of the infrastructure of the project and any grading or filling for the creation of lots indicated on the plan. Subsequent or additional alteration to individual lots in the subdivision will require stormwater and erosion control permits unless there are no changes from those approved in the definitive plan or the lots are exempt under the bylaw.
- (2) Open space development plan.
- (3) Site plan review.
- (4) Elderly Housing District.

- D. If a project is reviewed for approval under the Town of Topsfield Zoning Bylaw, Article IX, Site Plan Review, by the Zoning Board of Appeals, the stormwater and erosion control permitting process shall run concurrently with that process and the ZBA will review the application and will make a determination as to the issuance of the stormwater management permit in accordance with these regulations. If the determination of the Zoning Board of Appeals is to approve the permit (or to approve it with conditions), then the applicant must submit to the Planning Board the decision of the ZBA and two copies of the application for a stormwater and erosion control permit along with any orders of conditions from the Conservation Commission. The Planning Board shall issue a stormwater and erosion control permit (subject to the same conditions, if any) at its next regularly scheduled meeting after receipt of said materials. The filing fee shall be waived.

§ 364-6. Permit procedures and requirements.

- A. Projects requiring a stormwater management permit shall be required to submit the materials as specified in this section, and are required to meet the stormwater management criteria as specified in § 364-7.
- B. Permit required.

- (1) No land owner or land operator shall receive any of the building, grading or other land development permits required for land disturbance activities without first meeting the requirements of the Stormwater Management and Erosion Control Bylaw prior to commencing the proposed activity.
 - (2) The Planning Board may waive all or some of the requirements for a stormwater management and erosion control permit application if it determines that some or all of the application requirements are unnecessary because of the size or character of the development project or because of the natural conditions of the site.
 - (3) The applicant shall make all requests for waivers in writing and provide supporting information or documentation to demonstrate that some or all of the requirements are unnecessary because of minimal environmental impact or other reasons why such waiver/s should be granted. The Planning Board's decision to grant or deny waivers shall be in writing and shall set forth reasons for the grant or denial. All waiver requests shall be acted upon within 45 calendar days of the date of application for such waivers.
 - (4) If, in the Planning Board's opinion, additional time or information is required for review of a waiver request, the Planning Board may request an extension of the review period. In the event the applicant objects to an extension, or fails to provide requested information, the waiver request may be denied "without prejudice" by the Planning Board.
 - (5) At the time of the application, the applicant shall provide in writing the name of the person who is responsible for erosion and sediment control for the site-disturbing activity which is the subject of the application. Said person shall ensure that the approved activity takes place in accordance with the application, plan and permit requirements.
 - (6) Should a land-disturbing activity associated with an approved plan in accordance with this section not begin during the three-year period following permit issuance, the Planning Board may evaluate the existing stormwater management plan to determine whether the plan still satisfies local stormwater management requirements and to verify that all design factors are still valid. If the authority finds the previously filed plan to be inadequate, a modified plan shall be submitted and approved prior to the commencement of land-disturbing activities.
- C. Filing application. The applicant shall file with the Town Clerk six copies of a completed application package for a stormwater management permit (SMP) and an electronic application in PDF format on a CD or DVD disc. Permit issuance is required prior to any site-altering activity. While the applicant can be a representative, the permittee must be the owner of the site.
- (1) The SMP application package shall include:
 - (a) A completed application form with original signatures of all owners;
 - (b) A list of abutters, certified by the Assessor's Office (abutters at their mailing addresses shown on the most recent applicable tax list of the Assessors, including owners of land directly opposite on any public or private street or

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way, and abutters to the abutters within 300 feet of the property line of the applicant, including any in another municipality or across a body of water);

- (c) Operation and maintenance plan;

Stormwater management and erosion control plan and project description;

- (d) Payment of the application and review fees;
- (e) Inspection and maintenance agreement;
- (f) Surety bond.

- (2) One electronically formatted version of all of the above may be required.

- (3) The Planning Board reserves the right to request additional copies as necessary.

- D. Entry. Filing an application for a permit grants the Planning Board, or its agent, permission to enter the site to verify the information in the application and to inspect for compliance with the resulting permit.

- E. Fees. The Planning Board shall obtain with each submission an application fee established by the Planning Board to cover expenses connected with the review of the stormwater management plan. The Planning Board is authorized to retain a registered professional engineer or other professional consultant to advise the Planning Board on any or all aspects of these plans. Applicants must pay review fees before the review process may begin.

- (1) Rules.

- (a) Application fees are payable at the time of application and are nonrefundable.
- (b) Application fees shall be calculated by the Planning Board in accordance with the fee schedule below.
- (c) These fees are in addition to any other local or state fees that may be charged under any other law, bylaw or local ordinance.
- (d) The fee schedule may be reduced or increased by the Planning Board. Any such change shall be made at a posted public hearing of the Planning Board not less than 30 days prior to the date upon which the change is to be effective.

- (2) Application fees. A nonrefundable application fee of \$100 plus \$0.0030 times the total square footage of the area to be altered by the project shall be due and payable to the Town of Topsfield at the time an application is filed. Example for a project that alters 10,000 square feet: $\$100 + \$0.0030 \times 10,000 = \$130$ filing fee.

- (3) Engineering and consultant reviews and fee.

- (a) The Planning Board is authorized to require an applicant to pay a fee for the reasonable costs and expenses for specific expert engineering and other consultant services deemed necessary by the Planning Board to come to a

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final decision on the application. This fee is called the "engineering and consultant review fee."

- (b) Payment may be required at any point in the deliberations prior to a final decision.
 - (c) Any application filed with the Planning Board must be accompanied by a completed engineering and consultant fee acknowledgement form.
 - (d) Consultant fees shall be determined at the time of project review based on a specific scope of work.
 - (e) The services for which a fee may be required include, but are not limited to, wetland survey and delineation, hydrologic and drainage analysis, wildlife evaluation, stormwater quality analysis, site inspections, as-builtplan review, and analysis of legal issues.
 - (f) The Planning Board is authorized to require an applicant to pay reasonable costs and expenses for certain activities which utilize the services of Town staff. This includes such activities as inquiries concerning potential projects as well as site inspections not associated with a pending permit application.
 - (g) The Planning Board may require any applicant to pay an additional fee of \$30 per hour for review, inspection and monitoring services for any project filing that requires an excess of two hours of review, inspection and monitoring time by a Town staff person prior to or during construction or after completion of the project.
 - (h) Subject to applicable law, any unused portion of any fees collected shall be returned by the Planning Board to the applicant within 45 calendar days of a written request by the applicant, unless the Planning Board decides in a public meeting that other action is necessary.
 - (i) The engineering and consultant review fees collected under this section shall be deposited in a passbook account held by the Town of Topsfield.
- (4) Revision of fee schedules and regulations governing fees. The Planning Board may review and revise its regulations and fee schedules periodically as it sees fit.
- (a) Amendments shall be preceded by a public hearing.
 - (b) A copy of the written decision will be filed with the Town Clerk within 10 days after final action is taken.
- F. Public hearings. Unless the need for a public hearing is waived by the Planning Board, notice shall be posted and sent to all abutters within 300 feet of the project at least 14 days before the hearing. Applicants shall be responsible for the cost of mailings. For applications running concurrently with projects pursuant to § 364-5C and D above, notice relative to the stormwater management permit shall be included in the legal notices for those projects.
- G. Actions. The Planning Board's action, rendered in writing, shall consist of either:

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- (1) Approval of the stormwater management permit application based upon determination that the proposed plan meets the standards in § 364-7 and will adequately protect the water resources of the community and is in compliance with the requirements set forth in the bylaw;
 - (2) Approval of the stormwater management permit application subject to any conditions, modifications or restrictions required by the Planning Board which will ensure that the project meets the standards in § 364-7 and adequately protects water resources, set forth in the bylaw;
 - (3) Disapproval of the stormwater management permit application based upon a determination that the proposed plan, as submitted, does not meet the standards in § 364-7 or fails to adequately protect water resources, as set forth in the bylaw.
 - (4) The Planning Board may disapprove an application "without prejudice" where an applicant fails to provide requested additional information that in the Planning Board's opinion is needed to adequately describe the proposed project. Information shall generally be limited to those items listed in Subsection L of this section.
- H. Failure of the Planning Board to take final action upon an application within 45 calendar days of the date of application shall be deemed to be approval of said application. Upon certification by the Town Clerk that the allowed time has passed without Planning Board action, the Planning Board must issue a stormwater management permit.
- I. Plan changes. The permittee must notify the Planning Board in writing of any drainage change or alteration in the system authorized in a stormwater management permit before any change or alteration is made. If the Planning Board determines that the change or alteration is significant, based on the stormwater management standards in § 364-7 and accepted construction practices, the Planning Board may require that an amended application be filed.
- J. Appeals of actions of the Planning Board. A decision of the Planning Board shall be final.
- K. Project completion. At completion of the project the permittee shall submit as-built record drawings of all structural stormwater controls and treatment best management practices required for the site as required in § 364-7. The as-built drawing shall show deviations from the approved plans, if any, and be certified by a registered professional civil or environmental engineer.
- L. Stormwater management and erosion control plan contents.
- (1) The application for a stormwater management permit shall include the submittal of a stormwater management and erosion control plan to the Planning Board. This stormwater management and erosion control plan shall contain sufficient information for the Planning Board and/or Conservation Commission to evaluate the environmental impact, effectiveness and acceptability of the measures proposed by the applicant for reducing adverse impacts from stormwater runoff. This plan shall be in accordance with the criteria established in these regulations

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and must be submitted with the stamp and signature of a professional civil or environmental engineer (PE) licensed in the Commonwealth of Massachusetts.

- (2) The stormwater management and erosion control plan shall fully describe the project in drawings, narrative and calculations. It shall include:
 - (a) Contact information. The name, address and telephone number of all persons having a legal interest in the property and the tax reference number and parcel number of the property or properties affected;
 - (b) A locus map, North arrow, map scale;
 - (c) The existing zoning and land use at the site;
 - (d) The proposed land use;
 - (e) The location(s) of existing and proposed property lines and easements;
 - (f) The location of existing and proposed utilities, roads, scenic roads, structures and other impervious areas;
 - (g) The site's existing and proposed topography, including existing and proposed slopes with contours at two-foot intervals;
 - (h) The existing site hydrology;
 - (i) A description and delineation of existing stormwater conveyances, impoundments and wetlands on or adjacent to the site or into which stormwater flows;
 - (j) A delineation of one-hundred-year floodplains, if applicable;
 - (k) Estimated seasonal high groundwater elevation in areas to be used for stormwater retention, detention or infiltration;
 - (l) The existing vegetation, including all trees over twelve-inch diameter measured at four feet above ground level, and proposed vegetation and ground surfaces with runoff coefficients for each;
 - (m) Habitats mapped by the Massachusetts Natural Heritage and Endangered Species Program as endangered, threatened or of special concern, estimated habitats of rare wildlife and certified vernal pools and priority habitats of rare species within 500 feet of any construction activity;
 - (n) A drainage area map showing pre- and post-construction watershed boundaries, drainage area and stormwater flow paths, including municipal drainage system flows;
 - (o) A description and drawings of all components of the proposed stormwater management and erosion control systems, including:
 - [1] Locations, cross sections, and profiles of all brooks, streams, drainage swales and their method of stabilization;

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- [2] Detailed drawings, structural details, materials to be used, construction specifications and design calculations of all temporary and permanent stormwater, erosion and sediment control structures and devices;
 - [3] Narrative that includes a discussion of each measure, its purpose, its construction sequence and installation timing as they relate to soil disturbance;
 - [4] A plan showing areas of vegetation alteration, soil disturbance and areas of cut and fill;
 - [5] The project's phases as they relate to vegetation alteration, soil disturbance, cut and fill, including proposed designated stockpile locations with a tabulated sequence of construction and construction schedule, including earthworks;
 - [6] Proposed schedule for the inspection and maintenance of erosion control measures for the project throughout the construction period;
 - [7] Name and twenty-four-hour/seven-day contact information of the person responsible for the site's development;
 - [8] The structural details for all components of the proposed drainage systems;
 - [9] Notes on drawings specifying materials to be used, construction specifications and expected hydrology, with supporting calculations;
 - [10] Proposed improvements, including location of buildings or other structures, impervious surfaces and drainage facilities, if applicable;
 - [11] Any other information requested by the Conservation Commission or Planning Board.
- (3) Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in this regulation. Such calculations shall include:
- (a) Description of the design storm frequency, intensity and duration;
 - (b) Time of concentration;
 - (c) Soil runoff curve number (RCN) based on land use and soil hydrologic group;
 - (d) Peak runoff rates and total runoff volumes for each watershed area;
 - (e) Information on construction measures used to maintain the infiltration capacity of the soil where any kind of infiltration is proposed;
 - (f) Infiltration rates, where applicable;
 - (g) Culvert capacities;

- (h) Flow velocities;
 - (i) Data on the increase in rate and volume of runoff for the specified design storms; and
 - (j) Documentation of sources for all computation methods and field test results.
- (4) Post-development downstream analysis if deemed necessary by the Conservation Commission or Planning Board;
 - (5) Soils information from test pits performed at the location of proposed stormwater management facilities, including but not limited to soil descriptions, depth to seasonal high groundwater, depth to bedrock and percolation rates. Soils information will be based on site test pits logged by a Massachusetts registered soil evaluator, or a Massachusetts registered professional engineer;
 - (6) Landscaping plan describing the woody and herbaceous vegetative stabilization and management techniques to be used within and adjacent to the stormwater practice;
 - (7) Applicants whose lots are located in any of the areas of the Soils Map listed as "poorly drained" shall also submit the following material in support of the proposed activity:
 - (a) Observation or test pit logs from Title V septic system soils assessment, or soil logs to a depth of at least three feet, to establish the soil characteristics on which any post-development stormwater runoff analysis and provisions will be based. Soil/Test pit logs shall include, at a minimum, the soil type and the presence of fragipan layers, if any, within the soil horizon under investigation and/or within the proposed area of work.
 - (b) A written description and a drawing(s) of the proposed activity, inclusive of all construction activity and access requirements. Said plan shall show all items that may impact the characteristics of stormwater runoff on the site, such as, but not limited to: buildings, septic systems, swimming pools, tennis courts, riding rings, patios or terraces and any areas of restricted stormwater recharge capacity. The plan shall bear the signature and seal of an engineer or land surveyor registered in the Commonwealth of Massachusetts.
 - (c) The plan shall show all resource areas pursuant to the Wetlands Protection Act (MGL c. 131, § 40) and the Topsfield General Wetlands Bylaw (Chapter 250) within and adjacent to the work area.
 - (d) The plan shall show all culverts, pipes or drainage facilities (such as swales, trenches or ditches) that lead from the lot to adjoining properties or public ways.
 - (e) The plan shall contain topological data that is related to a USGS datum.
 - (8) If the stormwater run-off analysis is conducted using any computer-aided modification of the Rational Method such as Hydro-Cad®, the applicant shall

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demonstrate the model's ability to include the effects of the presence of fragipan layers within the catchment area analyzed. An analysis based upon the Drainmod model or one that incorporates the presence of fragipan layers in its stormwater run-off model is preferred.

- (9) Proposed stormwater drain facilities, inclusive of drainage swales, that will be connected to existing off-lot drainage systems shall require an analysis that demonstrates that the off-lot drains have sufficient capacity to accommodate the additional run-off from the proposed drain. Any connection to a municipal storm drain system or in an easement owned by the Town of Topsfield shall require written permission from the Topsfield Highway Department prior to making that connection.
- M. Operation and maintenance plan contents. An operation and maintenance plan (O&M plan) is required at the time of application for all projects. The maintenance plan shall be designed to ensure compliance with the permit and the Stormwater and Erosion Control Bylaw and that the Massachusetts surface water quality standards, 314 CMR 4.00, are met in all seasons and throughout the life of the system. The operation and maintenance plan shall remain on file with the Planning Board and shall be an ongoing requirement. The O&M plan shall include:
- (1) The name(s) of the owner(s) for all components of the system;
 - (2) A map showing the location of the systems and facilities, including catch basins, manholes/access lids, main and stormwater devices;
 - (3) Maintenance agreements that specify:
 - (a) The names and addresses of the person(s) responsible for operation and maintenance;
 - (b) The person(s) responsible for financing inspections, maintenance and emergency repairs;
 - (c) An inspection and maintenance schedule for all stormwater management facilities, including routine and nonroutine maintenance tasks to be performed;
 - (d) A list of easements, with the purpose and location of each;
 - (e) The signature(s) of the owner(s).
 - (4) Stormwater management easement(s).
 - (a) Stormwater management easements shall be provided by the property owner(s) as necessary for:
 - [1] Access for facility inspections and maintenance;
 - [2] Preservation of stormwater runoff conveyance, infiltration and detention areas and facilities, including flood routes for the one- hundred-year storm event;

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- [3] Direct maintenance access by heavy equipment to structures requiring regular maintenance.
- (b) The purpose of each easement shall be specified in the maintenance agreement signed by the property owner.
- (c) Stormwater management easements are required for all areas used for off- site stormwater control, unless a waiver is granted by the Planning Board.
- (d) Easements shall be recorded with the Essex County Registry of Deeds.
- (5) Changes to operation and maintenance plans.
 - (a) The owner(s) of the stormwater management system must notify the Planning Board of changes in ownership or assignment of financial responsibility.
 - (b) The maintenance schedule in the maintenance agreement may be amended to achieve the purposes of this regulation by mutual agreement of the Planning Board and the responsible parties. Amendments must be in writing and signed by all responsible parties. Responsible parties shall include owner(s), persons with financial responsibility and persons with operational responsibility.

§ 364-7. Post-development stormwater management criteria.

- A. At a minimum, all projects shall comply with the performance standards of the most recent version of the Massachusetts Department of Environmental Protection (DEP) Stormwater Management Policy, as well as the following.
- B. General criteria. The following general performance criteria shall be applicable to all stormwater management plans, unless otherwise provided for in this regulation:
 - (1) No untreated discharges. All stormwater runoff generated from land development and land use conversion activities shall not discharge untreated stormwater runoff directly to a wetland, local water body, municipal drainage system or abutting property, without adequate treatment.
 - (2) Channel protection. Protection of channels from bank and bed erosion and degradation shall be provided by controlling the peak discharge rate from the two-year storm event to the pre-development rate as required by the MA DEP Stormwater Management Policy.
 - (3) Overbank flooding protection. Downstream overbank flood and property protection shall be provided by attenuating the post-development peak discharge rate to the pre-development rate for the ten-year, twenty-four-hour return frequency storm event as required by the MA DEP Stormwater Management Policy.
 - (4) Extreme flooding protection. Extreme flooding and public safety protection shall be provided by evaluating the one-hundred-year, twenty-four-hour return

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frequency storm event to demonstrate no increased flooding impacts off-site, as required by the MA DEP Stormwater Management Policy.

(5) Recharge.

(a) Annual groundwater recharge rates shall be maintained, by promoting infiltration through the use of structural and nonstructural methods. At a minimum, annual recharge from the post-development site shall mimic the annual recharge from pre-development site conditions. The recharge volume may be reduced for developments where clean rooftop runoff (as defined by the MA DEP Stormwater Management Policy) is directed to pervious areas where it can either infiltrate into the soil or flow over it with sufficient time and velocity to allow for filtering. In such a situation, the effective impervious area of the site may be reduced by the roof area to be infiltrated. To use this credit, the following conditions must be met:

- [1] The rooftop contributing area to any one discharge location cannot exceed 1,000 square feet.
- [2] The contributing length of a rooftop to a single discharge location cannot exceed 75 feet.
- [3] Slopes must be less than 5.0% to permit infiltration.
- [4] Discharges must be located at least 10 feet away from the nearest impervious surface, and the rooftop runoff must not commingle with any runoff from paved surfaces at any designated "hotspot" land use.
- [5] Dry wells or infiltration trenches can be used where necessary to ensure infiltration into less permeable soils.
- [6] The use of rain gardens and bioretention cells to receive and infiltrate rooftop runoff is encouraged.

(b) The stormwater runoff volume to be recharged to groundwater should be determined using the methods prescribed in the latest version of the Massachusetts DEP Stormwater Management Manual. The recharge requirements shall apply to all activities within the jurisdiction of this regulation except as noted, and unless specifically waived by Planning Board. The recharge criterion is not required for any portion of a site designated as a stormwater hotspot [see Subsection B (10) of this section]. In addition, the Planning Board or Conservation Commission may relax or eliminate the recharge requirement at its discretion, if the site is situated on unsuitable soils or is in a redevelopment area with documentation of prior contaminated soils.

(6) Structural practices for water quality.

(a) Presumed compliance with Massachusetts water quality standards.

- [1] All structural stormwater management facilities shall be selected and designed using the appropriate criteria from the most recent version of the Massachusetts DEP Stormwater Management Manual.

- [2] Applicants are encouraged to meet water quality standards through the use of low-impact techniques such as bioretention cells and vegetated filter strips. For structural stormwater controls not included in the Massachusetts Stormwater Management Manual, or for which pollutant removal rates have not been previously documented by prior applicants, the applicant must document the effectiveness and pollutant removal of the structural control by providing scientific studies, literature reviews or other citations, in order to receive approval from the Planning Board before including such techniques in the design of a stormwater management system.
- [3] Structural best management practices (BMPs) must be designed to remove 80% of the average annual post-development total suspended solids (TSS) and 40% for total phosphorus (TP), and 30% for total nitrogen (TN). It is presumed that a BMP complies with this performance goal if it is:
 - [a] Sized to capture the prescribed water quality volume;
 - [b] Designed according to the specific performance criteria outlined in the Massachusetts Stormwater Management Manual;
 - [c] Constructed properly; and
 - [d] Maintained regularly.
- (b) Pollutant loading calculation assessment.
 - [1] For residential developments of 20 acres or more, any commercial project with a building 10,000 square feet or more or any project in an area designated by the Planning Board or Conservation Commission as a sensitive/critical area, a pollutant loading calculation may be conducted upon the request of the Planning Board or Conservation Commission to document compliance with water quality standards by calculating pre-development loads, calculating uncontrolled post-development loads and then applying a prescribed pollutant removal efficiency to selected practices to arrive at a net pollutant load delivery. The post-developed load must be equal to or less than the pre-developed load.
 - [2] The methodology for this calculation shall be in accordance with the Simple Method, located in the Massachusetts Stormwater Management Manual entitled: Method of Pollutant Control Calculation for Compliance with Water Quality Standards.
- (7) Water quality volume.
 - (a) The prescribed water quality volume required in the sizing of a structural stormwater practice shall be 0.50-inch x the total impervious area of the drainage area and 1.0-inch x the total impervious area of the drainage area in critical areas, as specified in the Massachusetts DEP Stormwater Policy.

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- (b) The water quality volume may be reduced for developments where clean rooftop runoff (as defined by the MA DEP Stormwater Management Policy) is directed to pervious areas where it can either infiltrate into the soil or flow over it with sufficient time and velocity to allow for filtering. In such a situation, the total impervious area of the site may be reduced by the roof area to be infiltrated. To use this credit, the following conditions must be met:
 - [1] The rooftop contributing area to any one discharge location cannot exceed 1,000 square feet.
 - [2] The contributing length of a rooftop to a single discharge location cannot exceed 75 feet.
 - [3] Slopes must be less than 5.0% to permit infiltration.
 - [4] Discharges must be located at least 10 feet away from the nearest impervious surface, and the rooftop runoff must not commingle with any runoff from paved surfaces at any designated "hotspot" land use.
 - [5] Dry wells or infiltration trenches can be used where necessary to ensure infiltration into less permeable soils.
 - [6] The use of rain gardens and bioretention cells to receive and infiltrate rooftop runoff is encouraged.
- (8) Hydrologic basis for design of structural practices. For facility sizing criteria, the basis for hydrologic and hydraulic evaluation of development sites is as follows:
 - (a) Impervious cover is measured from the site plan and includes any material or structure on or above the ground that prevents water from infiltrating through the underlying soil. Impervious surface is defined to include, without limitation: parking lots, sidewalks, rooftops, driveways, patios, and paved, gravel and compacted dirt surfaced roads.
 - (b) Off-site areas shall be assessed based on their "pre-developed condition" for computing the water quality volume (i.e., treatment of only on-site areas is required). However, if an off-site area drains to a proposed BMP, flow from that area must be accounted for in the sizing of a specific practice.
 - (c) Off-site areas draining to a proposed facility should be modeled as "present condition" for peak-flow attenuation requirements.
 - (d) The length of sheet flow used in time-of-concentration calculations is limited to no more than 50 feet for pre-development conditions and 50 feet for post-development conditions.
 - (e) Detention time for the one-year storm is defined as the center of mass of the inflow hydrograph and the center of mass of the outflow hydrograph.
 - (f) The models TR-55 and TR-20 (or approved equivalent) will be used for determining peak discharge rates.

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- (g) The standard for characterizing pre-development land use for on-site areas shall be woods.
 - (h) For purposes of computing runoff, all pervious lands in the site shall be assumed prior to development to be in good condition, regardless of conditions existing at the time of computation.
 - (i) If an off-site area drains to a facility, off-site areas should be modeled, assuming an "ultimate buildout condition" upstream.
 - (j) Determination of flooding and channel erosion impacts to receiving streams due to land development projects shall be measured at each point of discharge from the development project and such determination shall include any runoff from the balance of the watershed which also contributes to that point of discharge.
 - (k) The specified design storms shall be defined as a twenty-four-hour storm using the rainfall distribution recommended by the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) or the Northeast Regional Climate Center "Atlas of Precipitation Extremes for the Northeastern United State and Southeastern Canada."
 - (l) Proposed residential, commercial or industrial subdivisions shall apply these stormwater management criteria to the land development as a whole. Individual lots in new subdivisions shall not be considered separate land development projects, but rather the entire subdivision shall be considered a single land development project. Hydrologic parameters shall reflect the ultimate land development and shall be used in all engineering calculations.
- (9) Sensitive areas. Stormwater discharges to critical areas with sensitive resources (i.e., swimming areas, aquifer recharge areas, water supply reservoirs) may be subject to additional criteria, or may need to utilize or restrict certain stormwater management practices at the discretion of the Conservation Commission or the Planning Board. The Planning Board may designate sensitive areas and specific criteria for these areas after conducting a public hearing in accordance with the provisions of Chapter 220, Stormwater Management and Erosion Control, § 220-5.
- (10) Hotspots. Stormwater discharges from land uses or activities with higher potential pollutant loadings, known as "hotspots," as defined in the most recent version of the MA DEP Stormwater Management Manual, require the use of specific stormwater management BMPs as specified in the most recent version of the MA DEP Stormwater Management Manual. The use of infiltration practices without pretreatment is prohibited.

§ 364-8. Surety.

- A. The Planning Board may require the permittee to post, before the start of land disturbance or construction activity, a surety bond, irrevocable letter of credit, cash or other acceptable security to be known as the "stormwater completion surety." The form

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of the bond shall be approved by Town Counsel, and be in an amount deemed sufficient by the Planning Board to ensure that the work will be completed in accordance with the permit. If the project is phased, the Planning Board may release part of the bond as each phase is completed in compliance with the permit, but the bond may not be fully released until the Planning Board has received the as-built plans as required by § 364-11 of these regulations and issued a certificate of completion.

- B. The Planning Board may also require the permittee to secure the future maintenance of the stormwater system by a perpetual surety bond or by a deposit of money of an amount as determined by the Planning Board. This shall be named the "stormwater maintenance surety." In the event that the permittee does not follow maintenance procedures and programs as approved by the Planning Board, the Board shall have the authority to expend any portion of said security to provide such maintenance.

§ 364-9. Construction inspections.

- A. Notice of construction commencement. The applicant must notify the Planning Board at least a week in advance before the commencement of construction. In addition, the applicant must notify the Planning Board in advance of construction of critical components of the stormwater management system.
- B. At the discretion of the Planning Board, periodic inspections of the stormwater management system construction shall be conducted by a professional civil or environmental engineer who has been approved by the Planning Board. All inspections shall be documented and written reports prepared that contain the following information:
- (1) The date and location of the inspection;
 - (2) Whether construction follows the approved stormwater management plan;
 - (3) Variations from the approved construction specifications; and
 - (4) Any other variations or violations of the conditions of the approved stormwater management plan.
- C. The Planning Board or its designee shall have the right to inspect the project site at the following stages, at a minimum:
- (1) Initial site inspection: prior to approval of any plan;
 - (2) Erosion control inspection: to ensure erosion control practices are in accord with the filed plan;
 - (3) Stormwater management system inspection: an inspection will be made of the completed stormwater management system, prior to backfilling of any underground drainage or stormwater conveyance structures.
 - (4) Final inspection:

- (a) After the stormwater management system has been constructed and before the stormwater completion surety has been released, all applicants are required to submit actual "as built" plans for any stormwater management facilities or practices after final construction is completed, which must be certified by a professional civil or environmental engineer.
- (b) The Planning Board or its designee shall inspect the system to confirm its "as-built" features. This inspector shall also evaluate the effectiveness of the system in an actual storm. If the inspector finds the system to be adequate he shall so report to the Planning Board. As-built plans shall be full-size plans which reflect the "as built" conditions, including all final grades, developed by a professional civil or environmental engineer. All changes to the approved project design should be recorded in red ink on all copies of plans to define changes made. All work deleted, corrections in elevations and changes in materials should be shown on the as-built drawings.

D. Inadequacy of system.

- (1) If the system is found to be inadequate by virtue of physical evidence of operational failure, even though it was built as called for in the stormwater management plan, it shall be corrected by the applicant. If the applicant fails to act, the Planning Board may use the stormwater completion surety to complete the work.
- (2) If the Planning Board determines that there is a failure to comply with the plan, the property owner shall be notified in writing of the nature of the violation and the required corrective actions. A stop-work order shall be issued until any violations are corrected and all work previously completed has received approval by the Planning Board.

§ 364-10. Inspection and maintenance.

A. Maintenance responsibility.

- (1) Stormwater management facilities and practices included in a stormwater management plan with an inspection and maintenance agreement in accordance with § 364-6M of these regulations must undergo ongoing inspections to document maintenance and repair needs and ensure compliance with the requirements of the agreement, the plan and these regulations.
- (2) The owner of the property on which work has been done pursuant to these regulations for private stormwater management facilities, or any other person or agent in control of such property, shall maintain in good condition and promptly repair and restore all grade surfaces, walls, drains, dams and structures, vegetation, erosion and sedimentation controls and other protective devices. Such repairs or restoration and maintenance shall be in accordance with approved plans.

B. Maintenance inspections.

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- (1) All stormwater management facilities must undergo inspections to document maintenance and repair needs and ensure compliance with the requirements of this bylaw and accomplishment of its purposes as specified in the operation and maintenance plan and maintenance agreement described under § 364-6M of these regulations.
- (2) At a minimum, inspections shall occur during the first year of operation and at least once every three years thereafter. In addition, a maintenance agreement as specified under § 364-6M of these regulations between the owner and the Planning Board shall be executed for privately owned stormwater management systems that specifies the responsible party for conducting long-term inspections.
- (3) Inspection reports shall be submitted to and maintained by the Planning Board for all stormwater management systems. Inspection reports for stormwater management systems shall include:
 - (a) The date of inspection;
 - (b) Name of inspector;
 - (c) The condition of:
 - [1] Pretreatment devices.
 - [2] Vegetation or filter media.
 - [3] Fences or other safety devices.
 - [4] Spillways, valves or other control structures.
 - [5] Embankments, slopes and safety benches.
 - [6] Reservoir or treatment areas.
 - [7] Inlet and outlet channels and structures.
 - [8] Underground drainage.
 - [9] Sediment and debris accumulation in storage and forebay areas (including catch basins).
 - [10] Any nonstructural practices.
 - [11] Any other item that could affect the proper function of the stormwater management system.
 - (d) Description of the need for maintenance.
- C. Right-of-entry for inspection. The terms of the inspection and maintenance agreement as specified in § 364-6M of these regulations shall provide for the Planning Board or its designee to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. The Planning Board, its agents, officers and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this regulation and may make or cause to be made such examinations,

surveys or sampling as the Planning Board deems necessary, subject to the Constitutions and laws of the United States and the commonwealth.

- D. Records of maintenance and repair activities. Parties responsible for the operation and maintenance of a stormwater management facility shall provide records of all maintenance and repairs to the Planning Board, upon request. Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation and of all maintenance and repairs, and shall retain the records for at least five years. These records shall be made available to the Planning Board during inspection of the facility and at other reasonable times upon request.
- E. Failure to maintain.
 - (1) If a responsible person fails or refuses to meet the requirements of the inspection and maintenance agreement, the Planning Board or its agents, officers and employees, after 30 days' written notice (except that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice shall be sufficient), may correct a violation of the design standards or maintenance requirements by performing the necessary work to place the facility or practice in proper working condition. In the event that the responsible person, permittee or subsequent owners do not follow maintenance procedures and programs for stormwater facilities as approved by the Planning Board, the Board or its agents shall have the authority to expend any portion of the stormwater maintenance surety to provide such maintenance and repairs as needed.
 - (2) After notification is provided to the person responsible for carrying out the maintenance plan of any deficiencies discovered from an inspection of a stormwater management system, the person responsible for carrying out the maintenance plan shall have 30 days or other time frame mutually agreed to between the Planning Board and the person responsible for carrying out the maintenance plan to correct the deficiencies. The Planning Board or its designee shall then conduct a subsequent inspection to ensure completion of repairs.

§ 364-11. Enforcement; violations and penalties.

- A. The Stormwater Coordinator, the Planning Board or an authorized agent of the Planning Board shall enforce this bylaw, regulations, orders, violation notices and enforcement orders, and may pursue all civil, criminal and noncriminal remedies for such violations.
- B. Notices and orders.
 - (1) The Planning Board or an authorized agent of the Planning Board may issue a written notice of violation or enforcement order to enforce the provisions of the bylaw or the regulations thereunder, which may include requirements to:
 - (a) Cease and desist from construction or land-disturbing activity until there is compliance with the Bylaw and the stormwater management permit;
 - (b) Repair, maintain or replace the stormwater management system or portions thereof in accordance with the operation and maintenance plan;

- (c) Perform monitoring, analyses and reporting;
 - (d) Fix adverse impacts resulting directly or indirectly from malfunction of the stormwater management system.
- (2) If the enforcing person determines that abatement or remediation of adverse impacts is required, the order may set forth a deadline by which such abatement or remediation must be completed. Said order may further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Topsfield may, at its option, undertake such work, and the property owner shall reimburse the Town of Topsfield for expenses incurred.
- (3) Within 30 days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner shall be notified of the costs incurred by the Town of Topsfield, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Planning Board within 30 days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within 30 days following a decision of the Planning Board affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in MGL c. 59, § 57, after the 31st day at which the costs first become due.
- C. Any person who violates any provision of the Town of Topsfield Stormwater and Erosion Control Bylaw, or regulation, order or permit issued thereunder, may be ordered to correct the violation and/or shall be punished by a fine of not more than \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- D. Noncriminal disposition. As an alternative to criminal prosecution or civil action, the Town of Topsfield may elect to utilize the noncriminal disposition procedure set forth in MGL c. 40, § 21D and the applicable Town bylaw should the Town of Topsfield adopt said statute. In such case, the Highway Superintendent or his agent of the Town of Topsfield shall be the enforcing person. The penalty for the first violation shall be \$100. The penalty for the second violation shall be \$200. The penalty for the third and subsequent violations shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- E. Appeals. The decisions or orders of the Planning Board shall be final. Further relief shall be to a court of competent jurisdiction.
- F. Remedies not exclusive. The remedies listed in this regulation are not exclusive of any other remedies available under any applicable federal, state or local law.

§ 364-12. Severability.

The invalidity of any section, provision, paragraph, sentence or clause of these regulations shall not invalidate any section, provision, paragraph, sentence or clause thereof, nor shall it invalidate any permit or determination that previously has been issued.

Chapter 368

SUBDIVISION REGULATIONS

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[HISTORY: Adopted by the Planning Board of the Town of Topsfield 9-25-1984, as amended 9-13-1994, 3-4-1997, 2-15-2006 and 4-7-2009. Subsequent amendments noted where applicable.]

**ARTICLE I
Purpose and Authority**

§ 368-1. Purpose.

The Rules and Regulations Governing the Subdivision of Land in Topsfield, Massachusetts have been enacted for the purpose of protecting the safety, convenience and welfare of the inhabitants of Topsfield by regulating the laying out and construction of ways in subdivisions providing access to the several lots therein, but which have not become public ways, and ensuring sanitary conditions in subdivisions and in proper cases parks and open areas. The powers of the Planning Board and the Zoning Board of Appeals under these rules and regulations, as set forth in MGL c. 41, §§ 81K to 81GG, inclusive, shall be exercised with due regard for the provision of adequate access to all of the lots in a subdivision by ways that will be safe and convenient for travel; for lessening congestion in such ways and in the adjacent public ways; for reducing danger to life and limb in the operation of motor vehicles; for securing safety in the case of fire, flood, panic and other emergencies; for ensuring compliance with the Topsfield Zoning Bylaws as last amended; for securing adequate provision for water, sewerage, drainage, underground utility services, fire, police, street lighting, and other similar municipal equipment, and other requirements where necessary in a subdivision; and for coordinating the ways in a subdivision with each other and with the public ways in the Town and with the ways in neighboring subdivisions. It is the intent of these rules and regulations that any subdivision plan filed with the Planning Board shall receive the approval of such Board if said plan conforms to the recommendation of the Board of Health and to these rules and regulations; provided, however, that the Planning Board may, when appropriate, waive, as provided for in Article VI, such portions of these rules and regulations as are deemed advisable.

§ 368-2. Authority.

Under the authority vested in the Planning Board of the Town of Topsfield by MGL c. 41, § 81Q, said Board hereby adopts these rules and regulations governing the subdivision of land in the Town of Topsfield, Massachusetts.

§ 368-3. Effect of Subdivision Control Law.

These rules and regulations shall encompass MGL c. 41, §§ 81K to 81GG, inclusive, known as "the Subdivision Control Law," as if these sections were set forth herein at length.

ARTICLE II

Definitions

§ 368-4. Terms defined.

For the purpose of these rules and regulations, unless a contrary intention clearly appears, the terms and words defined in MGL c. 41, § 81L shall have the meanings given therein. The following other terms and words shall have the following meanings:

ABUTTER — The owner of an area of land which adjoins, or is adjacent to, or separated by only a street, the land described in the application for subdivision.

APPLICANT — Either the owner of the land stated in the application for subdivision, the owner in equity or all the owners where title is held jointly, the common, or in tenancy by the entirety, including corporations. The owner in equity, an agent, representative or his assigns may act for an owner, provided written evidence of such fact is submitted. Evidence in the form of a list of their officers and designated authority to sign legal documents shall be required for a corporation.

BOARD — The Planning Board of the Town of Topsfield.

CERTIFIED BY (OR ENDORSED BY) THE PLANNING BOARD — As applied to a plan or other instrument required or authorized by the Subdivision Control Law to be recorded, shall mean bearing a certification or endorsement signed by a majority of the members of the Planning Board, or by its chairman or clerk or any other person authorized by it to certify or endorse its approval or other action and named in a written statement to the Register of Deeds and Recorder of the Land Court, signed by a majority of the Board.

DEFINITIVE PLAN — A plan of a proposed subdivision or resubdivision of land drawn in accordance with Article IV of these rules and regulations.

DWELLING UNIT — One or more living and sleeping rooms providing complete living facilities for the use of one or more individuals constituting a single housekeeping unit, with permanent provisions for living, sleeping, eating, cooking and sanitation.

ENGINEER — Any person who is registered by the Commonwealth of Massachusetts to perform professional civil engineering services.

FAMILY — Two or more persons related by blood, marriage or adoption or a group of no more than six unrelated persons living in a single housekeeping unit.

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LOT — An area of land in one ownership, with definite boundaries, used, or available for use, as the site of one or more buildings. All lots shall comply with the area, frontage, depth and width requirements of the Zoning Bylaw for the Town of Topsfield, Massachusetts, in force at the time of subdivision application.

LOT FRONTAGE — The horizontal distance measured along that lot line adjacent to the street right-of-way, which is the front lot line, between the points of intersection of the side lot lines with this front lot line. For the purposes of these rules and regulations, this horizontal distance shall be considered an acceptable, or legal, frontage only if it is continuous and permits physical access across it to the affected lot.

MDPW — Massachusetts Department of Public Works.

PRELIMINARY PLAN — A plan of a proposed subdivision or resubdivision of land drawn in accordance with Article IV of these rules and regulations.

RECORDED — Recorded in the Registry of Deeds, South District of Essex County; except that, as affecting registered land, it shall mean filed with the Recorder of the Land Court of Essex County.

REGISTER OF DEEDS — The Register of Deeds, South District of Essex County, and when appropriate, shall include the Recorder of the Land Court of Essex County.

REGISTERED MAIL — Registered or certified mail.

REGISTRY OF DEEDS — The Registry of Deeds, South District of Essex County, and when appropriate, shall include the Land Court of Essex County.

ROADWAY — The paved area within the right-of-way for the operation of vehicles.

STANDARD SPECIFICATIONS — The Commonwealth of Massachusetts, Department of Public Works, Standard Specifications for Highway, Bridges and Waterways, 1967 Edition, including all amendments.

STREETS — All the land within the public right-of-way, including the traveled way, curbing, grass strips, sidewalks, drainage and utilities.

- A. **COLLECTOR STREET** — A street which receives and distributes traffic from and to various subareas within a given region, and receives traffic from a given residential neighborhood of over 75 dwellings or industrial area and carries it to an arterial highway. These roads run through developed areas or concentrations of development, and carry significant volumes of traffic.
- B. **MINOR STREET** — A street which primarily provides access to adjacent land uses. These roads shall serve a residential area of less than 75 dwellings.
- C. **DEAD-END STREET** — A dead-end street or dead-end interior drive is one which has only one means of entrance and exit to a through public street. A through street is a continuous street which connects to the Town's street system in at least two places.

SUBDIVISION — The division of a tract of land into two or more lots, including resubdivision, and when appropriate to the context, relating to the process of subdivision of the land or territory subdivided; provided, however, that a division of a tract of land into two or more lots shall not be deemed to constitute a subdivision within the meaning of the

Subdivision Control Law if, at the time when it is made, every lot within the tract so divided has frontage on a) a public way, or a way which the Town Clerk certifies is maintained and used as a public way, or b) a way shown on a plan theretofore approved and endorsed in accordance with the Subdivision Control Law, or c) a way in existence when the Subdivision Control Law became effective in the Town of Topsfield having, in the opinion of the Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon. Such frontage shall be of at least 20 feet. Conveyances or other instruments adding to, taking away from or changing the size and shape of lots in such a manner as not to leave any lot so affected without the frontage above set forth, or the division of a tract of land on which two or more buildings were standing when the Subdivision Control Law went into effect in the Town of Topsfield into separate lots, on each of which one of such buildings remains standing, shall not constitute a subdivision.

SUBDIVISION CONTROL LAW — Refers to §§ 81K to 81GG, inclusive, of Chapter 41 of the General Laws of the Commonwealth of Massachusetts, entitled "Subdivision Control," including all subsequent amendments thereto.

SUBDIVISION TYPES —

- A. **SUBDIVISION TYPE I** — A subdivision for single- and two-family residential purposes.
- B. **SUBDIVISION TYPE II** — A subdivision for apartments, townhouses, business or industrial purposes.

SUBMITTED PLAN — A plan, along with the appropriate and properly executed submittal form, shall be officially submitted by delivery at a regularly scheduled business meeting of the Planning Board or by registered or certified mail to the Planning Board, in care of the Town Clerk. If so mailed, the date of mailing shall be the date of submission of the plan. In addition, written notice of such submission, on the appropriate form, shall be given by the applicant to the Town Clerk by delivery or by registered or certified mail.

SURVEYOR — A person who is currently registered by the Commonwealth of Massachusetts or an out-of-state registrant who is legally permitted to perform land surveying services in the Commonwealth of Massachusetts.

WAY — A right-of-way or means of access to a lot. A public way is a way which has been accepted by and the land owned by the Town of Topsfield or by other means created as a public street. Any other way (private way) is a way over land which is owned by a private party but which is set forth by deed covenant, deed description or other means as a private way.

ARTICLE III

General Provisions

§ 368-5. Plan believed not to require approval.

- A. Any person who wishes to cause to be recorded in the Registry of Deeds or to be filed with the Land Court a plan of land and who believes that his plan does not require

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approval under the Subdivision Control Law shall submit a reproducible Mylar and four contact prints of his plan and one copy of application, Form A (see Appendix),¹ together with a nonrefundable fee* payable to the Town of Topsfield, to the Planning Board, accompanied by the necessary evidence to show that the plan does not require approval. Said person shall file, by delivery or registered or certified mail, a notice with the Town Clerk stating the date of submission for such determination, accompanied by a copy of said application and describing the land sufficiently for identification. If the notice is given by delivery, the Town Clerk shall, if requested, give a written receipt to the person who delivered such notice.

(* \$100 per application; \$100 per lot, parcel created, or change of lot line)

- B. Said plan shall be of minimum dimensions of 8 1/2 inches by 11 inches or a maximum size not to exceed 24 inches by 36 inches and shall contain the following information:
- (1) Identification of the plan by name and address of owner of record and location of the land in question, cross-referenced to page and parcel number of the Assessors' Maps.
 - (2) The statement "Approval Under Subdivision Control Law Not Required," and shall provide sufficient space for the date and the signatures of all five members of the Planning Board.
 - (3) Zoning classification and location of any zoning district boundaries that may lie within the locus of the plan.
 - (4) In the case of the creation of a new lot, the remaining land area and frontage of the land in the ownership of the applicant shall be shown.
 - (5) Notice of any decision of the Zoning Board of Appeals, including but not limited to variances and exceptions regarding the land or any buildings thereon.
 - (6) List of abutters from latest available Assessors' records, unless the applicant has knowledge of any changes subsequent to the latest available Assessors' records.
 - (7) Distance to the nearest road or to another permanent monument.
 - (8) Location of all existing buildings, including setback and side and rear yard distances to lot lines.
 - (9) Approximate locus of wetland boundaries as indicated in Wetlands and Wildlife Resources Map and any amendments thereof. See Zoning Bylaw Section 4.08b.
 - (10) A locus map at a scale of one-inch equals 600 feet showing the land in question in conjunction with other roadways and properties. A key map at a scale of one-inch equals 200 feet, showing the same information as the locus map.
 - (11) The engineer's seal and signature shall be on the plan.
- C. If the Board determines that the plan does not require such approval, it shall, without a public hearing, and within 21 days of formal submission, endorse or cause to be

1. Editor's Note: All Forms are available from the Town offices or on the Town website, topsfield-ma.gov.

endorsed on the reproducible copy of the plan by a person authorized by it the words "Planning Board approval under the Subdivision Control Law not required" or words of similar import, with appropriate name or names signed thereto, and such endorsements shall be conclusive on all persons. The Board may add to such endorsement a statement of the reason's approval is not required. Such endorsement shall not be withheld unless such plan shows a subdivision. Said plan shall be returned to the applicant and the Board shall notify the Town Clerk of its action.

- D. If the Board shall determine that in its opinion the plan requires approval under the Subdivision Control Law, it shall, within 21 days of submittal of said plan, give written notice of its determination to the Town Clerk and to the applicant and return the plan to the applicant. The applicant may submit a definitive plan for approval as required by these rules and regulations or he may appeal from the determination of the Board in accordance with § 81BB of the Subdivision Control Law.
- E. If the Planning Board fails to act upon the plan or fails to notify the Town Clerk or the applicant of its action within 21 days after its submission, it shall be deemed to have determined that approval under the Subdivision Control Law is not required, and it shall forthwith make such endorsement on said plan, and on its failure to do so forthwith the Town Clerk shall issue a certificate, to the same effect. THE PLAN bearing such endorsement or the plan and such certificate, as the case may be, shall be delivered by the Board, or in case of the certificate, by the Town Clerk, to the applicant.

§ 368-6. Subdivision requirements.

- A. No person shall make a subdivision of land in the Town unless he has first submitted to the Planning Board for its approval a definitive plan of such proposed subdivision, showing the lots into which, such land is to be divided and the ways already existing or which are to be provided by him for furnishing access to such lots, and the Board has approved such plan in the manner required by these rules and regulations.
- B. After the approval of a definitive plan, the location and width of ways shown thereon shall not be changed unless the plan is amended accordingly as provided in § 81W of the Subdivision Control Law, but the number, shape and size of the lots shown on a definitive plan so approved may, from time to time, be changed without action by the Board, provided every lot so changed still has frontage on a public way or way shown on a plan approved in accordance with the Subdivision Control Law of at least such distance, if any, as is then required by the zoning or building bylaw of the Town for erection of a building on such lot, and if no distance is so required, has such frontage of at least 20 feet.

§ 368-7. Effect of prior recording of subdivision land.

The recording of a plan of land within the Town in the Registry of Deeds in Essex County prior to the effective date of the Subdivision Control Law in the Town of Topsfield, showing the division thereof into existing or proposed lots, sites or other divisions and ways furnishing access thereto, shall not exempt such land from the application and operation of these rules and regulations except as specifically exempt by § 81FF of the Subdivision Control Law.

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§ 368-8. Time for completion.

For each subdivision or each stage of a staged subdivision, the construction of all ways and the installation of all required municipal services shall be completed within 18 months of the date of receipt of bond or surety by the Board or within two years of the date of approval of the definitive plan by the Board, whichever is earlier. Failure to do so shall automatically rescind approval under covenant conditions or rescind approval subject to § 81W of the Subdivision Control Law for performances secured by bond or deposit of money or negotiable securities. The Board may, at its discretion, grant a time extension to the applicant.

§ 368-9. Limitation of one building on any lot.

Not more than one building designed or available for use for dwelling purpose shall be erected or placed or converted to use as such on any lot in a subdivision in the Town of Topsfield without the written consent of the Board. Such consent may be conditional upon the providing of adequate ways furnishing access to each site for such building, in the same manner as otherwise required for lots within a subdivision. Submissions of site plans subject to this section shall be in accordance with the Town of Topsfield Zoning Bylaws.

§ 368-10. Criteria for Board action.

In considering any subdivision plan, the Board shall be guided by the needs of the Town, the purpose of the Subdivision Control Law and the highest and best use of the land being subdivided.

ARTICLE IV

Procedures for Submission and Approval of Plans

§ 368-11. Conceptual plans.

General. A conceptual or sketch plan and assessment of possible environmental impacts may be submitted by the applicant to the Board for informal discussion with the Board prior to submission of a preliminary plan and/or definitive plan. The submission may be in sketch or draft form as determined by the applicant.

§ 368-12. Preliminary plans.

- A. General. A preliminary plan of a subdivision may be submitted by the applicant to the Board for discussion and approval by the Board. The submission of such a preliminary plan will enable the subdivider, the Board, other municipal agencies and owners of property abutting the subdivision to discuss and clarify the problems of such subdivision before a definitive plan is prepared. Therefore, it is strongly recommended that a preliminary plan be filed in every case. A properly executed application, Form B (See Forms)², shall be filed with the preliminary plan submitted to the Board.

2. Editor's Note: All Forms are available from the Town offices or on the Town website, topsfield-ma.gov.

B. Submittal requirements. In the event that a preliminary plan is submitted, that plan, along with a properly executed Form B, shall be submitted by delivery to the Town Clerk or at a regularly scheduled business meeting of the Board or by registered or certified mail to the Board, in care of the Town Clerk. If so mailed, the date of mailing shall be the date of submission of the plan. In addition, written notice of such submission using Form B shall be given by the applicant to the Town Clerk by delivery or by registered or certified mail. The Town Clerk shall give a written receipt, if requested by the person who delivered such notice. With submission of the preliminary plan, the applicant shall also file a copy of said written notice and receipt with the Planning Board. The distribution requirements for submitted plans shall be in accordance with § 368-21. In addition, the following shall apply:

- (1) Contact prints shall be dark line on white background.
- (2) The applicant shall obtain a receipt from the Town Clerk verifying that submitted plans have been distributed in accordance with § 368-21A, a copy of which shall be submitted to the Planning Board.
- (3) Where any contiguous unsubdivided land is owned or controlled by the owner or applicant, a sketch plan shall be submitted showing: the proposed subdivision parcel and streets, the boundaries of the contiguous unsubdivided land and a possible or prospective street layout.
- (4) An initial nonrefundable application fee in accordance with the current Planning Board Fee Schedule shall be payable to the Town of Topsfield at the time of submission.³

C. Contents.

- (1) The preliminary plan shall be drawn on tracing paper 24 inches by 36 inches at a scale of one-inch equals 40 feet and shall show sufficient information, as listed below, about the subdivision to form a clear basis for review and discussion and for the preparation of the definitive plan.
 - (a) Subdivision name, boundaries, North point, date of submission, required scale, legend and the title, "Preliminary Plan."
 - (b) Names and addresses of record owner and applicant.
 - (c) Name, address and seal of the designer, engineer or surveyor who prepared said plan.
 - (d) Names and plan location of all abutters, indicating limits of contiguous boundaries and those owners of land separated from the subdivision only by a street, as determined from most recent local tax list (Form C⁴).
- (2) The following information shall be shown in a preliminary (general) manner:
 - (a) Existing and proposed lines of streets, ways, rights-of-way, easements, including purpose, and any public or common areas within the subdivision.

3. Editor's Note: A copy of the Fee Schedule is included as an attachment to this chapter.

4. Editor's Note: All Forms are available from the Town offices or on the Town website, topsfield-ma.gov.

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- (b) Proposed system of drainage, including the location of natural waterways, indicating the direction of flow, and all water bodies adjacent to or within the proposed subdivision or within 100 feet of its bounds or areas classified as wetlands in accordance with MGL c. 131, § 40 and 310 CMR (Code of Massachusetts Regulations) formulated by DEQE as amended.
 - (c) All soil logs and location of percolation test sites shall be shown on the plan, as well as data obtained from such. Also included shall be waterutility system data, inclusive of: location, water main diameter, valve locations and any other pertinent data.
 - (d) Boundary lines of proposed lots with dimensions and area.
 - (e) Location, names and present widths of adjacent streets, bounding, approaching or within 400 feet of the subdivision.
 - (f) Topography of the land at ten-foot contour intervals is required by the Board; two-foot contour intervals when required by the Board. The appropriate U.S.G.S. map, enlarged to a scale of one-inch equals 40 feet, is acceptable. The contour map should also show such pertinent information as watercourses, ledge outcroppings, and a log of any borings that may have been taken.
 - (g) Profiles of proposed streets.
 - (h) A locus map of the vicinity at a scale of one-inch equals 600 feet, showing the proposed subdivision area in conjunction with other roadways and properties. A key map at a scale of one-inch equals 200 feet, showing the same information as the locus map.
 - (i) When multiple sheets are necessary, match lines shall be used and referenced, and an index plan, graphically indicating the arrangement of said multiple sheets, shall be submitted on one standard 24 inches by 36 inches sheet at a suitable scale.
 - (j) The anticipated requirements for permits such as soil removal, trenching, scenic road and stormwater and erosion control should be noted.
- (3) During discussion of the preliminary plan, the complete information required by the definitive plan, § 368-13, and the financial arrangements, § 368-19A, will be developed.

D. Action by Board.

- (1) The Board may give such preliminary plan its approval, with or without modification. Such approval does not constitute approval of a subdivision.
- (2) The Board may also disapprove the plan. A disapproval shall be accompanied by a detailed statement of reasons for the action.
- (3) Notice of its action must be given by the Board by registered mail to the applicant and the Town Clerk within 45 days of the date of submission. Failure to act within that time shall be considered as approval of the preliminary plan.

§ 368-13. Definitive plans.

A. General.

- (1) A definitive plan shall be governed by the subdivision regulations in effect at the time of submission of such plan or in effect at the time of the submission of a preliminary plan, provided that a definitive plan evolved therefrom shall have been submitted to the Planning Board within seven months from the date of submission of the preliminary plan.
- (2) A definitive plan shall be governed by the Zoning Bylaw in effect at the time of submission of such plan or in effect at the time of submission of the preliminary plan from which a definitive plan is evolved in accordance with the provisions of MGL c. 40A, § 6.

B. Submittal requirements. The definitive plan, along with a properly executed Form B,⁵ shall be submitted by delivery to the Town Clerk or at a regularly scheduled business meeting of the Board or by registered or certified mail to the Board, in care of the Town Clerk. If so mailed, the date of mailing shall be the date of submission of the plan. In addition, written notice of such submission using Form B shall be given by the applicant to the Town Clerk by delivery or registered or certified mail. The Town Clerk shall give a written receipt, if requested, by the person who delivered such notice. With submission of the definitive plan, the applicant shall also file a copy of said written notice and receipt with the Planning Board. The distribution requirements for submitted plan shall be in accordance with § 368-21. In addition, the following shall apply:

- (1) Contact prints shall be dark line on white background.
- (2) The applicant shall obtain a receipt from the Board of Health, the Conservation Commission and the Water Department, a copy of which shall be submitted to the Planning Board.
- (3) Additional reports such as traffic reports shall be sent to the Planning Board, the Highway Department and the reviewing engineer.
- (4) A sketch plan showing a possible or prospective street layout for any contiguous unsubdivided land owned or controlled by the owner or applicant unless such a plan has already been submitted to the Board under the provisions of Article IV.
- (5) A nonrefundable fee in accordance with the Fee Schedule shall be payable to the Town of Topsfield at the time of submission.⁶ A fee of \$3,000 per lot will be assessed for major changes. "Major changes" are defined as an increase in the number of lots and/or change in the road length by more than 10%. Additional fees shall be assessed when deemed appropriate by the Board, such as cost of legal notices and technical reviews for each lot or dwelling unit in the subdivision, payable to the Town of Topsfield at the time of submission. Additional costs will be billed as incurred to cover the cost of advertising and notices.

5. Editor's Note: All Forms are available from the Town offices or on the Town website, topsfield-ma.gov.

6. Editor's Note: See the Fee Schedule included as an attachment to this chapter.

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- (6) List of abutters (Form C).⁷ Name and mailing address of each of the abutters as they appear in the most recent tax list, including owners of land separated from the subdivision only by a street. The applicant shall obtain a certificate of the Board of Assessors that all abutters are listed.
- (7) One copy of the test pit logs to the Planning Board, the reviewing engineer and the Board of Health.
- (8) One copy of the stormwater management reports to the Planning Board, Highway Department and reviewing engineer.
- (9) In the event that the applicant is a corporation, evidence from the clerk of the corporation certifying authorization of individual(s) to act for the corporation.
- (10) In connection with any definitive plan, the applicant shall also submit an environmental impact statement (the "statement") which shall provide the information shown in Appendix A to these rules and regulations and clearly show the relation of the proposed project to the total environment of the Town and its inhabitants. Such Appendix A shall be considered a part of these rules and regulations.⁸
- (11) In preparing the statement, the applicant shall refer to the Soil Survey Maps and Manual, prepared for Topsfield by the Soil Conservation Service, U.S. Department of Agriculture, and to the Wetlands Maps, adopted May 4, 1982, and any amendments thereof on file at the Town Hall. Any maps submitted as part of the statement shall be at a scale of one-inch equals 600 feet.
- (12) The Board may waive any section, or sections, of the statement which it deems inapplicable to the proposed project or may require additional information on any aspect of the statement. The Board may also require that the statement or appropriate sections thereof be prepared by a registered professional engineer, architect or other professional acceptable to the Board. The developer should discuss the requirements with the Board prior to preparation of the statement.
- (13) Applications for soil removal, trenching, stormwater and erosion control, scenic roads and other applicable permits should be submitted.
- (14) One electronically formatted version of all of the above in accordance with § 368-21B shall be submitted.
- (15) The Planning Board reserves the right to request additional copies as necessary.

§ 368-14. Suitability of land.

A. Review by Board of Health.

- (1) At the time of filing of the definitive plan, the applicant shall file, in accordance with § 368-13 of these rules and regulations, with the Board of Health, two

7. Editor's Note: All Forms are available from the Town offices or on the Town website, topsfield-ma.gov.

8. Editor's Note: Appendix A is included as an attachment to this chapter.

contact prints of the definitive plan, dark line on white background, including all items of the contents of definitive plan described above and any supplemental information required by rules of the Board of Health.

- (2) The Board of Health shall report to the Board in writing approval or disapproval of said plan, and in the event of disapproval shall make specific findings as to which, if any, of the lots shown on such plan cannot be used for building sites without injury to the public health, and include such specific findings and the reasons therefor in such report, and, where possible, shall make recommendations for the adjustment thereof. Failure of the Board of Health to make such a report within 45 days after the plan is filed with its office shall be deemed approval by such Board of Health. Such Board of Health shall send a copy of such report, if any, to the applicant.
- B. Wetlands protection. The surveyed borders of floodplains, marshes, ponds, watercourses and wetlands shall be included in the definitive plan in accordance with requirements and definitions of MGL c. 131, § 40 and 310 CMR, and the Topsfield Wetlands Protection Bylaw⁹ as they may be amended.
- C. Soil surveys. Soil surveys to establish the suitability of the land for the proposed storm and sanitary sewerage installations shall be submitted. Soil percolation tests shall be conducted in accordance with requirements of Article V of the State Sanitary Code and their results shall be submitted. The location of the test and soil observations pits shall be shown on the definitive plan.

§ 368-15. Review by Town agencies.

The applicant shall request, before the public hearing, using Form D,¹⁰ that the appropriate Town boards and commissions comment on the design of their respective services. Where a bond is to be filed, cost estimates of the required work shall be prepared by the applicant's engineer and reviewed by the various Town departments.

§ 368-16. Public hearing.

Before approval, modification and approval, or disapproval of the definitive plan is given, a public hearing shall be held by the Board. Notice of the time and place of the hearing and of the subject matter, sufficient for identification, shall be given by the Board at the expense of the applicant by advertisement in an official publication or newspaper of general circulation in the Town of Topsfield in each of two successive weeks, the first publication being not less than 14 days before the day of such hearing. A copy of said notice shall be sent by registered or certified mail to the applicant and by regular mail to all owners of land abutting upon the subdivision or separated from such land only by a street as appearing in the most recent tax list (Form C¹¹).

9. Editor's Note: See Ch. 250, Wetlands.

10. Editor's Note: All Forms are available from the Town offices or on the Town website, topsfield-ma.gov.

11. Editor's Note: All Forms are available from the Town offices or on the Town website, topsfield-ma.gov.

§ 368-17. Approval, modification and approval, or disapproval.

- A. The Planning Board shall take action on the definitive plan after the required hearing and after the report of the Board of Health as provided in the preceding section or after the lapse of 45 days without such report. The Planning Board shall approve, or, if such plan does not comply with the Subdivision Control Law or these rules and regulations or the recommendations of the Board of Health, shall modify and approve or shall disapprove such plan. The action of the Planning Board in respect to such plan shall be by vote, copies of which shall be certified and filed with the Town Clerk and sent by delivery, registered or certified mail, postage prepaid, to the applicant at his address stated on the application (Form E¹²). Favorable action shall require a majority of the Planning Board members.
- B. If the Planning Board modifies or disapproves such plan, it shall state with its vote the reasons for its action. In the event of disapproval, the Planning Board shall state in detail wherein the plan does not conform to these rules and regulations or to the recommendations of the Board of Health. The Board shall revoke its disapproval and approve a plan which, as amended, conforms to these rules and regulations or recommendations of the Board of Health.
- C. Failure of the Planning Board either to take final action or to file with the Town Clerk a certificate of such action regarding a plan submitted by an applicant within 90 days after such submission, or such further time as may be agreed upon at the written request of the applicant, shall be deemed to be an approval thereof. Notice of such extension of time shall be filed by the Planning Board with the Town Clerk.
- D. Final approval, if granted, shall be endorsed on the reproducible drawing of the definitive plan by the signatures of the majority of the Planning Board but not until the statutory twenty-day appeal period has elapsed following the filing of the certificate of the action of the Planning Board with the Town Clerk and said Clerk has notified the Planning Board that no appeal has been filed; or if appeal has been taken, not until the entry of a final decree of the court sustaining the approval of such plan. After the definitive plan has been approved and endorsed, the applicant shall furnish the Planning Board with two prints as recorded and stamped at the Registry of Deeds, and the Highway Surveyor, Building Inspector, Board of Health, Select Board and the Assessor with one print each. No release of lots shall be made prior to receipt of these prints.
- E. Final approval of the definitive plan does not constitute the laying out or acceptance by the Town of streets within a subdivision, which action is reserved by statute to the Town Meeting.

§ 368-18. Recording of plan.

- A. Within 10 days after the definitive plan, as approved and endorsed, has been recorded at the South District, Essex County Registry of Deeds and, in the case of registered land, with the Recorder of the Land Court, the applicant shall notify the Board in writing of the date and file number, as appropriate, of such recording.

12. Editor's Note: All Forms are available from the Town offices or on the Town website, topsfield-ma.gov.

- B. At the time of recording, all public easements shall be duly documented and copies thereof sent to the Board.
- C. Upon receipt of notification of recording, the Board shall file one print of the definitive plan with the Inspector of Buildings or his appointed agent. Unless the Inspector of Buildings or his appointed agent has received such print as required in § 368-17, he shall issue no permit for a building on any lot within the subdivision. Further, in accordance with the statute, where approval with covenant is noticed thereon, they shall issue no permit for the construction of a building on any lot within the subdivision except upon receipt from the Board of a copy of the certificate of performance (Form L¹³), releasing the lot in question.

§ 368-19. Performance guarantees.

- A. Performance guarantee. Before endorsement of the Board's approval of a definitive plan of a subdivision, the applicant shall agree to complete the required construction of ways and the installation of municipal services as laid out in the definitive plan for all lots in the subdivision, such construction and installation to be secured in accordance with § 81U of the Subdivision Control Law by one, or in part by one and in part by the other, of the following methods, which method may be selected and from time to time be varied by the applicant with the approval of the Board.
 - (1) Approval with bonds and surety. Before endorsement of the Board's approval of the definitive plan of a subdivision, the applicant shall either file a surety company performance bond (Form G) or provide a deposit of money or negotiable securities (Form F) in an amount determined by the Board, which may consult with the appropriate Town boards or commissions (See Form D.),¹⁴ to be sufficient to cover performance of the construction of ways and the installation of municipal services and not covered by a covenant under Subsection A(2) below. Such bond or security, if filed or deposited, shall be approved as to form and manner of execution by the Board and as to acceptability of the surface by the Board and shall be contingent on the completion of such improvements within 18 months of the date of receipt of bond or surety by the Board or within two years of the date of approval of the definitive plan by the Board, whichever is earlier. The Board may require that the time be specified within which such construction and installation shall be completed as a condition for approval. If the improvements are not completed within this period, the plan may be rescinded and may be resubmitted for approval under the existing rules and regulations. At the discretion of the Board, a time extension may be granted. See § 368-20, Modification, amendment or rescission.
 - (2) Approval with covenant (Form H).¹⁵
 - (a) Instead of filing a bond or depositing a surety, the applicant may request approval of his definitive plan on condition that no lot in the subdivision

13. Editor's Note: All Forms are available from the Town offices or on the Town website, topsfield-ma.gov.

14. Editor's Note: All Forms are available from the Town offices or on the Town website, topsfield-ma.gov.

15. Editor's Note: All Forms are available from the Town offices or on the Town website, topsfield-ma.gov.

shall be sold and no building shall be erected thereon until the construction of ways and municipal services within the subdivision are constructed and installed so as to serve the lots adequately. The Board may give approval with the condition that the applicant will fulfill all requirements of the Board of Health and he will complete all such ways and services within the time period the Board specified or else the Board's approval shall be automatically rescinded.

- (b) Such conditions either shall be contained in a separate agreement (Form H) or shall be referred to on the plan and recorded in the Registry of Deeds, and when the applicant has completed the required improvements for any lots in a subdivision, he may request a release for said lots. The Board shall then submit to each involved board or commission Form I, which shall be completed and returned by said board or commission. When Form I have been received indicating satisfactory performance, the Board shall then execute and deliver to the applicant such release, which shall be in form for recording in the Registry of Deeds (Form L).¹⁶
- B. Reduction of bond or surety. The penal sum of any such bond, or the amount of any deposit held under Subsection A (1) above, may from time to time be reduced by the Board and the obligations of the parties thereto released by said Board in whole or part. If release is by reason of covenant, a new plan of the portion to be subject to the covenant shall be required.
- C. Alternate method of guaranteeing performance. Following the recording of a first mortgage on a lot or lots in the subdivision given as security for advances to the subdivider by a lender, the Board may, at its option, release lots from the operation of the covenant given pursuant to Subsection A(2) above without receipt of a bond or deposit of money upon delivery to the Board of an agreement with the Board, which agreement shall be executed by the applicant and the lender of sufficient funds otherwise due the applicant to secure the construction of ways and the installation of municipal services. Said agreement shall also provide for a schedule of disbursements which may be made to the applicant upon completion of various stages of the work and shall further provide that in the event the work is not completed within the time set forth by the applicant, any funds remaining undisbursed shall be available for completion.
- D. Inspection of construction performance. At the appropriate stages of construction of the improvements specified in a subdivision, the applicant shall submit to the appropriate Town authority a request for inspection of construction of improvements (Form J¹⁷) specifying that improvement to be inspected and shall notify the Board of his completion of such improvements.
- E. Release of performance guarantee.
 - (1) Upon the completion of the construction of ways and the installation of municipal services in a subdivision, security for the performance of which was given by bond, deposit or covenant, or upon the performance of any covenant with respect

16. Editor's Note: All Forms are available from the Town offices or on the Town website, topsfield-ma.gov.

17. Editor's Note: All Forms are available from the Town offices or on the Town website, topsfield-ma.gov.

to any lot, the applicant shall send by registered or certified mail to the Town Clerk and to the Board a written statement in duplicate that the construction or installation in connection with which such bond, deposit or covenant has been given has been completed in accordance with the layout in the definitive plan. If the Board determines that said construction or installation has not yet been completed, it shall specify in writing to the Town Clerk and to the applicant in a notice sent by registered or certified mail to him the details wherein said construction and installation fail to comply with the requirements contained in the definitive plan layout.

- (2) Upon failure of the Board to act on such application within 45 days after the receipt of the application by the Town Clerk, all obligations under the bond shall cease and terminate by operation of law, and any deposit shall be returned, except that a continuing bond or deposit of \$5 per linear foot of roadway shall be retained for one year after application of the finished road surface or until acceptance of the road by Town Meeting without condition, whichever is earlier, and any such covenant shall become void. In the event that said forty-five-day period expires without such specification, or without the release and return of the bond or return of the deposit or release of the covenant as aforesaid, the Town Clerk shall issue a certificate to such effect, duly acknowledged, which may be recorded.
- F. Evidence of satisfactory performance. Before the Board releases the interest of the Town in a performance bond or deposit or, in the case of approval with covenant, issues a release of covenant:
- (1) The applicant shall file with the Board a certified copy of the layout plan with accompanying profiles for each street in the subdivision. Certification shall be by the engineer and surveyor employed by the applicant at his own expense, and shall indicate that all streets, sidewalks, sewers, storm drains, and water mains, and their appurtenances, have been constructed in accordance with the lines and grades of said plan and are accurately located as shown thereon. The applicant shall also file a street acceptance plan or plans, as the case may be, suitable for recording in a form acceptable to the Board and showing such data and boundaries as are necessary for the Town to properly accept the street or streets shown thereon (see Article V, Design and Construction Standards).
 - (2) The applicant shall file a properly executed petition (Form M¹⁸) in duplicate, petitioning the Select Board to insert an application for acceptance of the streets within his subdivision in the Warrant for Annual Town Meeting.
 - (3) The Board shall then notify the various involved Town agencies using Form I and shall obtain in writing, using Form I,¹⁹ from these agencies a statement that all work required by these rules and regulations has been inspected by them and completed in the subdivision and that they have approved the methods of construction and materials used in the performance of such work.

18. Editor's Note: All Forms are available from the Town offices or on the Town website, topsfield-ma.gov.

19. Editor's Note: All Forms are available from the Town offices or on the Town website, topsfield-ma.gov.

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- (4) The Board shall obtain in writing (Form I), from the Board of Health, a statement that each already installed on-lot sewerage system was installed in accordance with the Topsfield Board of Health's Rules and Regulations and Articles of the Sanitary Code of the Commonwealth of Massachusetts.
- (5) The applicant may be required to execute an instrument, in a form approved by the Board, transferring to the Town or to an approved public utility company, without cost, valid unencumbered title to all sanitary sewers, water mains and appurtenances thereto, and other utilities constructed and installed in the subdivision or approved portion thereof, and conveying to the Town or to an approved public utility company, without cost and free of all liens and encumbrances, perpetual rights and easements to construct, inspect, repair, renew, replace, operate and forever maintain such storm utilities, with any manholes, conduits and other appurtenances, and to do all acts incidental thereto, in, through and under the whole of all streets in the subdivision or approved portion thereof, and if any such sewers or water mains have been constructed and installed in land not within such streets, then in, through and under a strip of land extending 15 feet in width on each side of the center line of all such drains and water mains. The Board may require greater than 15 feet in width on each side of the centerline where it deems necessary.
- (6) The applicant shall provide written evidence that instruments of conveyance of open spaces in an open space subdivision have been reviewed by all and are acceptable in form by Town Counsel.

G. Street acceptance procedure.

- (1) The applicant shall provide the Town Clerk with the following:
 - (a) A request in writing to the Town Clerk and the Planning Board that the Town accept any and all streets in the subdivision.
 - (b) A deed to the land, with a complete legal description of the street or streets satisfactory to the Town Counsel.
 - (c) Instruments suitable for recording all easements shown on the plan, not included in the street or ways, for drainage, sewer and water. The easements shall run to the "inhabitants of the Town of Topsfield."
 - (d) A certificate signed by the developer that all necessary parties have signed the easement instrument.
- (2) The developer shall pay to the Town a filing fee which will be required by the Registry of Deeds for the filing of the proposed grants of easements and passage, to be held in escrow by the Town Treasurer until the Town accepts the streets or ways at the subsequent Town Meeting. The above shall be filed on or before February 1 for inclusion in the Annual Town Meeting.

§ 368-20. Modification, amendment or rescission.

- A. The Board, on its own motion or on the petition of any person interested, shall have power to modify, amend or rescind its approval of a definitive plan of a subdivision, or to require a change in a definitive plan as a condition of its retaining the status of an approved plan. All of the provisions of the Subdivision Control Law relating to the submission and approval of a plan of a subdivision shall, so far as apt, be applicable to the approval of the modification, amendment or rescission of such approval and to a plan which has been changed under this section.
- B. No modification, amendment or rescission of the approval of a definitive plan of a subdivision or change in such plan shall affect the lots in such subdivision which have been sold or mortgaged in good faith and for a valuable consideration subsequent to the approval of the plan, or any rights appurtenant thereto, without the consent of the owner of such lots, and of the holder of the mortgage or mortgages, if any, thereon; provided, however, that nothing herein shall be deemed to prohibit such modification, amendment or rescission when there is a conveyance or a mortgage to a single grantee or mortgagee or either the entire parcel of land shown on the subdivision plan or of all the lots not previously released by the Planning Board.
- C. So far as unregistered land is affected, no modification, amendment or rescission of the approval of a definitive plan nor change in a plan under this section shall take effect until: 1) the plan as originally approved, or a copy thereof, and a certified copy of the vote of the Board making such modification, amendment, rescission or change, and any additional plan referred to in such vote, have been recorded; 2) an endorsement has been made on the plan originally approved as recorded, referring to such vote and where it is recorded; and 3) such vote is indexed in the grantor index under the names of the owners of record of the land affected. So far as registered land is affected, no modification, amendment or change has been verified by the Land Court of Essex County pursuant to Chapter 185, and in case of rescission or modification, amendment or change not so verified until ordered by the court pursuant to Section 114 of said Chapter 185.

§ 368-21. Submittal distribution requirements and formats.

- A. Distribution.
 - (1) An applicant shall file with the Town Clerk copies of all required documents in the quantities and forms as outlined below. The Clerk's copy of the required documents shall be kept on file by the Town Clerk for the duration of the permitting process and the remaining copies shall be distributed immediately by the Town Clerk to the following:

	Preliminary Plan	Definitive Plan
Town Clerk	1	1
Granting authority*	7	7
Granting authority electronic	—	1

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	Preliminary Plan	Definitive Plan
Reviewing engineer	—	1
Conservation Commission	1	1
Public Works Department (Water and Highway)	1	1
Board of Health**	1	1
Historical Commission**	1***	1
Building Inspector**	1	1
Fire Department**	1***	1
Police Department**	1***	1
Tree Warden**	1***	1
Whichever of the Planning Board or Board of Appeals is not the granting authority**	1	1

* Two full-size and five reduced-size (11" x 17").

** Reduced-size plans (11" x 17") are acceptable.

*** Project description only is required for first submission.

- (2) Additional copies of any and all documents shall be furnished if requested by the granting authority or any other board, commission or department.
- B. An electronic copy of all documents shall be submitted to the granting authority, formatted in a single paginated PDF file with descriptive bookmarks for each plan set and for each document on either a CD or DVD disc.
 - C. An electronic copy of the final plans with the same format as in Subsection B above, and a full-size hard copy of said plans showing the signatures of the granting authority and date of approval shall be submitted to the granting authority.

ARTICLE V

Design and Construction Standards

§ 368-22. Streets.

- A. Location.
 - (1) All streets in the subdivision shall be designed so that, in the opinion of the Board, they will provide safe vehicular travel. Due consideration shall also be given by the subdivider to the attractiveness of the street layout in order to obtain the maximum livability and amenity of the subdivision.

- (2) The proposed streets shall conform to any master plan or study plan as adopted in whole or in part by the Board.
 - (3) Provision satisfactory to the Board shall be made for the proper projection of streets, or for access to adjoining property which is not yet subdivided.
 - (4) Reserve strips prohibiting access to streets or adjoining property shall not be permitted, except where, in the opinion of the Board, such strips shall be in the public interest.
- B. Cross sections. Cross sections shall be in accordance with the standards as shown on Plates 1 and 2.²⁰ The Board may permit a narrower paved roadway if, in its opinion, it will still provide for safe vehicular travel.
- C. Alignment, grade, dead end and intersections. These shall be accordance with the standards shown in Table 1.²¹
- D. Dead-end streets.
 - (1) A dead-end street or dead-end interior drive shall not extend more than 650 feet from: a through public street, or a street or interior drive that intersects with a through public street in at least two places that are not less than 125 feet apart, provided such street or interior drive is constructed in accordance with the standards for streets and rights-of-way set forth in the Subdivision Regulations.
 - (2) In the case where an existing through street connects to another public street in two places but that public street is itself a dead-end street, the through street shall be considered to be a dead-end street.
 - (3) Subject to the approval of the Highway Superintendent, Fire Chief and Police, the Planning Board may waive the requirements of Subsection D (2) if a second means of access to a subdivision for emergency vehicles can be provided. Such second means of access must be constructed in a manner suitable for snow removal and other maintenance in order to assure year-round access by emergency vehicles. If this second means of access has a gate or other barrier to restrict general motor vehicle access, there must be an easy means to open said gate or barrier for emergency vehicles.
- E. Site and earthwork.
 - (1) All materials and construction methods used for roadway excavation and embankments shall conform to Section 100 of the Standard Specifications (c.f. 2.18)
 - (2) All-natural features such as large trees, watercourses, scenic points, historic plots and similar community assets shall be preserved. It is the opinion of the Board that this protection and preservation will add to the attractiveness and value of the subdivision.

20. Editor's Note: The Plates are available from the Town offices or on the Town website, topsfeld-ma.gov.

21. Editor's Note: Table 1 is included as an attachment to this chapter.

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- (3) The applicant shall employ at his own expense an engineer or surveyor to set all lines and grades in a manner satisfactory to the Highway Superintendent.
- (4) The entire area within the right-of-way lines shall be cleared and grubbed of all stumps, brush, roots, boulders and like materials. All rock or masonry with a maximum dimension over three inches and within six inches of the top of subgrade shall be removed. Trees intended to be preserved shall be protected by suitable boxes, fenders or wells as appropriate.
- (5) All topsoil, defined as fertile, friable, natural material which has demonstrated vegetative growth, shall be removed from within the roadway area and used within the subdivision.
- (6) In cut areas, all unsuitable material such as peat, loam, organic material, silt or clay or any other material that, in the opinion of the Highway Superintendent is considered to be detrimental to the subgrade, shall be removed to the depth and width indicated by him and replaced with ordinary borrow conforming to M1.03.0 of the Standard Specifications. Type "a" shall be used within 12 inches of the top subgrade and Type "b" above, placed in twelve-inch loose lifts and compacted to 95% of maximum density as determined by ASTM Designation 1557-70, Method D.
- (7) In fill areas, the embankment shall be ordinary borrow specified and placed as in Subsection E (6) above. Loaming and seeding shall conform to § 368-26D.
- (8) The subgrade shall be shaped to a true surface conforming to the lines and grades indicated on the approved definitive plan (cross section and profile); and where original ground, shall be compacted to 95%, as defined in Subsection E (6) above, to a depth of six inches. A tolerance of 1/2 inch above or below finished subgrade will be permitted, provided this difference is not maintained over 50 feet and the required crown (cross slope) is maintained.

F. Pavement structure.

- (1) The pavement structure shall be constructed in accordance with applicable sections of Section 400 of the Standard Specifications.
- (2) Gravel base course shall be gravel borrow (M.1.03.0, Type b) in accordance with Section 405 of the Standard Specifications. The gravel base shall be raked such that all large stones (not to exceed four inches) are evenly distributed throughout the base to prevent cobbling.
- (3) The crushed stone base shall consist of washed stone no smaller than 1/4 inch in diameter and no larger than 1 1/2 inch in diameter.
- (4) Binder course. The binder course shall be asphalt concrete in accordance with Section 460, Class I, Bituminous Concrete Pavement, Type I-1 (Binder Course Mix) of the Standard Specifications. The binder course should be allowed to winter over one season and should be swept clean prior to the installation of the surface course. If the binder cannot be swept reasonably clean, a tack coat must be applied to ensure proper binding of the two surfaces. The bituminous concrete surface course shall not be installed until such time as all heavy construction is

complete. (A leveling course may be required prior to the installation of the surface course.)

- (5) Surface course. The surface course shall be asphalt concrete in accordance with Section 460, Class I, Bituminous Concrete Pavement, Type I-1 (Top Course Mix) of the Standard Specifications.

G. Driveways.

- (1) Driveway grades shall begin at the line of the public way and the lot in question.
- (2) Driveway aprons shall be paved, provided with bituminous concrete berm and so graded to provide positive drainage towards the streets by the developer and/or owner from the edge of the public roadway to the property line.

§ 368-23. Shoulders.

Shoulders shall not be allowed in place of sidewalks, curbs and grass strips shown on Plates 1 and 2²² unless permission is specifically granted by the Board. When permitted, they shall be constructed of gravel, in accordance with § 368-22E (2), covered with six inches of loam to the required width. They shall be brought to a finished grade flush with that of the adjacent pavement or curbing.

§ 368-24. Curbing.

Bituminous concrete berm shall conform to the materials and construction methods as specified in Section 470 of the Standard Specifications and as indicated on Plates 1 and 2.²³ It shall be installed along both edges of all roadways in Type II subdivisions, except at driveways. The full arc length of curves at intersections shall, however, consist of granite curbs, the materials and construction methods of which shall be in accordance with Section 500 of the Standard Specifications. The Board may require that it also be installed along one or both sides of all roadways in Type I subdivisions if, in the opinion of the Board, it is warranted by the character of the area and pedestrian use. It is recommended that "Cape Cod" style berm be installed where berms are required.

§ 368-25. Sidewalks.

- A.** Bituminous concrete sidewalks shall conform to the material and construction methods as specified in Section 701 of the Standard Specifications and as indicated on Plates 1 and 2.²⁴
- B.** Sidewalks shall be constructed on both sides of the roadway at the property line on collector streets as indicated on Plate 2. Sidewalks may be constructed only on one side of the roadway at the property line on minor streets as indicated on Plate 1 unless, in the opinion of the Board, they are not warranted. The Board may waive the sidewalk

22. Editor's Note: The Plates are available from the Town offices or on the Town website, topsfield-ma.gov.

23. Editor's Note: The Plates are available from the Town offices or on the Town website, topsfield-ma.gov.

24. Editor's Note: The Plates are available from the Town offices or on the Town website, topsfield-ma.gov.

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requirement or require that they be constructed on both sides of the roadway. When sidewalks are deleted, grass strips shall be extended in their place.

C. Bituminous concrete sidewalks shall:

- (1) Be laid in two courses of 1 1/2 inches each to a depth after rolling of three inches;
- (2) Conform to the material requirements of M3.11.000 of the Standard Specifications for Class I, bituminous concrete pavement; and
- (3) Be placed on an eight-inch gravel base, except at driveways where they shall be 12 inches, compacted to 95% (ASTM Designation 1557-70, Method D) conforming to M1.03.0 Type C of the Standard Specifications.

D. Cement concrete sidewalks may be required in Type II subdivisions. The Board may require that the sidewalks be constructed for the total width from the curb line to the ROW line if, in the opinion of the Board, it is warranted by the character of the area and pedestrian traffic.

E. Cement concrete sidewalks shall:

- (1) Have a finished thickness of four inches; except at driveways, where it shall be six inches;
- (2) Be an air-entraining Portland cement mix producing from 6% to 8% air and developing a minimum twenty-eight-day compressive strength of 2,500 psi;
- (3) Be placed on a zero-inch gravel base compacted to 95% (ASTM Designation 1557-70, Method D) conforming to M1.03.0 Type C of the Standard Specifications;
- (4) Be placed in alternate slabs of 30 feet in length, which shall be separated by a transverse expansion joint;
- (5) Be uniformly scored into block units of not more than 35 square feet in area to a depth of at least one inch; and
- (6) Be reinforced with 6/6 x 10/10 welded steel wire fabric conforming to ASTM Designation A185-70.

§ 368-26. Grass strips.

- A. Grass strips shall be provided as indicated on Plates 1 and 2²⁵ between the curb and the sidewalks, where sidewalks are required.
- B. The finished grade of such grass strips shall be a slope of 1/2 inch per foot toward the roadway. Where unusual physical land characteristics or topographic conditions exist, the Board may approve the construction of a grass strip of a greater slope with the finished slope not projecting above a plane sloped four horizontal to one vertical

25. Editor's Note: The Plates are available from the Town offices or on the Town website, topsfeld-ma.gov.

upward from the back of the curb or below a plane sloped four horizontal to one vertical downward from the back of the curb.

- C. Immediately following the completion of construction of the sidewalks, shade trees of a species to be approved by the Tree Warden shall be planted along the side lines of the streets, at the location and intervals to be determined by the Board. Trees shall be protected by suitable boxes, fenders or wells as appropriate. The applicant shall be responsible for the health and erectness of these trees until the ways have been accepted by the Town. In the event of a waiver of the sidewalk requirement, shade trees shall be planted immediately upon the completion of laying the binder course.
- D. The top six inches of grass strips shall consist of good-quality loam extending to the right-of-way, screened, raked and rolled with at least a one-hundred-pound roller to grade. The loam shall be seeded with lawn grass seed applied in sufficient quantity to assure adequate coverage, rolled when the loam is moist. Loaming and seeding shall be in accordance with Section 751 and 765 of the Standard Specifications.

§ 368-27. Side slopes.

- A. The area in back of the required grass strips, where no sidewalk is constructed, or in back of the sidewalk where sidewalks are constructed shall be graded to a point where it coincides with the finished grade of abutting lots in such a manner that no portion thereof will project above a plane sloped four horizontal to one vertical. If approved by the Board, this area may be graded in such a manner that no portion shall project above a plane sloped two horizontal to one vertical; however, whenever the depth of cut in the area exceeds 15 feet, or when, in the opinion of the Board, soil conditions warrant special considerations, slope flattening methods such as benching shall be employed and terraced areas provided to intercept runoff. Drainage shall be toward the roadway where possible.
- B. Loaming and seeding shall conform to Article V.

§ 368-28. Street name signs.

Street name signs shall be standard Topsfield street-name signs provided at the applicant's expense. Signs showing names of both intersecting streets shall be erected by the applicant at each street intersection near the inside curb edge. The type and location of street name signs shall be subject to the approval of the Highway Superintendent.

§ 368-29. Bridges.

Bridges shall be designed in accordance with the Standards of the Massachusetts Department of Public Works.

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§ 368-30. Underground utility systems.

Underground distribution systems shall be provided for all utility systems both public and private, including water, sanitary sewerage, drainage, electrical, telephone, television and any similar such systems.

§ 368-31. Street lighting.

Street lighting shall be installed if and where required by the Board. Light standards to be used shall be subject to the approval of the Planning Board.

§ 368-32. Fire alarm and police call boxes.

Fire alarm and/or police call boxes shall be provided, if required by the Board acting for the appropriate department. The box(s) shall be placed, installed and wired as specified by and under the direct supervision of the Town of Topsfield Fire and/or Police Department(s), as appropriate. This shall be done at the expense of the applicant, who shall make necessary arrangements for this installation with the appropriate department(s).

§ 368-33. Utilities.

The installation of public utilities shall conform to the standards of the following subsections:

A. General.

- (1) The applicant shall employ, at his own expense, an engineer or surveyor to set all lines and grades in a manner satisfactory to the Board.
- (2) All utility lines shall be installed in the location indicated and with the minimum cover as shown on Plates 1 and 2.²⁶
- (3) The extent of trench open at any one time shall be subject to the requirements of the Highway Superintendent.
- (4) The width of trench shall be made as narrow as practicable and within 12 inches from the top of pipe or conduit shall not exceed $\frac{4}{3}$ diameter of the pipe or conduit plus 18 inches.
- (5) Sheeting, if used, shall be cut off 12 inches above top of pipe or conduit.
- (6) For installation in embankments, the embankment shall be constructed in accordance with § 368-22E (7) to at least one foot above the top of pipe or conduit and then the pipe or conduit installed as in undisturbed materials.
- (7) Unsuitable material in trenches shall be removed and replaced in accordance with § 368-22E (6).
- (8) All underground utilities shall be tested and approved prior to installation of base course(s) and pavement.

26. Editor's Note: The Plates are available from the Town offices or on the Town website, topsfield-ma.gov.

- (9) All lot connections shall be installed to the right-of-way line, marked or surveyed so as to be easily located in the future.
- (10) Backfill shall be placed in twelve-inch loose lifts and compacted to 95% in accordance with ASTM Designation 1557-70, Method D.

B. Water.

- (1) The applicant shall connect to the public water system except where it is determined by the Planning Board that such a connection is not feasible or appropriate. Where a connection to the public water system is not feasible or appropriate, the applicant may install a private on-lot water system for each lot.
- (2) Water mains and appurtenances, including service connections, shall be installed in conformity with the specifications of the Board of Water Commissioners.
- (3) Water pipe diameter shall not be less than eight inches. A larger diameter may be required where, in the opinion of the Board of Water Commissioners, such a size is required for the benefit of the whole system.
- (4) Hydrants shall be located at each street intersection and not more than 500 feet apart. Each hydrant shall be served directly from the water main.
- (5) At water main intersections, all lines shall be valved and the maximum spacing between valves on any one main shall not exceed 1,000 feet, so mains may be isolated for maintenance purposes.
- (6) All pipelines shall begin combined pressure and leakage tests at the direction of the Topsfield Board of Water Commissioners. The average leakage shall meet the latest ASTM Standards. All potable water lines shall be disinfected according to AWWA Designation C601-68.
- (7) Private on-lot water systems shall be designed and constructed in accordance with appropriate requirements of the Board of Health of the Town of Topsfield.

C. Drainage.

- (1) The construction of the drainage system, including methods of construction and quality of materials used, shall be in conformity with the definitive plan and Section 200 of the Standard Specifications.
- (2) The design capacity of the drains shall be determined by any computational method based on drainage basin models currently recognized by the civil engineering profession. The Board may require the applicant to submit drainage capacity estimates derived from more than one model. The engineer shall design the drainage system in accordance with the zoning regulations and the natural drainage boundaries of the total contributing drainage area, using a minimum of a twenty-five-year design frequency storm for Type I subdivisions and a minimum of a fifty-year design frequency storm for Type II subdivisions. Where, in the opinion of the Board, flooding would produce property damage or a safety hazard, the design frequency storm shall be increased to fifty-year. A fifty-year design frequency storm shall be used for all bridge openings or major culverts. An applicant shall submit runoff data and calculations computed by a registered

civil engineer of the maximum surface drainage which will be shed by the road systems and the area within the subdivision.

- (3) The drainage system within the subdivision shall be adequate to carry off surface drainage caused by rain, snow and ice without flooding of roads, sidewalks or adjacent property within the subdivision. In situations where collected surfacerunoff is discharged in large concentrations, the Planning Board shall require the applicant to undertake a flood impact analysis and backwater analysis using a fifty-year design storm to determine probable effects of the discharge and preventative measures available and/or proposed.
- (4) The drainage system shall not wrongfully overburden continuous existing drainage systems, either natural or artificial, located outside the subject development, with the result that such off-site drainage systems wrongfully flood or overflow the property of others located either outside or within the subject development.
- (5) Drainage pipe beneath the roadway shall be reinforced concrete and have a minimum diameter of 12 inches. Joints shall be rubber gasket type. Corrugated metal pipes may be used for drainage outside of the roadway or for culverts under the roadway.
- (6) Where feasible, methods to utilize the stormwater in artificial recharge operations should be employed, i.e., holding basins, modified streambed, etc. If, in the opinion of the Board, such operations or methods are unfeasible or unnecessary, stormwater should be directed to enter the nearest open stream channel which can best accommodate flow. A masonry, fieldstone or rock headwall shall be constructed at the drain's point of entry or outfall into the channel. Outfalls of diameter in excess of 18 inches shall contain iron bars ("Kidstoppers"). Stormwater shall not be permitted to cross any roadway upon the surface but must be piped underground. Subdrains as shown on Plate 627 shall be installed along the roadway where, in the opinion of the Board, they are necessary to prevent frost action or buildup in volume from high terraced areas. Stormwater runoff shall not be permitted to flow upon the road surface for a longer distance than 300 feet before it enters the underground system.
 - (a) Catch basins shall be located on both sides of the roadway on continuous grades at intervals of not more than 300 feet, at all sags in the roadway, and near the corners of the roadway at intersecting streets, to prevent surface water from crossing the intersection. Granite curb inlets conforming to Section 500 of the Standard Specifications shall be installed at all roadway catch basins but shall not be required for area catch basins. See Plates 3, 4, 5 and 6.²⁸
 - (b) Profiles and cross sections of waterways and drainage lines off the roadways shall be shown as far as necessary to ensure that flooding does not occur. These shall be detailed on a scale of four inches equals one foot vertical.

27. Editor's Note: The Plates are available from the Town offices or on the Town website, topsfield-ma.gov.

28. Editor's Note: The Plates are available from the Town offices or on the Town website, topsfield-ma.gov.

- (7) In the event that a subdivision drainage system is to be connected to an off-site drainage facility, the applicant shall submit estimates of peak flow in that facility prior to and after such connection is completed. Such estimates shall be based on a twenty-five-year design storm except where a fifty-year design storm culvert has been proposed. In the case of a man-made off-site drainage system, the applicant shall provide hydrographs for the connecting tie-in which clearly show the time of concentration of the existing run-off and that of the additional run-off generated by the proposed subdivision.
- (8) Proper connections shall be made with any existing public drainage system within 300 feet of the subdivision.
- (9) No open water body or pond shall be filled in and no wet or swampy area shall be filled in unless approval has been obtained in compliance with Chapter 131 of the Massachusetts General Laws and 310 CMR, inclusive of all amendments.
- (10) Where open stream channels exist within a subdivision, adequate provisions shall be made for properly maintaining them or for properly enclosing them, if absolutely necessary. It is the Town's intent to preserve and maintain the natural features of such streams and any development should be planned accordingly.
- (11) Drainage pipe shall be bedded in compacted screened gravel to a depth of six inches below the bottom of the pipe in earth and 12 inches in rock. Gravel bedding shall be carried to the spring line of the pipe. Selected material containing no large boulders shall then be hand placed to an elevation of one foot above the top of the pipe and compacted in accordance with Subsection A (10). Mechanical equipment may be used to backfill the trench above this point.
- (12) Manholes and catch basins shall be brick or block, and a typical detail of such materials, dimensions and construction details shall be submitted to the Highway Superintendent for approval. If approved by the Board, precast or cast-in-place manholes and catch basins may be used.
- (13) Drain manholes shall be located at every change in grade or direction of the drainage line, at catch basin connections, and shall not exceed 300 feet apart in a continuous system. Catch basins shall not be installed within a traveled lane of a public way, nor shall they be installed in front of any driveway entrance.
- (14) Iron castings for manhole frames and covers and catch basin frames and grates shall be in accordance with Massachusetts Department of Public Works Standards.
 - (a) Manhole covers shall have three-inch lettering to read "DRAIN."
 - (b) Catch basin grates shall be Type A-1 or A-3.

D. Sanitary.

- (1) When a public sewerage system is available, no building permit shall be issued until a sewer entrance permit has been obtained. Individual sewage disposal systems or other means of sewage disposal shall not be approved where a common sanitary sewer is accessible in an abutting way and where permission to enter such a sewer can be obtained from the authority having jurisdiction over it.

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- (2) Private on-lot sewerage systems shall be designed and constructed in accordance with the requirements of the Board of Health of the Town of Topsfield and articles of the Sanitary Code of the Commonwealth of Massachusetts.
- E. Other utilities. Other utilities, where necessary, shall be located generally as indicated on Plates 1 and 2.²⁹ Materials and construction methods shall be in accordance with the requirements of the involved utility company and appropriate Town department.

§ 368-34. Easements.

- A. Utility easements such as water, electric, gas, telephone lines or drainage piping shall be provided where necessary and shall be at least 30 feet wide unless, in the opinion of the Board, a different width is warranted. All such easements shall be located on the definitive plan within an accuracy limit prescribed in Article IV, Section 3.3.g.³⁰
- B. Where a subdivision is traversed by an open watercourse, drainageway, channel or stream, the Board shall require that there be provided a stormwater easement or drainage right-of-way of adequate width (minimum 30 feet) to conform substantially to the lines of such watercourse, drainageway, channel or stream and to provide for maintenance or other necessary purpose.
- C. Consideration shall be given and may be required by the Board to establish conservation and/or recreation easements (such as trails and foot paths).
- D. Where a temporary turnaround is required, an easement of adequate radius to conform to the standards of Table 1 shall be provided.³¹

§ 368-35. Monuments.

- A. Granite or reinforced-concrete monuments three feet in length dressed to six inches at the top with a pin or a 3/8-inch drill hole in the center, and not less than six inches square at the bottom, shall be set flush to finish grade as shown on plans.
- B. Monuments shall be installed at all street intersections, at all points of change in direction, or curvature of streets, and at other points as shown in the definitive plan and where, in the opinion of the Board, permanent monuments are necessary.
- C. Iron pipe markers set in concrete shall be installed at the intersection of all lot lines with street lines. Iron pipe markers shall be installed at all other lot boundaries at corners and changes in course. The iron pipe shall be three feet long and extended above grade not more than six inches or less than one inch. In the event that the terrain does not permit the installation of a marker at a lot line change, witness markers may be installed in locations subject to Board approval. The pipe shall be installed at the time of lot layout. Any pipes disturbed during construction shall be reset.

29. Editor's Note: The Plates are available from the Town offices or on the Town website, topsfield-ma.gov.

30. Editor's Note: So in original.

31. Editor's Note: Table 1 is included as an attachment to this chapter.

§ 368-36. Retaining walls.

Retaining walls shall be designed in accordance with the Commonwealth of Massachusetts, Department of Public Works, Bridge Manual, including all amendments, and shall conform to the application subsections of Section 900 of the Standard Specifications.

§ 368-37. Fencing.

Fencing shall be required in subdivisions abutting limited- or controlled-access highways or expressways, or other limited- or controlled-access roads. Fencing may be required in other areas where physical features require such safety and shall be approved by the Highway Superintendent.

§ 368-38. Guard rails.

Guard rails shall be provided at points of hazard along the roadway such as fixed objects at the pavement edge, high fills, fills on sharp curvature, along watercourses, steep cliffs, along deep ditches in cuts and similar locations as required by the Highway Superintendent. Type and installation of guard rails shall be approved by the Highway Superintendent.

§ 368-39. Open spaces.

- A. Before approval of a plan, the Board may also, in appropriate cases, require the plan to show a park or parks suitably located for playground or recreation purposes or for providing light and air. The park, or parks, shall not be unreasonable in area in relation to the land being subdivided and to the prospective uses of such land. The Board may, by appropriate endorsement on the plan, require that no building be erected upon such park or parks without its approval, for a period of not more than three years.
- B. Pedestrian ways, bikeways, or bridle paths of not less than 20 feet in width may be requested where deemed desirable to provide circulation or access to schools, playgrounds, parks, shops, transportation, open spaces and/or community facilities. Each area reserved for such purpose shall be of suitable area, dimensions, topography and natural character for the purposes of a park and/or playground. The area or areas shall be so located as to serve adequately all parts of the subdivision as approved by the Board.
- C. The Board may require that the area or areas reserved shall be located and laid out so as to be used in conjunction with similar areas of adjoining subdivisions or of probable subdivisions. Any land so reserved shall be graded to dispose properly of surface water and shall be left in condition for the purpose intended, as required by the Board. Land acquired in this manner shall be compensated for as provided in MGL c. 41, § 81Q.

§ 368-40. Protection of natural features.

Due regard must be shown for all-natural features, such as trees, watercourses, scenic points, historic spots and similar community assets which, if preserved, will add attractiveness and

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value to the community and the subdivision. Where topsoil is stripped from the site, it shall be replaced in accordance with § 368-22E (5).

§ 368-41. Tree planting.

- A. Shade trees of species approved by the Tree Warden shall be planted on each side of each street (at least two per lot) in a subdivision, except where the definitive plan showed trees to be retained which are healthy and adequate. Such trees shall be located outside of the right-of-way as shown in the Profile and Typical Cross Section, approximately at fifty-foot intervals, and shall be at least 12 feet in height, two inches in caliper measured four feet above the approved grade, and shall be planted each in at least 1/2 cubic yard of topsoil, unless otherwise required by the Tree Warden.
- B. All deciduous street trees shall be clear of any branches from the approved grade level to a point seven feet above ground level.
- C. The developer shall be liable for all trees so planted as to their erectness and good health in accordance with § 368-26C.
- D. All cut banking's shall be planted with a low-growing shrub and wood chipped to a minimum depth of six inches or seeded with a deep-rooted perennial grass to prevent erosion.

§ 368-42. As-built plans.

As-built plans showing the location, grades and other significant information regarding utilities and roads shall be prepared by the applicant and submitted to the Board within six months following the final approval of the improvements as herein provided. This may be done by submitting revised Mylars or linens of the approved definitive plan showing the actual existing as-built conditions.

§ 368-43. Cleaning up.

The entire area must be cleaned up within 30 days of completed construction so as to leave a neat and orderly appearance free from debris and other objectionable materials. All catch basins shall be properly cleaned out.

ARTICLE VI
Administration

§ 368-44. Inspection and control.

- A. At the points hereinafter indicated, the construction of required streets and other improvements shall be inspected by the Planning Board or its agent:

- (1) The installation of underground utilities and services shall be inspected as appropriate by the Board or its agent, the Board of Health, the Board of Water Commissioners, as appropriate, before the backfilling of trenches (see Form D³²).
 - (2) The roadway shall be inspected prior to each required construction step by the Board or its agent upon completion of the subgrade, base course, binder and surface course.
 - (3) The sidewalk shall be inspected prior to each required construction step.
 - (4) Following the completion of all the improvements shown in the definitive plan, the subdivision shall be inspected by the Board or its agent and/or appropriate Town boards and commissions.
- B. Unless the approval of the work completed, including approval of materials used, to each point has been given in writing, no further work shall be conducted until such work is subsequently completed to the satisfaction of the Highway Superintendent or the appropriate Town boards or commissions.
- C. Inspection shall be requested by the applicant at least 48 hours in advance by notice to the respective department using Form J.³³
- D. Inspection of improvements shown in the definitive plan shall be by the appropriate Town boards or commissions. The cost of such inspection shall be paid by the applicant at a rate of \$1/linear foot of roadway. A certified check in the amount of the calculated fee shall be submitted to the Town. Following each of the above-indicated inspections, the applicant shall render a check to the Town in the actual amount as billed by the Town for said inspection services. Following final acceptance of the roads by the Planning Board, the Town shall return any excess fee remaining to the applicant.

§ 368-45. Waiver of compliance.

The Board may in any particular case, where such action is in the public interest and not inconsistent with the intent and purpose of the Subdivision Control Law, waive strict compliance with these rules and regulations, and with the frontage and access requirements specified in said law, and may, where the ways are not otherwise deemed adequate, approve a definitive plan on conditions limiting the lots upon which buildings may be erected on particular lots and the length of time for which particular buildings may be maintained without further consent by the Board to the access provided. The Board shall endorse such conditions on the plan to which they relate, or set them forth in a separate instrument attached thereto to which reference is made on such plan and which shall for the purpose of the Subdivision Control Law be deemed to be a part of the plan.

32. Editor's Note: The Forms are available from the Town offices or on the Town website, topsfield-ma.gov.

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§ 368-46. Zoning Board of Appeals.

The Board of Appeals for these rules and regulations as provided for by § 81Z of the Subdivision Control Law shall be the same Zoning Board of Appeals provided for the Town of Topsfield for administering its Zoning Bylaw.

§ 368-47. Amendments.

These rules and regulations may be amended from time to time in accordance with § 81Q of the Subdivision Control Law.

§ 368-48. Validity.

The invalidity of any portion of the foregoing rules, regulations and requirements shall not affect the validity of the remainder.

ARTICLE VII

Effective Date and Repealer

§ 368-49. Effective date.

These rules and regulations were in effect on and after September 3, 2009, the date a separate copy certified by the Town Clerk as adopted by the Planning Board was transmitted by the Planning Board to both the Register of Deeds, South District of Essex County and the Recorder of the Land Court of Essex County.

§ 368-50. Repealer.

Any previous Rules and Regulations Governing the Subdivision of Land in the Town of Topsfield as adopted by the Topsfield Planning Board are repealed in their entirety.

SUBDIVISION REGULATIONS

368 Attachment 1

Town of Topsfield

Table 1. Geometric Design Standards

	Subdivision Minor Street	Subdivision Minor Street	Subdivision Collector Street
Right-of-way, feet	50	60	60
Pavement width, feet	26	32	36
Horizontal alignment minimum radius at feet	150	300	300
Vertical alignment stopping site distance, feet	200	250	250
Grade - Percent			
a. Maximum	8.00	8.00	8.00
b. Minimum	1.00	1.00	1.00
Intersection			
a. Minimum angle, degrees	90*	90	Not permitted
b. Minimum offset, feet	125	125	125
c. Minimum radius at roadway edge (1)	25	25	50
d. Minimum sight distance, feet	200	250	250
e. Minimum lengths of the 2 legs of a triangle whose legs are measured along the center of the nearest lane of the traveled way from the point of intersection within which no structure or vegetation shall be over 3 feet in height	100	150	150
Dead-End Streets			
a. Maximum length, feet	650	650	Not permitted
b. Minimum turnaround radius at roadway edge, feet	55	55	Not permitted
c. Minimum turnaround radius at property line, feet	65	65	Not permitted
d. Cul-de-sac without island			
(1) Minimum pavement radius, feet	55	55	Not permitted
(2) Minimum right-of-way radius, feet	65	65	Not permitted
e. Cul-de-sac with island			
(1) Minimum pavement radius, outer edge, feet	110	110	Not permitted
(2) Maximum pavement radius, inner edge, feet	85	85	Not permitted
(3) Minimum height of island above surrounding pavement, inches	16	16	Not permitted
(4) Maximum height of island above surrounding pavement, inches	36	36	Not permitted
(5) Minimum right-of-way radius, feet	120	120	Not permitted
The actual cul-de-sac shall be centered on the right-of-way.			
All island plantings shall not block the view across the cul-de-sac.			

* May be reduced to 75° with the permission of the Highway and Fire Departments.

SUBDIVISION REGULATIONS

368 Attachment 2

Town of Topsfield

Appendix A Requirements for Environmental Impact Statement

In accordance with § 368-13B (10), the applicant shall submit an Environment Impact Statement. The statement shall discuss the following:

Natural Environment

1. Air.

- a. Describe possible sources and duration of significant amounts of odors, smoke and dust.
- b. Describe precautions to be taken to eliminate or minimize the adverse environmental effects of the smoke, dust or odors generated.
- c. Describe the relationship of the location of the subdivision and prevailing wind patterns to nearby residences, businesses, recreation areas and other public areas.
- d. If incineration of refuse is proposed for the subdivision, describe the effects resultant emissions will have on air quality in the area. Include proof that the incinerator complies with the latest local and state standards.

2. Land.

- a. Describe the existing general physical conditions of the site, including existing use, general topography, unusual geologic formations and soils, and how the project will affect these features.
- b. Describe any limitations on proposed project caused by subsurface soil and water conditions, and methods to be used to overcome them.
- c. Describe procedures and findings of percolation tests conducted on the site.
- d. Describe the types and amounts of land which will be permanently affected by construction of the subdivision.
- e. Describe proposed rough grading plans.

3. Water and wetlands.

- a. Evaluate how and to what extent the project will affect the quality and quantity of any existing or potential public or private water supply, including watersheds, reservoirs and groundwater.

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- b. Describe the methods to be used during construction to control erosion and sedimentation and siltation, including use of sediment basins and type of mulching, matting or temporary vegetation; approximate size and location of land to be cleared at any given time and length of time to exposure; covering of soil stockpiles; and other control methods used. Evaluate effectiveness of proposed methods on the site and on the surrounding areas.
 - c. Describe the permanent methods to be used to control erosion and sedimentation. Include description of:
 - (1) Any areas subject to flooding or ponding;
 - (2) Proposed surface drainage system;
 - (3) Proposed land grading and permanent vegetation cover;
 - (4) Methods to be used to protect existing vegetation;
 - (5) The relationship of the development to the topography;
 - (6) Any proposed alterations of shorelines marshes or seasonal wet areas;
 - (7) Any existing or proposed flood control or wetland easements;
 - (8) Estimated increase of peak runoff caused by altered surface conditions, and methods to be used to return water to the soils.
 - d. Discuss probability that project will increase pollution or turbidity levels within receiving waterway and the precautions to be taken to minimize the effects.
 - e. Discuss the project’s effect on the waterway’s aquatic biota and use as habitats.
 - f. Discuss the project’s effects on groundwater quality and supply and efforts to recharge groundwater supplies.
 - g. Discuss what effect the project will have on increasing the incidents of flooding, including areas outside the subdivision.
 - h. Discuss the effect of the proposed sewage disposal methods on surface water and groundwater supplies and quality.
4. Energy.
- a. Describe the types and increased quantity of energy required to serve the needs of the project residents.
 - b. Indicate what the sources of this energy will be.

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5. Noise.

- a. Describe the time, duration and types of noises generated by the project, both during and after construction.
- b. Discuss what effect these noises will have on both humans and wildlife.
- c. Describe the controls which will be used to eliminate or minimize the effects of these noises.

6. Local flora and fauna.

- a. Discuss the project’s effects on land-based ecosystems, such as the indigenous wildlife, stream bank cover and vegetal or wooded growth.
- b. Describe proposed types and amounts of vegetal cover.
- c. Discuss the existence of rare or endangered plant, wildlife or fish species in the project area.

Man-Made Environment

1. Land use.

- a. Describe how the proposed project conforms with the growth plans for the area and the Town in general.
- b. Describe land uses adjacent to the project.
- c. Describe any existing or proposed public or common recreational or open areas within the subdivision.

2. Density.

- a. Provide a tabulation of proposed buildings by type, size (number of bedrooms, floor area), ground coverage, and a summary showing the percentage of the tract to be occupied by buildings, parking and other paved vehicular areas, and usable open space.

3. Zoning.

- a. Indicate the zoning designations for the site and adjacent areas.

4. Architecture.

- a. Describe the architectural and landscaping techniques which will be used to blend the structures with the surrounding area.

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- b. Discuss the heights of the structures in relation to the surrounding area.
 - c. Discuss the project’s visual impact and possible interference with natural views.
 - d. Describe type of construction, building materials used, location of common areas, location and type of service facilities (laundry, trash, garbage disposal).
5. Historic buildings, historical sites and archeological sites.
- a. Indicate location and significance of any historic buildings or sites on or adjacent to the project.

Public Facilities

1. Water supply, flow, pressure and distribution.
- a. Describe the groundwater and/or surface water supply to be used.
 - b. Discuss the demands of the project for consumption and fire protection.
2. Sanitary sewerage connection, distribution and facilities.
- a. Discuss the quantity and type of sewage which will be generated by the project.
 - b. Describe the method of sewage treatment, if any, proposed for the project.
3. Storm drainage facilities.
- a. Describe where connection to the Town system is proposed.
4. Disposition of stormwater.
- a. Indicate the location of all proposed outfalls.
 - b. Describe the effect of the outfalls and their discharge on the receiving waters, i.e., increased flows, pollution, etc.
 - c. Discuss the quantity of stormwater to be discharged.
5. Refuse disposal.
- a. Estimate the quantity and types of refuse that will be generated by the subdivision.
 - b. Describe the proposed methods of refuse disposal.

SUBDIVISION REGULATIONS

6. Traffic facilities.
 - a. Discuss future vehicular circulation patterns, including number and types of vehicles.
 - b. Describe the proposed pedestrian circulation pattern.
 - c. Discuss the location and number of parking spaces proposed.
7. Electric power.
 - a. Discuss the power demand of the subdivision.
 - b. Discuss the source of the electric power and the method of supplying the area.
8. Gas.
 - a. Discuss the demands of the subdivision.
 - b. Describe what the gas will be used for in the area.
 - c. Describe the source of gas supply and the proposed method of supplying the area.

Community Services

1. Schools.
 - a. Discuss the effect of the subdivision on existing schools, including number and ages of children generated by the subdivision.
 - b. Describe the location of the nearest existing schools.
2. Recreation.
 - a. Describe existing and proposed recreational facilities, including active and passive types; and age groups participating; and state whether recreational facilities and open space are available to all Topsfield residents.
 - b. Indicate location and width of existing and proposed pedestrian ways, bikeways or bridle paths.
3. Police.
 - a. Estimate the total population projected for the subdivision.
 - b. Estimate the total number of automobiles for the area.

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4. Fire.

- a. Discuss the total number of buildings to be constructed and their types and construction.
- b. Describe the source and quantity of water available for fire protection for the area.

5. Public works.

- a. Calculate the total linear feet of roadway to be publicly maintained and plowed.
- b. Calculate the linear feet of street drains, culverts, sanitary sewers and water lines to be publicly maintained.

Human Considerations

1. Aesthetics and visual impact.

- a. Discuss the change in the present character of the area due to the project, i.e., land use, density of development, etc.
- b. Discuss the measures to be taken to minimize the adverse effects of the project, i.e., architecture, buffers, etc.

2. Parks, forests and recreational areas.

- a. Discuss how the siting and construction of the project will affect existing and potential park and recreation areas, open spaces, natural areas and scenic values.
- b. Discuss how the project will affect recreational opportunities in the area due to removal of parks, forests or open areas from public use.

3. Public health.

- a. Discuss the project’s effects on residents’ public health due to changes in water quality, air quality, noise levels, etc.

SUBDIVISION REGULATIONS

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Town of Topsfield

**Planning Board
Fee Schedule**

◆ **LEGAL ADS**

Billed directly to applicant.

◆ **SPECIAL PERMITS**

Business Park	\$200
Common Drive	\$100 per lot served (driveway can serve up to 3 lots)
Elderly Housing District	\$1,000 (New construction EHDs must be reviewed under site plan review and are subject to the site plan review fees listed below.)
Scenic Road Application	
Stone Wall Removal	\$75
Tree Removal	\$75
Wind Energy Conservation Systems	\$200

◆ **SITE PLAN REVIEW**

Two-Step Fee

- 1) Coverage Fee: \$100/5,000 square feet or any portion thereof of new/alterd lot disturbance (the total square footage of all new/alterd building footprints, plus all paved surfaces, septic installations and stormwater management systems)

_____ sq. ft. ÷ 5,000 sq. ft. x \$100 = _____ area of new/alterd coverage

- 2) Gross Floor Area Fee: \$200/5,000 square feet or any portion thereof of new/alterd Gross Floor Area (gross floor area - the total square footage of all new floor area on all levels of all new or existing buildings)

_____ sq. ft. ÷ 5,000 sq. ft. x \$200 = _____ area of new/alterd gross floor area

Coverage Fee \$ _____

Gross Floor Area Fee \$ _____

Total Site Plan Review fee \$ _____

◆ **APPROVAL NOT REQUIRED**

\$100 per application

\$100 per lot, parcel created or change of lot line

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◆ **PRELIMINARY SUBDIVISION PLAN**

\$500 per application, plus \$100 per lot

◆ **DEFINITIVE SUBDIVISION**

Definitive plan with preliminary plan: \$2,000 per application, plus \$500 per lot and \$1,000 per lot in excess of the number of lots depicted in the preliminary plan

Definitive plan without preliminary plan: \$2,000 per application, plus \$1,000 per lot

Additional fees shall be assessed when deemed appropriate by the Board, such as cost of legal notices and technical reviews.

NOTE: These Planning Board fees have been set in accordance with MGL c. 40, § 22F, and are effective March 10, 2006.

Chapter 380

WATER CONSERVATION PLAN

ARTICLE I

Introduction

§ 380-1. Background.

§ 380-2. Purpose and goals for Plan.

§ 380-11. Agricultural water use.

§ 380-12. Lawn and landscape water conservation.

§ 380-13. Education and outreach.

ARTICLE II

Current Water Conservation Program

§ 380-3. Overview.

§ 380-4. Integrated planning.

§ 380-5. Water audits and leak detection.

§ 380-6. Metering.

§ 380-7. Pricing.

§ 380-8. Residential water use.

§ 380-9. Public sector water use.

§ 380-10. Industrial, commercial and institutional water use.

ARTICLE III

Recommended Enhancements for Water Conservation

§ 380-14. Overview.

§ 380-15. Water conservation fund.

§ 380-16. Demand management plan to reduce seasonal irrigation.

§ 380-17. Regulatory changes.

§ 380-18. Use of EPA guidelines to evaluate and modify forecast and conservation measures.

**Topsfield Water Conservation
Standards Compliance Table
Worksheets**

[HISTORY: Approved by the Board of Water Commissioners of the Town of Topsfield 2-21-2007. Amendments noted where applicable.]

ARTICLE I

Introduction

§ 380-1. Background.

The Town of Topsfield is located in the Ipswich River watershed, which is designated by Massachusetts DEP as a stressed river basin. American Rivers has designated the Ipswich River as one of the 20 most threatened rivers in the United States. Over 330,000 people and thousands of businesses rely on the Ipswich River basin and its associated aquifers for part or all of their water. Seasonal peak water demands have been one of many contributing factors affecting low-flow and no-flow conditions in the upper Ipswich basin that have altered and damaged aquatic and bird habitat, as well as species distributions in the basin. The ecological needs for water conservation have been well documented by several groups in the area.

§ 380-2. Purpose and goals for Plan.

- A. The purpose of the Topsfield Water Conservation Plan is to focus on the needs of Topsfield in the context of its location and water use within the Ipswich River watershed as well as to the overall benefits of water conservation to the Town. This document draws upon the Executive Office of Environmental Affairs (EOEA) Water Conservation Standards (May 2006) and the Regional Water Conservation Plan for Ipswich River Watershed (April 2003) as primary source documents for the Plan.
- B. The Topsfield Water Conservation Committee chose to use the EOEa format for the Plan, consistent with Topsfield's desire to align its water conservation actions with existing state policy. Topsfield's water withdrawals from the Ipswich basin are regulated by the standards contained within the Withdrawal Permit issued by MA DEP. In preparing this Plan, the Topsfield Water Conservation Committee established goals that are consistent with those contained within the EOEa document as well as those within the Ipswich River Conservation Plan. They are as follows:
- (1) To integrate water conservation and efficiency measures into all aspects of water supply planning and management;
 - (2) To maximize the efficiency of public water supply system operations;
 - (3) To reduce indoor and outdoor water use overall by at least 15% overall compared to 1999 water use;
 - (4) To reduce peak demand use by at least 20% compared to 1999 use;
 - (5) To promote public awareness of the long-term economic and environmental benefits of conserving water.
- C. The EOEa's Water Conservation Standards includes both standards and recommendations. Standards are defined as achievable, implementable and practical measures that should be adopted by water suppliers, water users and state agencies. Recommendations should be considered as goals for the future and adopted wherever possible. The standards and recommendations address key elements of water supply planning, management and water use, including the following 10 topics:
- (1) Integrated planning;
 - (2) System water audits and leak detection;
 - (3) Metering;
 - (4) Pricing;
 - (5) Residential use;
 - (6) Public sector use;
 - (7) Industrial, commercial and institutional use (ICI);
 - (8) Agricultural use;
 - (9) Lawn and landscape; and

- (10) Public education and outreach.
- D. Each of these topics, and the relevant standards and recommendations, are presented in Article II of this document, including how Topsfield is meeting them. Similarly, Article II also presents relevant conditions outlined in the Town's Withdrawal Permit and how the Town is currently meeting them.
- E. Article III of this document summarizes Topsfield's planned enhancements to its existing conservation program. These measures will supplement and strengthen the conservation measures currently implemented by the Town.

ARTICLE II

Current Water Conservation Program

§ 380-3. Overview.

Topsfield's current conservation efforts are described in this article, using the May 2006 EOE A Water Conservation Standards as a benchmark for evaluating success in meeting overall conservation goals. Table 2-1 summarizes the Town's compliance with each of the applicable standards and recommendations for each of the 10 topics. Standards and recommendations that are not applicable to the Town, such as those requiring state agency actions, are not included in the table or discussed below. The Town's Withdrawal Permit from DEP also creates standards that must be met and are noted in this article as well.

§ 380-4. Integrated planning.

- A. Standards.
 - (1) EOE A stresses the importance of an integrated approach to water use planning, factoring in drinking water withdrawals, wastewater and stormwater, to address and mitigate alterations to the natural water cycle's balance.
 - (a) The Town plans to meet all the standards proposed by EOE A under this topic, including:
 - [1] Developing a drought/emergency management plan;
 - [2] Developing a written program to comply with EOE A's conservation standards; and
 - [3] Making written policies and recommendations available to municipal personnel and the public.
 - (b) This Water Conservation Plan constitutes the "written program" referenced above and will be made available to municipal personnel and the public.
 - (c) An important element of the Town's conservation program that is relevant to integrated planning is its drought management program, which includes strategies to reduce peak daily and seasonal peak demand. As originally

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adopted in 2000 by the Town, the Topsfield Water Use Restriction Bylaw¹ authorizes the Board of Water Commissioners to declare a state of water emergency and limit the use of water by choosing the following methods:

- [1] Odd/Even day outdoor watering;
- [2] Outdoor watering ban;
- [3] Outdoor watering permitted only during periods of low daily demand;
- [4] The filling of swimming pools is prohibited; and
- [5] The use of automatic lawn sprinklers is prohibited.

- (2) DEP's most recent five-year review of the Town's Withdrawal Permit introduced water supply and environmental indicator triggers into the Town's drought and emergency program. The permit requires Topsfield to implement outdoor water use restrictions whenever Ipswich River streamflows fall below the following levels during the peak demand summer season:

Period	Streamflow Trigger (3 consecutive days below threshold)	Flow Volume (USGS Ipswich Gauge Station 01102000)	Required Action
May 1 — September 30	<0.56 cfsm	<70 cfs	Public notice for voluntary water restrictions
May 1 - September 30	<0.42 cfsm	<52.5 cfs	Implementation of mandatory water restrictions

cfsm = cubic feet per second per square mile

cfs = cubic feet per second

- (3) Minimum mandatory restrictions include limiting nonessential outdoor water use to hand-held hoses only, with an hourly restriction; no nonessential watering allowed between 9:00 a.m. and 5:00 p.m.; irrigation of public parks and recreational fields must be done only by automatic sprinklers with moisture sensors. The restrictions are enforced until streamflow levels exceed the streamflow thresholds noted above for seven consecutive days.
- (4) Topsfield also has an Automatic Sprinkler Bylaw² that requires all sprinkler systems connected to the municipal water supply to be registered with the Board of Water Commissioners and to have shut-off valves located outside the building. All systems must have backflow preventers and rain sensor devices as registered

1. Editor's Note: See Ch. 245, Water, Art. II.

2. Editor's Note: See Ch. 245, Water, Art. III.

with and approved by the Board of Water Commissioners. See Chapter 245, Water, of the Town Code.

- (5) As of 2005, Town Water Department and Planning Board policies dictate that all new developments must be connected to the public water supply and no development-wide sprinkler systems will be permitted. These policies are designed so that water usage can be better monitored and controlled.

B. Recommendations.

- (1) EOEAs recommendations pertaining to integrated planning address the need to include water supply, wastewater and stormwater in infrastructure planning. Topsfield supports these recommendations, but it must be noted that 100% of wastewater is treated by Title V septic systems and there is no municipal wastewater treatment plant.
- (2) Topsfield has been proactive in managing stormwater. The Town filed a Stormwater Management Plan with the both the Massachusetts Department of Environmental Protection and the United States Environmental Protection Agency in 2004. The plan was approved and the Town now has a National Pollutant Discharge Elimination System (NPDES) permit to operate its stormwater collection system. The five-year plan outlines the steps the Town will take to reduce water pollution by improving the quality of its stormwater and to reduce the amount generated. The Stormwater Management Plan includes provisions for public education and outreach, infrastructure mapping, regulation review, illicit discharge elimination and pollution prevention. The full plan can be found at <http://www.topsfieldpublicworks.org>.
- (3) Residents approved a Stormwater Management and Erosion Control Bylaw at the Annual Town Meeting in May 2005,³ which is one of the major parts of the Town's stormwater management plan. The Stormwater Management Committee has worked with the Metropolitan Area Planning Council to develop regulations that were adopted by the Planning Board to govern the implementation of the bylaw.⁴ The bylaw creates permit filing thresholds for land alterations/disturbances and uses the DEP Stormwater Management Standards for both wetland resource and upland resource areas. (The Stormwater and Erosion Control Bylaw and Rules and Regulations are available at www.topsfield-ma.gov.)
- (4) Topsfield's Water Department communication with residents and local officials includes an annual report from the Board of Water Commissioners on water consumption and supply, water quality, ongoing or planned capital projects, billing, rates and conservation initiatives. The Town's Water Department website features a web page devoted to water information and news, including current rates, regulations, billing information, real time Ipswich River flow information and conservation links, annual reports, water quality and withdrawal statistics. See: <http://www.topsfieldpublicworks.org/water.php>.

3. Editor's Note: See Ch. 220, Stormwater Management and Erosion Control.

4. Editor's Note: See Ch. 364, Stormwater and Erosion Control Regulations.

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- (5) In addition, the Water Department began a survey of its water supply system in April 2006 using the Environmental Protection Agency (EPA) Intermediate Guidelines for Preparing Water Conservation Plans. Designed for communities with between 10,000 and 100,000 people or for smaller communities with stressed supply situations, the guidelines offer an alternative format in which to develop a water conservation plan. The EPA model offers a different format than EOEA's standards for a community to assess its water supply system and conservation standards. The EPA guidelines correspond to many of the EOEA standards while creating a quantitative profile of a community's water supply system. The main sections of the EPA guidelines are as follows:
- (a) Specifying conservation goals.
 - (b) Developing a water system profile.
 - (c) Preparing a demand forecast and planned facilities (if any).
 - (d) Identifying and evaluating cost/benefit of conservation measures.
 - (e) Selecting conservation measures.
 - (f) Integrating resources and modifying forecasts.
 - (g) Presenting implementation and evaluation strategy.
- (6) The Topsfield plan in the EOEA format offers a comprehensive Water Conservation Plan that follows current Massachusetts state water conservation standards while integrating the information gathered by the Water Department under the EPA guidelines. The EPA guidelines have been particularly valuable in offering a format in which to develop a water system profile and with which to prepare a demand forecast. Topsfield will be able to use the EPA guidelines to identify the cost-effectiveness of the chosen conservation measures over time. In addition, the guidelines offer a toolkit that will allow the Town to measure what impact conservation steps will have: how they may alter average-day and peak demands, as well as overall pre- and post-conservation use and peak-demand. (See Appendix B for the EPA Intermediate Guidelines and Topsfield's completed sections to date.)

§ 380-5. Water audits and leak detection.

A. Standards.

- (1) The EOEA standards relating to water audits and leak detection include:
- (a) Conducting an annual water audit;
 - (b) Performing a leak detection survey based on reported water loss and in accordance with AWWA and DEP guidance;
 - (c) Repairing all leaks as quickly as possible; and
 - (d) Including all costs of water audits and leak repairs in the water supply costs and budgeting.

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- (2) Water audits.
 - (a) The Water Department conducts an annual audit of its distribution system as well as yearly leak detection surveys. Topsfield has been required since 2004 under its Withdrawal Permit to limit unaccounted for water to less than 10% of overall water use. The annual audits and leak detection survey have paid off for the Town as unaccounted-for water has been reduced to approximately 5% of total consumption for 2005.
 - (b) "Unaccounted-for water use" is defined by the Massachusetts Water Resources Commission as the difference between the amount of water pumped or purchased and water that is metered or confidently estimated. Unaccounted-for water includes water that cannot be accounted for due to meter problems, unauthorized hydrant openings, unavoidable leakage, recoverable leakage, illegal connections, stand pipe overflows and fire protection.
 - (c) Of the 1,691 water service connections in Topsfield, 136 are commercial or industrial connections. They account for just under 8% of total water consumption. Because of the low amount of industrial and commercial use, the state has directed Topsfield to use resources it may have used to audit commercial and industrial users to target the reduction of seasonal water use and residential gallons per capita use instead.
 - (3) Leak detection and repair. The Withdrawal Permit also requires the Town to conduct an annual leak detection survey. All leaks found must be repaired within 10 days of having a valid Dig-Safe Permit or court warrant to enter private property. Repair reports must be available for inspection by DEP.
 - (4) Paying for water audits and leak repairs. The Topsfield Water Department has had enterprise funding since 1988. The cost of the audits and leak repairs is included in the Water Department's annual budget, as required under the permit.
- B. Recommendations. State plumbing standards are followed by Topsfield. The Water Department has not had to install water pressure reduction valves. Town water regulations prohibit the taking of water from fire hydrants without the approval of the Water Superintendent.

§ 380-6. Metering.

- A. Standards.
- (1) EOE's standards related to metering include:
 - (a) 100% of all sources, building and end-users, including public buildings and schools, should be metered to ensure full registering of water flow;
 - (b) The metering program should include ongoing inspection and a repair/replacement program;
 - (c) All meter systems should be sealed against tampering and inspected periodically;

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- (d) Any meter used to record quantity shall be calibrated according to type and specification.
- (2) Topsfield meets these standards. It meters 100% of the water distribution system, including public buildings; regularly tests, replaces and calibrates meters; and budgets annually for meter replacement. All meters are sealed against tampering. Master meters at the well fields and treatment plants are calibrated annually.

B. Recommendations.

- (1) Topsfield is complying with EOEa recommendations for metering. 90% of Topsfield's water use is for residential uses. Because of this, the Water Department employs uniform billing practices for all users, as there are no industrial, commercial or industrial (ICI) users who currently use more than 50,000 GPD. The Water Department uses actual, not estimated, data for billing purposes and is currently moving to a remote meter reading system using radio-read meters.
- (2) At present, 2/3 of the Town's meters are read and billed biannually. Using a grant from the Department of Conservation and Recreation, the Water Department began to install 500 new automated, radio-read water meters in January 2006 and will complete the installation by May 1. The first 500 new meters will be read and billed for monthly. New radio-read meters will be installed Town-wide by June 30, 2008, a total of 1,691 metered connections at present. The Water Department plans to move to one of the three following options for meter reading and billing procedures once the new meters are installed Town-wide:
 - (a) Monthly reading and billing;
 - (b) Monthly reading and quarterly billing; or
 - (c) Quarterly billing and reading.
- (3) The new radio-read meters being installed throughout the community will shift reading and billing to at least a quarterly basis.

§ 380-7. Pricing.

- A. Standards. The EOEa standards for pricing indicate that consumers should be charged the full cost of water and that water suppliers should implement full-cost pricing. That includes the entire cost of operating the water supply system, including operations, maintenance, capital and indirect costs. The Water Department uses enterprise account funding as recommended and the Water Department meets all of its costs under it. The Town does not use a decreasing block rate structure to charge for water use.
- B. Recommendations. Topsfield meets the recommendations concerning pricing as follows:
 - (1) The Town changed from charging a flat rate for water in 2000 and adopted a three-tiered, increasing block rate structure. Water consumption above 48,001 gallons per six months is billed at \$7.75 per 1,000 gallons for 2005. Water rates are set annually by the Board of Water Commissioners. Peak demand is driven

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predominantly by residential customers so the Town chose a higher rate for the excess demands. The structure targets the outdoor, nonessential water demands within the system and rewards those who use less water;

- (2) Establishment of an enterprise account in accordance with Massachusetts General Laws; and
- (3) Shifting to billing at least quarterly and using billing software that allows customers to compare their water use on a monthly and yearly basis and to see what the average consumption amount is.

§ 380-8. Residential water use.

A. Standards.

- (1) EOEAs standards for residential water use are as follows:
 - (a) Install water-efficient plumbing fixtures, meeting the standards set forth in the 1992 Federal Energy Policy Act and the Massachusetts Plumbing Code; and
 - (b) Meet efficiency goals for residential water use; strive for 65 residential gallons per capita per day.
- (2) Topsfield's compliance with both of these standards is described below.
- (3) The Water Department plans on offering plumbing retrofit kits to all residential customers for a nominal cost. Indoor kits may include faucet aerators, a low-flow shower head, and a toilet dam. Outdoor kits could include a multi-position garden hose; hose repair ends, nozzle seals and a rain gauge. Home water audit kits would also be made available. The kits would be advertised in annual water Consumer Confidence Reports, the Water Department web page, in water bills and in the newspaper.
- (4) Residential per-capita consumption. Topsfield met the 65-gallon per capita per day standard in both 2005 and 2004. The calculation for 2005 is shown below:
 - (a) Residential water demand, 2005: 121,372,000 gallons.
 - (b) Divide by 365 for daily residential use: 332,526 gallons.
 - (c) Service population: 5,205.
 - (d) Residential per capita demand (daily use/service population): 64 gpcd.

B. Recommendations.

- (1) Topsfield meets or plans to meet all of the EOEAs residential use recommendations. The Water Department already promotes the use of dual-flush toilets on its web page online and will offer tips there on efficient non-landscaping water use (cars, pools and driveway care) as well. The Water Department's annual Water Consumer Confidence Report makes the link between conserving water and increasing water quality for homeowners and the

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Department plans to add it to its Conservation web page. The Water Department does not currently audit its largest current users and the Department has chosen to continue targeting aggressively the reduction of nonessential outdoor water use to further lower its residential and peak demand use.

- (2) The Water Department does promote efficient landscape water use by encouraging and making available, at discount, rain barrels to collect rainwater. Irrigation system controllers are required by the Town and information is available from the Water Department on how to acquire these devices, as well as information on meters, low-flow shower heads and faucet aerators. Conservation information is occasionally mailed out with water bills as well as being online at the Water Department web page. See <http://www.topsfieldpublicworks.org>.

§ 380-9. Public sector water use.

A. Standards.

- (1) EOEA's standards for public water use include the following:
 - (a) Municipal buildings should conduct indoor and outdoor water use audits; focus on water-consuming equipment in buildings; practice good lawn and landscape water use techniques;
 - (b) Estimate and meter water used by contractors using fire hydrants for pipe flushing; and
 - (c) Strictly apply plumbing codes and incorporate conservation measures in new and renovated buildings.
- (2) The Town has implemented these standards to a large degree. Most public buildings in Topsfield are quite new and have not required audits. Two elementary schools, the Topsfield Library, Department of Public Works building and the local High School were all built using the 1989 revised State Plumbing Code efficiency standards. The Board of Water Commissioners is planning to work with the Police and Fire Departments to upgrade to efficient fixtures. The Park and Cemetery Department is working collaboratively with a local landscaping nursery to construct a water-wise demonstration project at Town Hall and to install a rain barrel demonstration project at the Town Library. The Topsfield Conservation Commission constructed a water-wise landscaping and garden demonstration project at Masconomet High School in 2004. The Town is required by its Withdrawal Permit to practice the irrigation of public and recreational fields in accordance with the Water Resource Commission's 2002 Guide to Lawn and Landscape Water Conservation. It employs water-wise landscaping practices on municipal properties by not over-watering lawns, not cutting grass too short, choosing native plants for landscaping and mulching around shrubs and trees to retain moisture. Town road crews monitor the use of hydrants by contractors. Water Department regulations state that no water may be taken from a hydrant without permission from the Water Superintendent.

- B. Recommendations. EOEA recommendations for conserving public water use are either already implemented by Town departments or planned for the near future. As

mentioned above, the Water Department is coordinating demonstration projects to conserve outdoor water use at both the Library and Town Hall.

§ 380-10. Industrial, commercial and institutional water use.

A. Standards.

- (1) A summary of EOEA's draft standards is provided below:
 - (a) All users in this category should do a water audit and implement water conservation techniques;
 - (b) All users should develop and implement a water saving strategy; and
 - (c) In new and renovated buildings, designs should comply with plumbing codes, use best available technology (BAT) for water conservation and allow for the reuse of treated wastewater within the facility if possible.
- (2) Topsfield has 136 commercial or industrial metered service connections out of a total of 1,691 total connections. Commercial and industrial water uses accounts for 7.9% of the Town's annual use. None of the commercial or industrial connections are significant users at present. Because of this low volume and because 90% of users are residential, the DEP Withdrawal Permit directs it to focus its efforts on reducing seasonal water use and residential gallons per capita per day use. Although the Town's current capacity for industrial and commercial development is limited by the Town's lack of wastewater treatment facilities and a limited amount of commercial or industrially zoned land, the Town is prepared to fully implement the EOEA standards if these uses expand in the future.

B. Recommendations.

- (1) The EOEA recommendation for ICI uses include:
 - (a) Ten-percent reduction of use by significant users;
 - (b) ICI water saving retrofits;
 - (c) Working with code officials, state programs, manufacturers and legislators to promote water conservation and efficient use;
 - (d) Encourage increasing the amount of pervious areas on ICI properties; and
 - (e) Encourage implementing efficient lawn and landscaping practices.
- (2) Topsfield has begun to implement these recommendations as seen above. The Town has been proactive in adopting conservation measures through recent bylaw changes such as the adoption of a comprehensive stormwater and erosion control bylaw (see § 380-4), and it will consider changes to its subdivision control and site plan review process to address lawn and landscaping practices for its ICI landowners. (See Article III.)

§ 380-11. Agricultural water use.

Agricultural water use is minimal at this time in Topsfield. There are several small, self-supplied farms that are not significant water users. The Town does allow for agricultural uses in all of its current zoning districts, however, and it is prepared to work with any agricultural operation in the future to develop a water conservation approach that meets the irrigation needs of the farm in an efficient manner, including the EOEa recommendation to use only micro-irrigation systems such as subsurface drip irrigation (SDI) where suitable.

§ 380-12. Lawn and landscape water conservation.

A. Standards.

- (1) EOEa's standards for lawn and landscape water conservation include:
 - (a) Developing and implementing a seasonal demand management plan as part of a drought management plan;
 - (b) Adopting and implementing (as appropriate) a water use restriction bylaw which could apply to private wells as appropriate and which allows the community to implement mandatory water restrictions; and
 - (c) Abiding by all water restrictions and other conservation measures adopted by the community.
- (2) Topsfield fully meets these standards. Its Withdrawal Permit incorporates a regulatory seasonal demand management plan based on Ipswich River streamflow triggers and river flow volumes. It adopted both a Water Use Restriction Bylaw and an Automatic Lawn Sprinkler Bylaw in 2000. (See § 380-4.) Though the Withdrawal Permit requires the Town to make private irrigation wells subject to the same use restrictions that public users must meet if streamflow triggers or river flow volumes fall below safe thresholds, Topsfield will consider adopting a bylaw that would allow it to regulate the use of private irrigation wells beyond its current capacity to do so. (See Article III.) The Town is abiding by these restrictions and measures and is meeting the 65 gallons per capita residential target in its Withdrawal Permit.

B. Recommendations.

- (1) EOEa's recommendations pertaining to lawn and landscape water conservation include:
 - (a) Maximize efficient outdoor water use; make outdoor use a small part of overall water use;
 - (b) Minimize watering by limiting the number of watering days per week or month and water only if necessary, if at all;
 - (c) Maximize efficiency of automatic irrigation systems, reuse and/or infiltrate rainwater; minimize use of potable water to irrigate lawns; do not water lawns or install automatic lawn irrigation systems in water-short

- communities; enhance soil health; water efficiently and use drought-tolerant landscape species;
- (d) Design and maintain recreational fields and golf courses to minimize water use and use rainfall to irrigate;
 - (e) Users of private wells should abide by local water restrictions, especially if the private well is in the zone of contribution of the public water supply;
 - (f) Municipalities should raise public awareness of best outdoor water use using an education and outreach program and/or demonstrations of water-wise landscaping on municipal properties;
 - (g) Adopt a water conservation bylaw that requires water conservation equipment and audits for automatic irrigation systems; minimizes installation of high water use landscape areas; restricts land clearing and lawn size in new developments and requires six-inch depth of topsoil on all cleared areas to reduce moisture loss and the need for watering;
 - (h) Provide landscape water audits for residential and ICI properties that are large water users;
 - (i) Provide rebates for installation of climate-based or moisture sensors for automatic irrigation systems; and
 - (j) Control direct water withdrawal from surface water sources.
- (2) Topsfield is striving to make nonessential outdoor residential water use a small part of the community's overall water use. Its Water Use Restriction Bylaw and Withdrawal Permit limit outdoor watering to hand-held, hourly use that is not allowed between 9:00 a.m. and 5:00 p.m. under certain conditions. The permit would require the Town to submit an Enhanced Water Conservation Plan if it failed to meet its seasonal or residential performance standards. The Town has worked and is working proactively to adopt many of the measures outlined in the permit without having failed to meet its performance standards. In line with the permit's Enhanced Conservation Plan standards, the Town has already adopted a bylaw requiring moisture sensors in all automatic sprinkler systems, has adopted a stormwater and erosion control bylaw that will increase stormwater infiltration, uses water-wise municipal landscaping practices, has enhanced public education concerning water conservation and increased the use of rain barrels for outside watering use.
 - (3) The Town is considering adding additional water demand management by adopting a voluntary program to limit outdoor watering to twice weekly from May 1 through September 30, even if not triggered by environmental triggers such as stream flow. (See Article III.)
 - (4) Water Department regulations currently require that all automatic irrigation systems be registered with the Water Department and that they employ outdoor shutoff valves, have backflow preventers and use moisture sensors to prevent overwatering.

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- (5) If it were deemed necessary, the Town has the ability, with radio-read meters, to monitor suspected high users on a day-to-day basis by using drive-by readings. On-site audits can be performed by using the Water Department's data logger in conjunction with meter readings to monitor and notify a customer of significant water use as needed.
- (6) Topsfield adopted a comprehensive stormwater and erosion control bylaw in 2005 that requires the increased infiltration of stormwater in new projects and redevelopment, regardless of being located in upland or wetland resource areas. The Town also plans to consider adopting a bylaw to increase the use of Open Space Residential Design to preserve land in its natural state and maintain high levels of pervious land in the community.
- (7) The Water Department is working with the Park and Cemetery Department to implement a water-wise demonstration project at the Town Hall, a rain barrel installation at the Town Library and offers information on water-wise landscaping practices at the Water Department web page online. See <http://www.topsfieldpublicworks.org/conservation.php>.
- (8) The Town is planning to revise its subdivision and site plan review regulations with low-impact development guidelines. These guidelines were developed under a Smart Growth Technical Assistance Grant by MAPC. The guidelines outline the acceptable alternatives to existing stormwater management regulations. Additional revisions to be studied would limit the amount of lot clearing allowed for new construction and add standards for soil preparation and depth. The Water Department also plans to add regulations that prohibit water withdrawals from surface water sources without permission from the Town. (See Article III.)

§ 380-13. Education and outreach.

- A. Standards. EOE's standards for education and outreach include:
 - (1) Developing and implementing an education plan for its water consumers; and
 - (2) Addressing why it is important for self-supplied users to conserve as well.
- B. Topsfield has been proactive in creating a strong public education plan that incorporates the following elements:
 - (1) An annual school program on water conservation presented to Topsfield's Second Grade class;
 - (2) Advertising outdoor water restrictions in local newspapers;
 - (3) Public speaking on water conservation at Rotary and church groups;
 - (4) An updated Water Department web page that features water conservation tips, water regulations, water rates, web links to the Ipswich River Watershed Association, residential and outdoor water conservation sites, current conditions for the Ipswich River, restriction notices, rebate and discount programs, Water Commissioners Annual Report;

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- (5) Donation to the Town Library of a complete set of American Water Works Association Landscaping and Lawn Care Practices Guidebooks in 2003;
 - (6) Collaboration with the Essex County Cooperative, a local supplier of hardware, to plan the development of a water-wise demonstration project in 2003;
 - (7) Participation in three water conservation public awareness demonstration projects at the 2002, 2003 and 2006 Town Expositions;
 - (8) Water-wise garden and landscape project at Masconomet High School in 2004;
 - (9) Collaboration with the Ipswich River Watershed Association and the Planning Board and Conservation Commission to create and enter a water conservation float in the 2002 Topsfield Fair parade; and
 - (10) Joint all-Town board meeting in 2002 to discuss and set actions for water conservation actions in Topsfield. Boards represented included the Select Board, Planning Board, Conservation Commission, Stormwater Management Committee, Board of Health, Water Commissioners, Water Department and Highway Department. The meeting led to grant applications by the Town that resulted in updated stormwater regulations and this document. The Town has formed a working group to address ongoing water conservation needs and to serve as an information link to other Town boards and committees.
- C. To facilitate additional public education and outreach on water conservation, the Town will consider the creation of a Water Conservation Coordinator's position. (See Article III.) This person would help plan and hold water use workshops for the public and in schools, provide updated information on water-wise landscaping, lawn care, retrofit and rebate programs, help educate the public on the link between water conservation and water quality and educate self-supplied water users on BMPs for private well use and irrigation.

ARTICLE III

Recommended Enhancements for Water Conservation

§ 380-14. Overview.

- A. Topsfield's Water Conservation Plan, as presented in this document, provides a baseline for water conservation that will be reviewed over time to consider additional measures to further enhance conservation efforts and successes.
- B. The Water Department will consider the additional water conservation measures, as described below.

§ 380-15. Water conservation fund.

Topsfield's Water Commissioners will consider adopting a water conservation hook-up fee (a per-gallon cost) for new developments (or existing customers seeking to increase their demand). The funds collected would be used to support specific elements of the Town's Water Conservation Plan. The DEP Withdrawal Permit requires the Water Department to

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include all costs associated with the water supply program to be covered by rates or fees charged by the Water Department. An alternative to establishing a conservation hook-up fee would be fund the Water Conservation Fund through the rate structure, but the use of the hook-up fee rewards water conservers.

§ 380-16. Demand management plan to reduce seasonal irrigation.

Topsfield will explore the possibility of requesting its customers to voluntarily limit their outdoor watering to twice weekly, hand-held watering only from May 1 through September 30, even if not triggered by environmental triggers under the DEP Withdrawal Permit. One goal of asking for voluntary limits on outdoor watering is to increase public awareness of water use and increase the acceptance of more stringent controls when it is mandated under the Town's Withdrawal Permit.

§ 380-17. Regulatory changes.

As part of the Water Conservation Plan, the Town will consider the following regulatory changes to increase water conservation and promote efficient use:

- A. The adoption of a bylaw to regulate the use of private wells for irrigation;
- B. Updating, as needed, the Town's Water Use Restriction Bylaw with the Massachusetts model water use restriction bylaw;
- C. The adoption of an Open Space and Residential Design Bylaw to encourage the use of land use development patterns that decrease the amount of impervious areas created and leave more land in an undisturbed, natural state;
- D. Researching subsurface, drip (SDI) irrigation techniques to see if they are a practical, water-saving alternative to installing automated irrigation systems with moisture sensors as is now required. Consider amending the current Water Department regulations if SDI systems are found to be a superior alternative;
- E. Recommend, as per the EOEA 2006 Water Conservation Standards, the use of water conservation best available technologies (BAT) for new buildings and renovations and establish water-wise lawn and landscape requirements for any building undergoing site plan review.

§ 380-18. Use of EPA guidelines to evaluate and modify forecast and conservation measures.

The EPA Intermediate Guidelines will be used over time to help track the water system profile; prepare revised demand forecasts and planned facilities; identify and evaluate the cost effectiveness and demand impacts of selected conservation measures; develop new conservation measures and implementation strategies.

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Town of Topsfield

Topsfield Water Conservation Standards Compliance Table

Topic	EOEA Standards	Does Topsfield Meet This Standard?	EOEA Recommendations	Does Topsfield Meet Recommendation?
1. INTEGRATED PLANNING (§ 380-4)	Water suppliers should develop a drought emergency plan that follows 1992 AWWA guidance.	Topsfield’s Water Use Restriction Bylaw and DEP Withdrawal Permit restrict outdoor water and can implement more stringent measures as needed.	Integrated Planning should address water supply, wastewater and stormwater management.	Topsfield supports EOEA’s comprehensive planning recommendations: The Town has an approved 2004 Stormwater Management Plan; it adopted a Stormwater and Erosion Control Bylaw in 2005; the Town’s wastewater is 100% Title V systems. Water Conservation Plan incorporates EPA Intermediate Guidelines and EOEA Standards.
	Water suppliers should develop a written program to comply with Conservation Standards.		Communicate with other local officials: water suppliers should keep local officials regularly informed of water consumption and supply availability.	The Board of Water Commissioners publishes an annual report and at Town Meeting. The Water Department maintains an extensive water information website.
	Written policies and recommendations should be made available to municipal personnel and the public.		Water banks: Water suppliers prone to capacity problems or experiencing significant growth should consider establishing a water bank (“offset”).	The Town will consider the adoption of a water bank. It is required by DEP to adopt a water bank if exceeds >0.60 mgd on an annual average daily basis.

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Topic	EOEA Standards	Does Topsfield Meet This Standard?	EOEA Recommendations	Does Topsfield Meet Recommendation?
2. WATER AUDITS AND LEAK DETECTION (§ 380-5)	Conduct an annual water audit.	The Water Department is required to conduct an annual audit of its distribution system under the DEP Permit.	Pressure reduction: Installation of pressure reducers should be considered in residences and commercial accounts.	The Water Department follows the stated plumbing code but has not found the need to install pressure-reducing valves.
	Perform leak detection based on water loss in accord with AWWA and DEP.	Leak detection accompanies annual water audit: UAW was approximately 5% for 2005.		
	Repair all leaks ASAP.	DEP Permit requires all leaks found to be repaired within 10 days for Dig Safe and for warrants.	Fines for water theft: penalties for unauthorized water withdrawal from hydrants.	Water Department regulations assess penalties for the unauthorized withdrawal of water from hydrants.
	Include all costs of water audits and leak repairs in the water supply program budget.	The Water Department uses enterprise funding and includes all water program costs, including audits and leak repairs.		
3. METERING (§ 380-6)	100% of all sources, building and end-users, including schools and public buildings, should be metered.	100% of the water distribution system is metered.	Grant Program: DEP should re-establish the meter replacement grant program.	Topsfield supports the re-establishment of the meter replacement program.
	Metering program should include ongoing inspection and repair/replace program.	The Water Department regularly tests, replaces, calibrates and budgets for meter change-outs.	Water meter repair/replacement policy should be enacted by water supplier.	The Water Department is currently installing new meters throughout Town.
	Meter reading and billing for domestic accounts should be done quarterly at minimum, monthly if possible and be based on actual readings.	500 new meters are being read monthly and the Water Department will read all meters on at least a quarterly basis by 2008.	Monthly billing for significant users: should be more frequent than domestic accounts.	The Water Department employs universal billing practices as 90% of water use is residential.
	Meters must be calibrated according to type and specification.	The Water Department calibrates all master meters.	Remote reading and monthly billing: consider investing in remote read meters.	The Town is installing 100% radio-read meters by 2008.
			Minimize use of estimated data.	The Department uses actual data.

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Topic	EOEA Standards	Does Topsfield Meet This Standard?	EOEA Recommendations	Does Topsfield Meet Recommendation?
4. PRICING (§ 380-7)	Full-cost pricing should include all water system operating costs.	The Water Department uses full-cost pricing	Establish conservation-oriented rate structures such as increasing block rates, seasonal rates and/or uniform rates (beyond the fixed customer charge).	Topsfield adopted a three-tiered, increasing block rate structure in 2000.
			Bill at least quarterly; report water use in gallons and daily use; indicate rate structure clearly on bill; adopt software to allow customers to compare water use over time and against average use.	The Water Department is moving towards at least quarterly billing for all customers, with monthly now in place for 500 users. Bills include all usage information.
			Establish a Water Department enterprise account.	The Department uses an enterprise account.
5. RESIDENTIAL WATER USE (§ 380-8)	Install water-efficient fixtures.	Topsfield plans to offer free plumbing retrofit to all customers, including faucet aerator, low-flow shower head and toilet dam. Outdoor retro kits and home water audit kits will also be made available and advertised locally.	Promote water-efficient household appliances; offer rebates for water-efficient appliances.	The Water Department promotes water-efficient household appliances and plans to implement a rebate program for efficient appliances.
			Provide residential water audits.	The Town focuses on aggressively reducing nonessential water use but may consider offering residential audits in conjunction with its new radio-read meters and data logger.
			Promote efficient non-landscape outdoor water use.	The Department will feature online tips on efficient non-landscape water use for cars, pools, driveways and other uses.

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Topic	EOEA Standards	Does Topsfield Meet This Standard?	EOEA Recommendations	Does Topsfield Meet Recommendation?
5. RESIDENTIAL WATER USE (§ 380-8) (continued)			Promote efficient landscape water use.	The Town offers discounted rain barrels, requires irrigation controllers, and backflow devices on all irrigation systems. It makes information available online on how to acquire these devices as well as meter information.
	Meet 65 rgpcd limit; establish comprehensive indoor water program if over 65 rgpcd limit.	Topsfield is within the 65rgpcd efficiency goal.	Minimize/Discourage use of garbage disposals.	The Department discourages the use of garbage disposals.
			Educate homeowners about how water conservation benefits water quality.	Conservation information is mailed with water bills, online and in the annual Water Consumer Confidence Report, which is mailed to all customers.
6. PUBLIC SECTOR WATER USE (§ 380-9)	Municipal and state buildings should conduct indoor and outdoor water use audits; analyze existing data to spot trends, patterns and leaks; identify measures with the greatest potential savings; focus on water-consuming equipment in buildings; practice good lawn and landscape water use techniques.	All existing municipal buildings except the Fire/Police Departments were built using the 1989 state plumbing code and the Town is planning to update Police and Fire as per the DEP permit. The Town is planning water-wise demonstration projects at the Town Hall and Library; the Town is required to practice water-wise landscaping practices under its DEP permit.	Retrofit public buildings with water-efficient equipment, including faucet aerators, low-flow shower heads, toilet dams, composting or dual flush toilets and self-closing faucets. Identify these fixtures to users of public facilities or buildings.	All public buildings are fitted or retrofitted with water-saving devices.
	Estimate and meter water used by contractors using fire hydrants.	Water Department regulations require permission from the Water Superintendent before any hydrant is opened for commercial use; Town road crews monitor hydrants.	Use public buildings for demonstrations of innovative water conservation techniques.	The Park and Cemetery Department is coordinating water saving demonstration projects at the Town Hall and Library.

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WATER CONSERVATION PLAN

Topic	EOEA Standards	Does Topsfield Meet This Standard?	EOEA Recommendations	Does Topsfield Meet Recommendation?
6. PUBLIC SECTOR WATER USE (§ 380-9) (continued)	Strictly apply plumbing codes and incorporate conservation measures in new and renovated buildings.	The Department strictly abides by all state plumbing requirements.		
7. INDUSTRIAL, COMMERCIAL AND INSTITUTIONAL WATER USE (§ 380-10)	All ICI users should conduct water audits and implement water conservation techniques; significant users should install separate water meters for processing and sanitary use; all users should develop and implement a water saving strategy; new and renovated buildings should comply with plumbing codes and BAT.	Topsfield has very few ICI users and the DEP has directed the Department to focus its efforts on reducing nonessential residential water use instead.	All ICI users should attain a 10% water use reduction; all ICI buildings should be retrofitted with water-saving devices when possible.	The Department is working with the Masconomet Nursing Home and Topsfield Fairgrounds to retrofit with water-saving devices.
			Increase the amount of pervious area and infiltration on ICI properties and implement efficient lawn and landscaping practices.	The Town has adopted comprehensive stormwater and erosion controls and is considering other water-efficient changes to its site plan review and subdivision control regulations, which will both impact ICI developments.
8. AGRICULTURAL WATER USE (§ 380-11)	Agricultural producers should implement irrigation BMPs.	Agricultural use of public water in Topsfield is insignificant.	All agricultural users should have a documented approach to water conservation and a method to measure water use.	The Town stands ready to adopt and implement water use reduction strategies for agricultural use if it becomes necessary to do so.
9. LAWN AND LANDSCAPE WATER CONSERVATION (§ 380-12)	Develop seasonal demand management plans to incorporate into drought management plan.	Topsfield’s DEP Permit and Water Use Restriction Bylaw use progressively more restrictive limits on outdoor use based on water supply and environmental triggers.	Owners/Managers of lawns and landscapes, water only when necessary; abide by water restrictions and other conservation measures. Adopt water conservation bylaw that requires water conservation equipment and audits for automatic irrigation systems.	Hand-held, off-peak, hourly watering only allowed during low flow periods; automatic irrigation systems must be registered with the Town and have moisture sensors, outside shutoffs, and backflow preventers. The Town may consider a voluntary ban to limit water use from May 1-September 30, backed by increased public education. The Department offers water use reduction tips and information in its billing and online.

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Topic	EOEA Standards	Does Topsfield Meet This Standard?	EOEA Recommendations	Does Topsfield Meet Recommendation?
9. LAWN AND LANDSCAPE WATER CONSERVATION (§ 380-12) (continued)			Design and maintain recreational fields and golf courses to minimize water use and use rainfall to irrigate.	All users of public water are bound by the same rules and the Town is required to meet water-wise landscaping practices under its DEP permit.
			Users of private wells should abide by local water restrictions, especially if the well is located in the zone of contribution of the public water supply.	The Town will consider adding a bylaw that will regulate the use of private wells.
			Minimize use of high water use landscaping; restrict land clearing and lawn size in new developments and require six-inch depth of topsoil on all cleared land areas to reduce moisture loss and the need for watering.	The Town is planning to add language to its subdivision review regulations to include lot clearance limits and soil requirements.
			Raise public awareness of best outdoor water use using an education and outreach program, or demonstrations of water-wise landscaping on municipal properties.	The Department is working with the Park and Cemetery Department to implement a water-wise landscaping demonstration at the Town Hall, a rain barrel installation at the Town Library and offers education and outreach material online for water conservation. The Town hopes to add a Water Conservation Coordinator’s position to further education and outreach.

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Topic	EOEA Standards	Does Topsfield Meet This Standard?	EOEA Recommendations	Does Topsfield Meet Recommendation?
9. LAWN AND LANDSCAPE WATER CONSERVATION (§ 380-12) (continued)			Provide landscape water audits for residential and ICI properties that are large water users.	The Department may add landscape water audits for residential and ICI users in the future.
			Control direct water withdrawal from surface water sources.	Water Department regulations will specifically prohibit the withdrawal of water from surface supplies without permission of the Town.
10. EDUCATION AND OUTREACH (§ 380-13)	Develop and implement an education plan for its water consumers and address why it is important for self-supplied consumers to conserve as well.	Topsfield has incorporated the following elements into its public education plan:		

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Town of Topsfield

Worksheet 4-1: Water System Profile

A Service Characteristics		Number		
1	Estimated Service Population	5,205		
2	Estimated Service Area (square miles)	13		
3	Miles of main	50		
4	Number of treatment plants	2		
5	Number of separate water systems	—		
6	Interconnection with other systems	1		
B Annual Water Supply		Annual volume	Number of intakes or source points	Percent metered 1%
7	Groundwater	161.786	2	1%
8	Surface Water	—		
9	Purchases: raw	—		
10	Purchases: treated	—		
11	Total annual water supply	161.786		
C Service Connections		Connections	Water sales	Percent metered
12	Residential, single-family	1,533	121.372	100%
13	Residential, multi-family			
14	Commercial	113	8.631	100%
15	Industrial	23	2.584	100%
16	Public or governmental	11	0.890	100%
17	Wholesale	—	—	
18	Other	11	7.046	100%
19	Total connections	1,691	140.523	
D Water Demand		Annual volume	Percent of total	Per connection
20	Residential sales	121.372	73.3%	0.079
21	Nonresidential sales	12.105	7.3%	0.082
22	Wholesale sales	—		
23	Other sales	7.046	4.3%	0.641
24	Nonaccount water: authorized uses	20.000	12.1%	
25	Nonaccount water: unauthorized uses	5.000	3.0%	
26	Total system demand (total use)	165.523		
E Average and Peak Demand		Volume	Total supply capacity	Percent of total capacity
27	Average-day demand	0.426	1.259	34%
28	Maximum-day demand	1.131	1.619	70%
29	Maximum-hour demand	0.075	0.067	112%

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F Pricing		Rate structure	Meter frequency	Billing frequency
30	Residential rate	\$4.50 per 1,000 gallons for first 24,000 gallons		
31	Nonresidential rate	\$5.50 per 1,000 gallons for 24,001 to 48,000 gallons		
32	Other rate	\$7.75 per 1,000 gallons above 48,000 gallons		
G Planning		Prepared plan	Date	Filed with state
33	Capital, facility or supply plan			
34	Drought or emergency plan			
35	Water conservation plan			

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Worksheet 4-2: Overview of System Conditions

Line					
A	Climate and Water Availability				
1	Average precipitation	High	Moderate	Low	NA
2	Average temperatures	High	Moderate	Low	NA
3	Critical supply areas	No	At risk	Yes	NA
4	Competing water uses	No	Possibly	Yes	NA
5	Environmental constraints	No	Possibly	Yes	NA
6	Quality/Quantity concerns	No	Possibly	Yes	NA
7	Seasonal variation in climate	High	Moderate	Low	NA
8	Instream flow problems	High	Moderate	Low	NA
9	Shortage or emergency frequency	High	Moderate	Low	NA
B	Infrastructure conditions				
10	Age of the system	Newer	Middle	Older	NA
11	General condition of system	Good	Fair	Poor	NA
12	Water losses and leaks	High	Moderate	Low	NA
13	Unaccounted-for water	High	Moderate	Low	NA
14	Safe yield of supply exceeded	No	At risk	Yes	NA
15	Wastewater discharges exceeded	No	At risk	Yes	NA
16	Wastewater capacity exceeded	No	At risk	Yes	NA
17	Potential for recycling and reuse	High	Moderate	Low	NA
18	Improvement plans	High	Moderate	Low	NA
19	Anticipated investment	High	Moderate	Low	NA
C	System Demographics	High	Moderate	Low	NA
20	Rate of population growth per year	High	Moderate	Low	NA
21	Rate of demand growth per year	High	Moderate	Low	NA
22	Rate of economic growth per year	High	Moderate	Low	NA
23	Per capita water use (by class)	High	Moderate	Low	NA
24	Ratio of peak to average demand	High	Moderate	Low	NA
25	Presence of large-volume users	High	Moderate	Low	NA
D	Other Factors				
26					
27					
28					

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Worksheet 4-3: Current Water Conservation Activities

Conservation Measure	Annual Water Savings	Date Implemented	Continued?
Rain barrel program	?		Yes
Water bans	?		Yes
Public education			
Town Expo	?		Yes
Website			
Integrated weather, streamflow and withdrawal information	?		Yes
Conservation information	?		Yes
Water metering project	?		Yes
Xeriscape demo garden	?		Yes
Float in Topsfield Fair parade	?		No
Increasing block rate structure	?		Yes
Irrigation bylaw	?		Yes
Water emergency bylaw	?		Yes

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Worksheet 4-4: Preliminary Demand Forecast

Line		Current Year	5-year Forecast	10-year Forecast	20-year Forecast
A	Residential Demand				
1	Current annual water residential sales (total gallons)	121.372			
2	Current population served	5,205			
3	Residential sales per capita	0.023			
4	Projected population		5,250	5,600	6,000
5	Projected annual residential water demand		122.42	130.58	139.91
B	Nonresidential Demand				
6	Current annual nonresidential sales (total gallons)	19.151			
7	Current number of employees or jobs	1,000			
8	Water use per employees or jobs	0.019			
9	Projected number of employees or jobs		1,100	1,300	1,500
10	Projected annual nonresidential water demand		21.07	24.90	28.73
C	Nonaccount Water (water not sold to customers)				
11	Current and forecast amount	25.000	25.000	25.000	25.000
D	Water System Total Demand				
12	Current annual water demand	165.523			
13	Projected total annual water demand		168.479	180.479	193.637
14	Adjustments to forecast				
15	Current and adjusted total annual water demand forecast	165.523	168.487	180.479	193.637
16	Current and projected annual supply capacity	219.000	219.000	195.275	171.550
17	Difference between total use and total supply capacity	53.477	50.513	14.796	(22.087)
E	Average-day and Maximum-day Demand				
18	Average-day demand	0.426	0.462	0.494	0.531
19	Current maximum-day demand	1.131			
20	Maximum-day to average-day demand ratio	2.655			
21	Projected maximum-day demand		1.226	1.313	1.408
22	Adjustment to maximum-day demand forecast				
23	Current maximum-day demand forecast	1.131	1.226	1.313	1.408
24	Daily supply capacity	1.619	1.619	1.619	1.619
25	Ratio of maximum-day demand to daily supply capacity	70%	76%	81%	87%

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Worksheet 4-6: Cost of Supply-Side Facilities

Line	Item	Facilities for Meeting Average- Day Demand	Facilities for Meeting Maximum-Day Demand			Water Purchases Needed to Meet Demand	Estimate of Simple Incremental Supply Cost (\$/gallon)
		Source of Supply	Water Treatment Facilities	Treated Water Storage	Major Trans- mission Lines		
A	Supply Capacity in Annual Gallons						
1	Current installed capacity or water purchases	165.52	—	—	—	—	
2	Planned improvements and additions	—	—	—	—	—	
3	Planned retirements	—	—	—	—	—	
4	Future installed capacity or purchases	—	—	—	—	—	
B	Cost of planned improvements and additions						
5	Approximate total cost of planned improvements and additions identified in line 2, including financing						
6	Expected life of new facilities in years						
7	Estimated annual capital costs						
8	Estimated annual operating costs						
9	Estimated total costs						
10	Per unit cost of new facilities (line 9 divided by line 2)						
11	Simple incremental supply cost						

WATER CONSERVATION PLAN

Worksheet 4-7: Preliminary Supply-Capacity Forecast

Year	Additions	Retirements	Total supply Capacity for the System (annual or daily)
0			
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			

WATER CONSERVATION PLAN

Worksheet 4-8: Checklist of Conservation Measures

Measure	Already Implemented	Plan to Implement	Optional	Impractical	Comments
Level 1 Measures					
Universal metering					
Source-water metering	X				
Service-connection metering	X				
Meter public-use water	X				
Fixed-interval meter reading	X				
Meter-accuracy analysis		X			
Water Accounting and loss control					
Account for water	X				
Repair known leaks	X				
Analysis if nonaccount water	X				
Water system audit			X		
Leak detection and repair strategy	X				
Automated sensors/telemetry			X		
Costing and Pricing					
Cost-of-service accounting		X			
User charges	X				
Metered rates	X				
Cost analysis	X				
Nonpromotional rates			X		
Advanced pricing methods		X			
Information and Education					
Understandable water bill		X			
Information available	X				
Informative water bill		X			
Water bill inserts			X		
School program	X				
Public education program			X		
Workshops			X		
Advisory committee				X	

PRELIMINARY DRAFT

TOPSFIELD CODE

Measure	Already Implemented	Plan to Implement	Optional	Impractical	Comments
Level 2 Measures					
Water-use audits					
Audits of large-volume users			X		
Large landscaped audits			X		
Selective end-use audits			X		
Retrofits					
Retrofit kits available			X		
Distribution of retrofit kits			X		
Targeted programs			X		
Pressure management					
System-wide pressure regulation				X	
Selective use of pressure-reducing valves				X	
Landscape efficiency					
Promotion of landscape efficiency			X		
Landscape planning and renovation			X		
Selective irrigation submetering			X		
Irrigation management			X		
Level 3 Measures					
Replacements and promotions					
Rebates and incentives (nonresidential)			X		
Rebates and incentives (residential)			X		
Promotion of new technologies			X		
Reuse and recycling					
Industrial applications				X	
Large-volume irrigation applications			X		
Selective residential applications			X		
Water-use regulations					
Water use standards and regulations			X		
Requirements for new developments			X		
Integrated resource management					
Supply-side technologies				X	
Demand-side technologies				X	

PRELIMINARY DRAFT

Chapter 384

WETLAND REGULATIONS

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- § 384-1. Authority of Conservation Commission; adoption of regulations.**
- § 384-2. Definitions.**
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- § 384-4. Presumptions of significance and performance standards.**
- § 384-5. Filing procedures and requirements.**
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- § 384-11. Enforcement; violations and penalties.**
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- § 384-14. Submittal requirements.**
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- § 384-17. Freshwater wetlands boundary delineation methodology.**
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Stormwater Management and Drainage for Construction Projects

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ARTICLE V

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[HISTORY: Adopted by the Conservation Commission of the Town of Topsfield 10-14-1992, as last amended effective 1-1-2014. Subsequent amendments noted whereapplicable.]

ARTICLE I

Regulations for Topsfield General Wetlands Bylaw

§ 384-1. Authority of Conservation Commission; adoption of regulations.

- A. Under the Conservation Commission Act (MGL c. 40 § 8C, 1957) the Topsfield Conservation Commission is the official agency specifically charged with the protection of Topsfield's natural resources. It is empowered by the State of Massachusetts under the Wetlands Protection Act (MGL c. 131, § 40, 1972) and the Rivers Protection Act (Acts of 1996, Ch. 258), and directed by the Town of Topsfield under the Topsfield General Wetlands Bylaw¹ to regulate and enforce wetlands and riverfront ("resource areas") protection within the boundaries of Topsfield.
- B. The Commission decides whether a proposed activity will affect a protected resource area ("presumption of significance"). If the Commission allows a project, it decides which specific conditions it shall impose in order to fulfill its statutory obligations ("performance standards"). The General Wetlands Bylaw (Bylaw) is not superseded by Zoning Bylaws. Accordingly, the issuance of a building permit does not preclude the necessity of approval by the Commission. Additionally, the Commission defines the boundaries of wetlands for the Board of Health and regulates the siting of septic systems to conform to the values of the Bylaw.
- C. The Commission adopted these regulations on October 14, 1992, by authority granted under the Topsfield General Wetlands Bylaw. The adoption dates of amendments to Topsfield regulations are noted below the pertinent section of the text. Except as otherwise stated in the Bylaw or these regulations, the definitions and other provisions of MGL c. 131, § 40 ("the State Law") and 310 CMR 10.00 ("the State Regulations"), as amended, shall apply.
 - (1) Persons using these regulations are advised to note carefully distinctions between Topsfield Regulations and those found in 310 CMR 10.00. Items in these regulations marked by bracketed asterisks [*] are worthy of particular attention; however, important distinctions may occur in other provisions.

§ 384-2. Definitions.

As used in these regulations, the following terms shall have the meanings indicated:

ANAEROBIC — Deficient in molecular oxygen.

BUFFER ZONE [*] — The resource area that extends 100 feet horizontally outward (upland) from the boundary of freshwater wetlands, bodies of water, including vernal pools, land under water and banks.

DEVELOPED AREA [*] — Any area of land that has been altered as defined in the General Wetlands Bylaw, e.g., with structure(s), driveway(s), impervious areas and any other alterations.
[Added 3-8-2006]

1. Editor's Note: See Ch. 250, Wetlands.

DRUMLIN — A long, smooth, oval hill, mount or ridge composed of compacted glacial till. **[Added 12-18-2013]**

EROSION CONTROL — The prevention or reduction of the detachment or movement of soil or rock fragments by water, wind, ice and/or gravity.

FRAGIPAN — A loamy, brittle subsurface soil horizon low in porosity and organic matter, low in clay and moderate to high in silt and fine sand content. A fragipan appears cemented when dry and restricts the growth of roots and the passage of groundwater. **[Added 12-18- 2013]**

GROWING SEASON — The portion of the year when soil temperatures are above 41° F., generally April to October in Topsfield.

HYDRIC SOIL — Soil that is saturated, flooded or ponded long enough during the year to develop anaerobic conditions in the upper [*] 18 inches.

HYDROPHYTIC VEGETATION — Plants that are growing in water or in soil or other substrate that is at least periodically deficient in oxygen as a result of excessive water content.

LID or LOW-IMPACT DEVELOPMENT — A best management practice of controlling stormwater runoff on a property and infiltrating it into the ground by means of landscape features such as, but not limited to: rain gardens, bioretention ponds and vegetated drainage swales. For more information on LID best management practices access: <http://water.epa.gov/polwaste/green/> and for practical construction advice: [http://www.toolbase.org/PDF/ Design Guides/Builder_LID.pdf](http://www.toolbase.org/PDF/DesignGuides/Builder_LID.pdf). **[Added 12-18-2013]**

NOTICE OF INTENT (NOI) — The application for a permit under the Bylaw.

ORDER OF CONDITIONS — The permit issued under the Bylaw.

PESTICIDE — A substance or mixture of substances intended to prevent, destroy, repel, regulate or mitigate the impact of any pest, including undesirable plants, animals or microorganisms. Pesticides do not include drugs used to treat animals or humans for infections caused by bacteria or viruses.

POLLUTANT — A substance, the introduction of which into a resource area may degrade the suitability of the resource area for water supply, wildlife habitat, fisheries, recreation or other protected interests. Pollutants include, but are not limited to, algaecides, herbicides, pesticides, fertilizers, fuels, solvents, lubricants, cleaners, wastewater, de-icing compounds and hazardous materials.

POND — Shall have the same definition as contained in 310 CMR 10.04 as amended from time to time. (<http://www.mass.gov/eea/docs/dep/service/regulations/310cmr10a.pdf>) **[Added 12-18-2013]**

POORLY DRAINED SOILS — Any of the soils listed in Table 10-2-1 and indicated on the map entitled "Topsfield, MA Areas of Severe Soils Limitations," dated May 11, 2012, and adopted as part of the Topsfield General Wetlands Bylaw regulations hereinafter called the Soils Map as most recently amended. **[Added 12-18-2013]**

Table 10-2-1 Poorly Drained Soil Types Listed in the NRCS Soil Survey of Essex County North			
Soil Type (Series)	Origin	Features	Drainage
Leicester	Upland soils		P
Limerick	Floodplain areas		P
Maybid	Lacustrine		V
Montauk	Upland, glacial till	Fragipan 18" or greater below grade; well drained, but has a fragipan 18 inches by 32 inches below grade	N/A
Paxton	Drumlins		
Pipestone	Outwash plains		M
Raynham	Lacustrine		P
Ridgebury	Drumlins	Fragipan 18 inches or greater below grade	P
Saco	Floodplains		V
Scantic	Outwash, lacustrine		P
Scarboro	Outwash plains		V
Swanton	Outwash plains		P
Walpole	Outwash plains		P
Wareham	Outwash plains		P
Whately	Lacustrine		V
Whitman	Upland soils	Fragipan 18 inches below grade	V
Woodbridge	Drumlins	Fragipan 18 inches by 24 inches below grade	M
M: Moderately poorly drained			
P: Poorly drained			
V: Very poorly drained			

RARE SPECIES — Any species listed by the Massachusetts Division of Fisheries and Wildlife Natural Heritage and Endangered Species Program as rare, endangered or of special concern.

RECREATION — Activities including, but not limited to, hiking, walking, fishing, canoeing, swimming, horseback riding, skiing and nature study.

SEDIMENTATION CONTROL — The prevention or reduction of the collection or concentration of sand, soil or rock fragments by the action of water, wind, ice or gravity.

STREAM [*] — A body of running water, including rivers, brooks, creeks and seasonal watercourses, that moves in a channel or swale, with or without banks, over the ground due to a hydraulic gradient. A portion of a stream may flow through a culvert or subsurface drain or under a bridge. A stream may be natural or man-made, continuous or intermittent. **[Amended 3-8-2006]**

VERNAL POOL [*] — An intermittent pond that meets the criteria set forth in "Guidelines for Certification of Vernal Pool Habitat" issued by the Massachusetts Division of Fisheries and Wildlife. Prior certification is not required. Vernal pools function as essential breeding habitat for a variety of amphibian species such as wood frog (*Rana sylvatica*) and mole salamanders, and provide other important wildlife habitat functions for amphibians and other wildlife. Vernal pool habitat includes a one-hundred-foot setback area.

WETLANDS HYDROLOGY [*] — Permanent or periodic inundation or prolonged soil saturation sufficient to create anaerobic conditions within 18 inches of the ground surface.

§ 384-3. Identification of resource areas protected under Bylaw.

- A.** [*] Freshwater wetlands are identified by the predominance of hydrophytic vegetation and/or the presence of hydric soils and/or wetlands hydrology. Delineations shall be done primarily on the basis of vegetation. Use of soils or hydrological observations shall be done when there is an indication that the wetland boundary may be more extensive than that indicated by vegetation. Isolated wetlands greater than 5,000 square feet are subject to protection. Delineation methodology is set forth in Appendix 2.²
- (1) Wetland boundary delineations shall be reviewed only between April 15 and October 1 of each year, unless the Commission grants a waiver due to low probability of error on a particular site, or reserves the right to adjust the boundary during the growing season.
 - (2) Where the Commission finds that the plant community cannot be accurately evaluated because of recent or ongoing disturbance, the Commission may require that site soils and hydrology be examined, and/or the Commission may require that the delineation be postponed until such time that the natural plant community has regenerated and grown.
 - (3) The Commission may retain the services of a professional botanist, soil scientist, wetland scientist or hydrologist, at the applicant's expense, to evaluate vegetation, soils and/or hydrology.
 - (4) Where the applicant contends that a wetland is not subject to regulation, said wetland shall be flagged and shown on the site plan and the reason(s) for its exclusion as a protected area shall be given.

² Editor's Note: Appendix 2 appears in Art. III of this chapter.

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- (1) Resource area delineations for new house construction or exceeding 100 feet in length shall be reviewed under the ANRAD (abbreviated notice of resource area delineation) process only. **[Added 12-14-2005]**
- B. [*] Bodies of water include any lake, pond, river or stream, whether intermittent or permanent, man-made or natural.
 - (1) The Bylaw protects certain bodies of water that may not be protected under the State Law, including:
 - (a) Permanent ponds, even if less than 10,000 square feet;
 - (b) All intermittent streams; and
 - (c) All vernal pools.
 - (2) Man-made ponds created by damming a river shall have two-hundred-foot riverfront area jurisdiction.
 - (3) Man-made drainage ditches or structures are considered in accordance with the provisions of §§ 384-4G and 384-21.
- C. [*] Land under water shall be identified in the manner specified in 310 CMR 10.56, which shall also apply to those bodies of water that are protected under the Bylaw but not under the State Law.
- D. [*] Banks shall be identified in the manner specified in 310 CMR 10.54, which shall also apply to those bodies of water that are protected under the Bylaw but not the State Law.
- E. [*] The buffer zone extends 100 feet horizontally outward (upland) from the boundary of freshwater wetlands, bodies of water, land under water, banks or vernal pools, as identified under the Bylaw. **[Amended 12-14-2005]**
- F. Land subject to flooding includes those lands identified in the manner specified in 310 CMR 10.57.
- G. [*] Annual high water in association with riverfront area shall be the furthest horizontal extent of flooding averaged over at least 10 years. **[Added 3-8-2006]**

§ 384-4. Presumptions of significance and performance standards.

- A. [*] Freshwater wetlands are presumed significant to protection of public and private water supply; protection of groundwater; flood control; erosion and sedimentation control; storm damage prevention; protection of water quality; water pollution prevention; and protection of wildlife habitat. In addition, those freshwater wetlands that border on bodies of water are also presumed significant to protection of surface water and fisheries. Those freshwater wetlands which border on the Ipswich River on Hood Pond, or which occur within Bradley Palmer State Park, the Ipswich River Wildlife Sanctuary or Willowdale State Forest are also presumed significant to recreation.

- (1) Where the presumptions of significance for freshwater wetlands are not overcome, any proposed work within a freshwater wetland shall not destroy or otherwise alter any portion of said area, except as provided in Subsections G and I of this section.
- B. [*] Bodies of water are presumed significant to public and private water supply; groundwater and surface water; flood control; erosion and sedimentation control; storm damage prevention; water quality; water pollution prevention; fisheries and wildlife habitat. Hood Pond, the Ipswich River and those bodies of water within Bradley Palmer State Forest, the Ipswich River Wildlife Sanctuary of Willowdale State Forest are presumed significant to recreation. Vernal pools are significant to wildlife habitat.
 - (1) Where the presumptions of significance for bodies of water are not overcome, any proposed work within a body of water shall conform to the performance standards of Subsection C below regarding protection of land under water and banks. No project may be permitted which will have an adverse effect on vernal pool habitat, except as provided in Subsection I of this section.
 - (2) No pollutants may be discharged into any body of water without an order of conditions authorizing such discharges, unless such discharge is exempt from local permitting requirements. If such exemption is claimed, documentation of the exemption and verification that the discharge conforms to all applicable laws, regulations and permits shall be submitted to the Commission at least 14 days prior to the discharge of pollutants.
 - (3) No pesticides shall be applied to any body of water without an order of conditions authorizing such application. The sole purpose of the hearing under this provision is to determine whether the applicant is proposing to use particular pesticides only as permitted by law. The application for the order shall include a full copy of the product's label, the date(s), method(s) and locations of application and any other pertinent data.
- C. Banks and land under water are presumed significant as delineated in 310 CMR 10.54 and 10.56, respectively.
 - (1) Where the presumptions of significance for banks and/or land under water are not overcome, any proposed work in these areas shall not impair:
 - (a) The physical stability of the bank(s);
 - (b) The water-carrying capacity provided by the land under water in conjunction with the banks;
 - (c) Groundwater and surface water quality;
 - (d) The capacity of said land under water and/or bank(s) to provide important habitat functions for fisheries and/or wildlife.
 - (2) Wildlife habitat evaluations may be required for proposed alterations less than the thresholds adopted under the State Regulations.
- D. Land subject to flooding is presumed significant as delineated in 310 CMR 10.57, except as otherwise specified in Subsection B of this section referring to vernal pools.

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- (1) Where the presumptions of significance for land subject to flooding are not overcome, any proposed work in these areas shall meet the performance standards of 310 CMR 10.57. Notwithstanding, no project may be permitted which will have an adverse effect on vernal pool habitat, except as provided pursuant to Subsection I of this section.

E. [*] Buffer zones are presumed significant to the protection of groundwater and surface water; flood control; erosion/sedimentation control; water quality; water pollution prevention; wildlife habitat and fisheries. **[Amended 12-14-2005]**

- (1) Setback areas. The Commission presumes that work within the following setback areas will adversely affect the buffer zone's capacity to contribute to the interests of the Bylaw:
 - (a) Within 100 feet of the boundary of vernal pools or habitat of rare or endangered species or species of special concern;
 - (b) Within 100 feet of the boundary of a freshwater wetland, bank, or body of water;
 - (c) Within 100 feet of the downhill boundary of any wetland or land subject to flooding which is situated on or at the top of a slope of a hill unless it can be proved that all runoff from the wetland on the occurrence of a one- hundred-year storm can be contained within the property and in the upland until it can percolate into the ground.
- (2) No work shall occur in the setback areas, except as provided pursuant to Subsection G (maintenance) or I (waiver provision) of this section. Considerations in association with the granting of a waiver shall include but not be limited to (a) through (c) as follows: **[Amended 3-8-2006]**
 - (a) For lots already developed with an existing house, commercial building or other permanent structure as of May 2, 2000, proposed activities in the buffer zone not exceeding a total of an additional 5% or 400 square feet, whichever is less, of the buffer zone may be considered only if the proposed activities are located outside the buffer zone as much as possible, activities are limited to already disturbed areas (e.g., existing lawn) and mitigation is offered to compensate for any impacts to buffer zone functions and values.
 - (b) For lots in existence but not developed as of May 2, 2000, and for projects proposing substantial removal of the primary structure, activities shall be allowed only as necessary to develop the lot with a house, septic system and driveway, and activities shall be outside of buffer zone as much as possible (e.g., allowing a driveway, only, in buffer zone to allow access to an area outside buffer zone).
 - (c) For newly formed lots (after May 2, 2000), there shall be no activities in buffer zone setback areas.
- (3) The Commission presumes that application or discharge of pollutants within the buffer zone will adversely affect the buffer zone's capacity to contribute to the

interests of the Bylaw. No pesticides shall be applied to the buffer zone without an order of conditions authorizing such application. The sole purpose of the hearing under this provision is to determine whether the applicant proposes to use particular pesticides only as permitted by law. The application for the order shall include a full copy of the product's label, date(s), method(s) and location(s) of application, and other pertinent data.

- (4) Manure shall not be stored uncovered within 100 feet of any wetland resource area or within 200 feet of a perennial stream. An impervious cover shall be maintained and secured in place at all times except for maintenance and/or removal. All manure and agricultural waste products, including building debris, wasted feeds, fencing materials and broken and obsolete farm equipment shall be removed at a minimum frequency of twice annually. No paddocks shall be constructed within 100 feet of a wetland resource area.
 - (5) If a parcel has access to Town water, no well shall be constructed within the one-hundred-foot buffer zone to any wetland resource area or within the two-hundred-foot riverfront area of any perennial stream. When no other potable water source is available, a new deep-drilled well may be considered within the one-hundred-foot buffer zone to a wetland resource area and/or within the outer 100 feet of two-hundred-foot riverfront area solely for the purpose of non-irrigation single-family potable water source.
 - (6) These presumptions are rebuttable and may be overcome by a clear showing that the nature of the proposed work, special design measures, construction controls or site conditions will not reduce the ability of the buffer zone to contribute to protected interests.
 - (7) Where the presumptions of significance for the buffer zone are not overcome, proposed work shall be undertaken in such a manner as to prevent erosion and siltation into adjacent water bodies and wetlands as specified under the current guidelines of the USDA Natural Resources Conservation Service, or other guidelines approved by the Commission. The Commission shall impose conditions it finds necessary to protect wildlife habitat or other interests.
- F. The presumptions of Subsections A through C of this section are rebuttable and may be overcome by a clear showing that the resource area in question does not play a role in the protection of the interests cited.
- G. [*] The Commission may allow maintenance of those wetland uses, such as man-made ponds, road drainage structures, drainage easements, agricultural uses and the like, which already lawfully exist at the time of adoption of these regulations. Such maintenance projects require the filing of a request for determination or notice of intent, unless exempted in writing by the Commission. All such work must use appropriate measures to protect the interests of the Bylaw.
- (1) Any enlargement, modification or substantial improvement of such preexisting uses requires the filing of a notice of intent, and is subject to the performance standards and other regulations contained herein.
- H. [*] Any work done within any Bylaw resource area must, at a minimum, comply with "best practical measures" to mitigate potential adverse impacts.

I. [*] Waiver provision. [Amended 12-14-2005]

- (1) The Commission may, by affirmative vote of at least four of the members present, waive the application of one or more of the regulations contained in Subsections A through E of this section when, upon consideration of the particular case, and when the waiver request has been submitted in writing addressing the four criteria (a) through (d) hereof, and the Commission finds that:

- (a) There are no alternatives that would allow a project to proceed in compliance with the regulations; and
- (b) Mitigating measures are proposed that will allow the project to be conditioned so as to contribute to the interests identified in the Bylaw; and
- (c) Where alteration of a wetland, bank, land under water or body of water is proposed, replication is proposed in accordance with the State Regulations and § 384-19 of these regulations; and
- (d) The waiver is necessary to accommodate an overriding public interest, or that it is necessary to avoid an order that so restricts the use of property as to constitute an unconstitutional taking-without-compensation.

Alternatives include, but are not limited to, redesigning or scaling back the project, relocating roads or structures, using best available technologies, choosing another project/land use or (as in the case of a project accommodating an overriding public interest) choosing another project site.

- (2) Additional reasons for possible denial of waivers include, but are not limited to, the following:

- (a) The cumulative alteration of wetlands on the property and contiguous land of the same owner (now or previously) exceeds 5,000 square feet or 5% (whichever is less); or
- (b) Subdivision of the land has left the property without upland access, or another prior action of the current or previous owner has created the need for the proposed project; or
- (c) Filling/Alteration of the resource area is proposed to meet septic system setbacks of slope requirements; or
- (d) The proposal is for direct discharges of stormwater to a wetland or water body/way, or stormwater detention/retention in a wetland or water body/way; or
- (e) Alternatives exist which, although more costly to the applicant or resulting in less economic gain, result in less or no alteration to resource areas; or
- (f) The judgment of the Commission is that the proposal and mitigation proposed is insufficient, or unproven, in protecting the interests of the Bylaw.

- J. Rare species. No project may be permitted which will have any short- or long-term adverse effects on the habitat of a local population of a state-listed rare or endangered species or species of special concern.
- K. Stormwater management. Applicable to all land proposed for development, redevelopment and additional development contiguous to or containing any resource area under the protection of the Wetlands Protection Act, MGL c. 131, § 40 (Act) and/or the Topsfield General Wetlands Bylaw, Chapter 250 (Bylaw) (See § 250-2, Jurisdiction.). **[Added 12-18-2013]**

Act: <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXIX/Chapter131/Section40>

Act Regulations, 310 CMR 10.00:

<http://www.mass.gov/eea/agencies/massdep/water/regulations/310-cmr-10-00-wetlands-protection-act-regulations.html>

Bylaw: <http://www.topsfieldma.gov/documents/bylaws/general/documents/ChapterLXIIWetlands.pdf>

- (1) Stormwater run-off directed or channeled into any resource area has the potential of degrading or altering that area as a result of pollution conveyed and/or the deposition of silt and sediments into that area. It is presumed that a fully viable resource area is significant to the interests of the Act and the Bylaw. Therefore, any discharge of untreated stormwater directed or channeled into a resource area by any new or repaired stormwater management system shall conform to all listed standards contained in the Massachusetts Stormwater Management Regulations adopted by the Massachusetts Department of Environmental Protection as they may be amended from time to time, hereafter called the "Stormwater Regulations," and the provisions of 310 CMR 10.05, paragraphs (6)(k), (m), (n), (p), and (q), as they may be amended over time. Detailed performance requirements of stormwater management systems constructed in compliance with the above standards are found in the Massachusetts Stormwater Handbook Volumes 1-4 (<http://www.mass.gov/eea/agencies/massdep/water/regulations/massachusetts-stormwater-handbook.html>), as most recently amended.
- (2) Any lot proposed for development, redevelopment or additional development that borders on or contains any resource area protected by the Act and the Bylaw located in the red zone of the Soils Map or on a drumlin shall demonstrate by engineered design that stormwater runoff from the proposed construction would be retained on-site in either bioretention ponds, rain gardens, dry wells or similarly functioning low-impact features. Where that is proved not to be feasible, the drainage system shall be designed to intercept suspended solids and hydrocarbon pollutants using best management practices (BMPs) in conformance with Standard Four of the Stormwater Regulations prior to being discharged into the resource area.
- (3) All designs and BMPs managing stormwater runoff shall be sized to accommodate a one-hundred-year storm frequency event without causing erosion or siltation of the retention area.

- (4) Extreme rainstorm intensity, duration and frequency (IDF) data for calculations in Subsection K (3) above shall use the Northeast Regional Climate Center (NRCC) database available on <http://www.precip.net> under "Data and Products." This database may be installed in the HydroCAD stormwater runoff model by accessing <http://hydrocad.net/rainfall/pfd.htm> and following the indicated prompts.
- (5) During the construction of the proposed development and until such time that the disturbed soil has been stabilized appropriately, erosion and sedimentation control measures shall be installed around the perimeter of the construction site in accordance with Standard Eight of the Stormwater Regulations. Erosion and sedimentation controls for the proposed construction site shall be approved by the Topsfield Conservation Commission or its designated agent prior to the start of any work on-site. All soils stored at the construction site for greater than 24 hours shall be covered by a waterproof tarpaulin or equivalent rainwater protection.
- (6) No snow hauled from parking lots or public ways shall be deposited in any resource area under the jurisdiction of the Topsfield Conservation Commission unless authorized under (permit) conditions deemed necessary by the Topsfield Conservation Commission to protect interests of the Act and the Bylaw.
- (7) All stormwater management systems permitted hereunder shall have operations and maintenance plans approved by the Commission in conformance with Standard Nine of the Stormwater Regulations.
- (8) Impervious areas such as driveways, patios and parking lots shall be graded to facilitate stormwater runoff into adjacent grassy swales or catchment areas. No driveway shall be constructed or modified with a pitch such that runoff is directed onto a public road or street. Wherever possible, vegetated drainage swales and rain gardens shall be located to retain stormwater runoff on-site. The Commission encourages the use of pervious pavement materials such as pavers and porous asphalt. For information on porous asphalt contact: National Asphalt Pavement Association, <http://www.hotmix.org/index.php>.
- (9) As part of new construction and modifications to structures, stormwater runoff from all roof drains shall be conveyed into infiltration trenches, dry wells, rain gardens or similar BMPs to facilitate groundwater recharge and protect water quality.
- (10) Developments or construction in riverfront areas or buffer zones shall be designed to be in conformance with LID practices.
- (11) As-built plans of stormwater management systems permitted hereunder shall be submitted to the Conservation Commission upon completion of the construction, together with a certificate signed by an engineer or professional land surveyor that the system meets the relevant requirements of the Stormwater Regulations. This submission is required at least 14 days prior to the issuance of a certificate of compliance by the Commission.

§ 384-5. Filing procedures and requirements. [Amended 12-6-2000]

A. Filing procedure.

- (1) All materials specified below shall be submitted to the Commission by registered mail or hand delivery. Applications, plans and supporting materials shall be submitted in duplicate. Fees are payable at time of application. The Commission shall hold a public meeting or hearing, as appropriate, within 21 days of receipt of a complete application.
- (2) When applicable, submit application and supporting materials at the same time to:
 - (a) Department of Environmental Protection Northeast Office (fees payable to state are submitted per instructions on State Fee Transmittal Form);
 - (b) Massachusetts Division of Fisheries and Wildlife, Natural Heritage and Endangered Species Program (when project locus is within an area encircled on the current State Estimated Habitat Maps);
 - (c) U.S. Army Corps of Engineers, whenever proposed work requires an Army Corps permit (as indicated under Question 11 of the notice of intent);
 - (d) Topsfield Planning Board, Board of Health, Town Engineer and Highway Superintendent, for proposed subdivisions, multiple-dwelling structures, commercial, industrial, institutional or public works projects;
 - (e) Topsfield Town Engineer and Board of Health, for septic systems and drainage projects not part of projects described in Subsection A(2)(d) above.
 - (f) Other agencies, as required for specific projects.

B. Materials required for all filings.

- (1) Application. Use the forms provided under the state and Bylaw, or under the Bylaw regulations, which may be obtained from the Conservation Commission. **[Amended 4-9-2008]**
 - (a) Form 1, Request for a Determination of Applicability, may be used by any person who desires a determination as to whether the Bylaw applies to land or proposed work, whether a permit is required, or for review of wetland boundary delineations.
 - (b) Form 4, Abbreviated Notice of Intent, may be used for any project where alteration does not exceed 1,000 square feet, will not require U.S. Army Corps of Engineers permits or a Division of Waterways (Chapter 91) license, and is confined to the buffer zone or land subject to flooding.
 - (c) Form 3, Notice of Intent, shall be used for all other applications for a permit under the Bylaw.
 - (d) Form for Request for a Determination of Negligible Impact (TCC Form 6) shall be provided by the Commission for proposed projects or activities seeking a determination by the Commission that there would be negligible

or no detectable impact on resource areas or their values and functions protected under the Wetlands General Bylaw and regulations.

- (2) Site and project description.
 - (a) The project applicant is responsible for providing site plans and other information to accurately describe the site, proposed work, impacts on protected areas and interests, protective measures proposed and (where a waiver is requested) alternatives.
 - (b) Detailed requirements are listed in Appendix 1.3 The Commission may require that plans, reports, calculations and other supporting materials be prepared, signed and (where appropriate) stamped by qualified professionals.
- (3) Site locus shall be indicated on the most recent USGS topographic map. For notice of intent and abbreviated notice of resource area delineation filings, additionally the site locus shall be indicated on the current Estimated Habitat Map of Rare Wetland Wildlife, which is available from the Commission or the Massachusetts Division of Fisheries and Wildlife, Natural Heritage and Endangered Species Program. Where site locus is within an encircled rare species habitat area, submittal of the notice of intent to the Natural Heritage and Endangered Species Program is required.
- (4) Mailing list of abutters, obtained from the current records of the Topsfield Board of Assessors. An abutter is the owner of property within 100 feet of the boundary of the applicant's/project property, including property located across a street, way, river or stream within the 100 feet.
- (5) Site visit authorization (TCC Form 2) signed by the property owner. This form also is available from the Commission Office.
- (6) Names and qualifications of persons preparing reports, plans and other materials submitted. Disclosure of personal interest certification (Form 3) for consultants or engineers is required before the first public hearing. This form also is available from the Commission Office.
- (7) Fees as specified in § 384-6. Use TCC Form 1 to calculate the fees owed. This form also is available from the Commission Office.
- (8) Certification that all other required permits have been obtained and/or applied for; list of permits that must be obtained subsequent to Commission approval.
- (9) A plan, in recordable form. Two final plans shall be submitted to the file prior to issuance of a permit.
- (10) The Commission may, by its own cognizance or upon written request, waive any submittal requirements it finds are unnecessary to document the site or proposed work, or to make a decision.

3. Editor's Note: Appendix 1 appears in Art. II of this chapter.

(11) Topsfield Conservation Commission administrator permit (TCCAP) for limited buffer zone activity. Projects and activities in the buffer zone associated with the maintenance and improvement of existing residential properties, and that conform to the limitations listed in Subsection B(11)(c), below, will be deemed to have a negligible impact, or no impact, on the wetland values protected by the General Wetlands Bylaw if conducted under the supervision of the Conservation Administrator through the issuance of an administrator permit ("TCCAP") in the manner described in this section. Any project or activity for which a TCCAP is issued shall not require an order of conditions under the Town of Topsfield General Wetlands Bylaw. **[Added 1-27-2010, effective 2-1-2010]**

(a) Submission requirements. Any landowner may seek an administrator permit by submitting the following:

[1] A \$75 filing fee. **[Amended 5-23-2012, effective 6-1-2012]**

[2] An application, on a form to be provided by the Administrator, containing a brief description of the project. Photographs of the site with discernible stakes in the ground delineating the locus of the proposed project will expedite the permitting process.

[3] A sketch of the proposed site and the footprint of the proposed work.

(b) Site inspection. The Administrator shall be permitted to inspect the worksite before issuing the TCCAP and before, during and after the project or activity is conducted to ensure compliance with the permit, including any conditions attached thereto. If the Administrator is satisfied that the proposed activity will conform to the requirements of Subsection B(11)(c), the Administrator shall endorse the application, with any additional conditions the Administrator deems appropriate, and provide a copy to the applicant. If the Administrator concludes that a request for determination of applicability or notice of intent is required, the Administrator shall so notify the applicant. The decision whether to issue a TCCAP is solely within the Administrator's discretion.

(c) Approval criteria. A project or activity shall be eligible for a TCCAP if it meets the following limitations and conditions:

[1] Locus. The locus of permitted work shall be confined to the buffer zone, as defined in § 384-2 of these regulations.

[2] Slope of worksite. The grade of the worksite shall not exceed 10% unless the slope is in the direction away from any resource area.

[3] Condition of site. The worksite shall be limited to previously and lawfully altered buffer zone areas such as those that have been converted to lawn, cultivated or cleared of trees and shrubs.

[4] Worksite area. The total area of proposed worksite shall not exceed 3,000 square feet. The "worksite area" includes all proposed improvements such as driveways, patios, structures, etc., in addition

to the area required for access of construction personnel, equipment, material and siltation fences/other sedimentation controls.

- [5] Structures. Structures that may be erected pursuant to a TCCAP are limited to those that would be constructed either on a concrete slab or semi-pervious material or on concrete piers such as Sonotube piers in general usage, except that preexisting structures built on a foundation may be repaired or reconstructed; provided, however, that the footprint of the structure is not enlarged. All new structures shall be located no closer than 25 feet to the nearest edge of a wetland resource area.
- [6] Trees. No trees greater than six inches in diameter shall be removed in the buffer zone unless these are dead, diseased or pose an imminent threat to persons or property in the judgment of the Administrator. Invasive species may also be removed in accordance with Subsection B(11)(d), below.
- [7] Access. The worksite shall not be accessed over any resource area, except that a part of the outer buffer zone area contiguous with the worksite may be used for access.
- [8] Mechanized equipment. Mechanized equipment used in the proposed construction/activities shall not be moved over or into any contiguous wetlands resource area.
- [9] Excavation. The extent of the proposed work shall be limited to the placement of no more than eight twelve-inch-diameter Sonotubes that are hand-dug and no deeper than four feet. **[Amended 9-14-2011]**
- [10] Driveways. The Commission prefers the use of semi-pervious driveways such as gravel or paver brick surfaced ways that can be laid on a course of leveling sand to mitigate frost heaves. In the event, however, that a bituminous surface is proposed, the driveway shall be designed to allow stormwater infiltration into the adjacent ground. No stormwater runoff shall be directed onto a publicway. **[Amended 9-14-2011]**
- (d) Removal of invasive species. New England is host to a great number of exotic plant species that thrive unchecked and are therefore considered to be "invasive." Removal of invasive species pursuant to the protocols approved by the Commission and in accordance with all relevant federal, state and Topsfield laws and regulations may also be approved pursuant to this section.
- (e) Conditions. The Administrator may add conditions to the issuance of the permit to ensure that contiguous resource areas are properly protected from any adverse effects of the construction activity. In addition, ongoing conditions may be attached that continue to be in effect after the construction is completed where such are deemed to be required by the Administrator.

- [1] Tree removal. Tree stumps shall be left in the ground but may be ground and treated with herbicides, fungicides and/or insecticides in accordance with all relevant laws and regulations and as necessary to kill any regrowth, fungus or destructive insects such as pine barkbeetles and borers.
 - [2] Removal of soil. Topsoil, loam or grass turf may be removed only from the area within the footprint of a proposed structure, laid brick patios, walkways, driveways or similar appurtenances. Soil shall not be stockpiled within the buffer zone at any time. Any temporary stockpiling of soil must be on and covered, e.g., with polyethylene sheeting or nylon tarp, when not being used. The covering shall be surrounded by hay bales or siltation socks and secured with rocks at night or during inclement weather or if left unattended for longer than 10 hours.
 - [3] Restoration after construction. All areas that have been stripped of vegetation or resulted in soil disturbance during the construction phase and that are not otherwise covered by structures, driveways or paved surfaces shall be stabilized with grass and/or native plantings, and no siltation fence may be removed until the grass/other vegetation has been well established in the seeded/planted areas.
- (f) Not to supersede state law. This authorization is intended to be consistent with, but does not supersede, the requirements of the Wetlands Protection Act and 310 CMR 10.00.
- C. Disclosure of personal interest. In order to rely upon the disinterested objectivity of the professional opinions of consultants or engineers whose work is presented on behalf of a project, the Commission must be assured that these consultants or engineers have no undisclosed personal interest in the applicant or application.
- (1) Any engineer or consultant who appears, either in person or through its professional affiliates or employees, on behalf of an applicant or representative in a project before the Commission shall file in advance of the first hearing on any application or request relative to a project either:
 - (a) Certification, TCC Form 3, of no personal interest in the application beyond payment for professional services rendered on the project at standard fee arrangements; or
 - (b) Disclosure, TCC Form 3, of the nature and status of said engineer's or consultant's personal interest, whether it be in any form of ownership or incentive compensation in return for services rendered to the project or other interests.
 - (2) If an engineer or consultant has a personal interest in any project, the Commission may, at its option:
 - (a) Require the applicant to pay for the cost of a disinterested engineer or consultant selected by the Commission to review and verify any tests,

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professional conclusions or calculations of such interested engineer or consultant; and/or

- (b) Reject the professional work or opinions of such interested engineer or consultant.

§ 384-6. Fees. [Amended 3-22-2000; 6-28-2000; 1-23-2000; 4-9-2003; 12-4-2005; 4-9-2008]

A. When due; additional fees.

- (1) Fees are payable at the time of submitting a request for determination of negligible impact (RDNI), request for determination of applicability (RDA), abbreviated notice of resource area delineation (ANRAD), notice of intent (NOI), abbreviated notice of intent, request for extension of permit, request to amend order of conditions, request for certificate of compliance, etc.
- (2) Fees under the Bylaw are in addition to those required under the State Regulations. Consultant fees and security bond monies are not included in these fees. The Town of Topsfield projects are exempt from fees. In general, fees are not refundable although the Commission may waive a fee, or portion thereof, by the vote of a majority of the members present. Applicant's payment of fees does not imply project approval by the Commission.

B. The applicant shall submit an explanation of how the fee for the Bylaw was calculated (see TCC Form 1). If the wetland boundary review indicates that the resource area alterations are different from those reported on TCC Form 1, a fee adjustment shall be made.

C. Fees are as follows:

- (1) Request for determination of negligible impact (RDNI). To request issuance of a determination of negligible impact (DNI) when a proposed project or activity would have a negligible or no detectable impact on the resource areas or their values and functions protected under the General Wetlands Bylaw and Regulations, the fee is \$75. Issuance of a DNI is strictly at the discretion of the TCC, and is reserved for truly minor projects within resource areas, including buffer zones. A DNI is issued as a letter to the applicant, may or may not contain conditions, and does not need to be recorded at the Registry of Deeds. Examples of typical projects that would receive a DNI are installation of a fence using hand-held tools within a buffer zone in existing lawn area at least 50 feet from a wetland, or cutting and grinding, but not removal, of the stump of a mature tree 90 feet from a wetland. If a proposed project is denied a DNI, it may be appropriate for an RDA or NOI; in such case the RDNI fee would be applied to the next application if the latter is made within one year of the RDNI filing date. **[Amended 6-13-2012]**
- (2) Request for determination of applicability (RDA).

- (a) To request authorization of minor work, the fees are as set forth in C (3)*below, with a \$100 minimum.
- (b) To request a formal review of wetland resource area delineation, the fee is \$0.50 per linear foot of each wetland resource area boundary to be reviewed. The minimum fee is \$50 per wetland resource area evaluated. These fees may later be applied to the review Subsection C(4)(a) in a notice of intent (below). Requests for review of resource area boundaries/lines exceeding 200 linear feet and for projects other than single-family house projects shall be reviewed under the ANRAD process [Subsection C (3) below] only.
- (3) Abbreviated notice of resource area delineation (ANRAD). The fee for an ANRAD is also \$0.50 per linear foot of wetland resource area boundary, with a \$50 minimum per wetland resource area evaluated.
- (4) Notice of intent (NOI) (includes abbreviated notice of intent).
 - (a) A review of the wetland resource area boundaries delineation is required under a NOI unless it was done under a prior RDA, ANRAD or NOI. The fee is \$0.50 per linear foot of wetland resource area boundary, with a \$50 minimum per wetland resource area evaluated.
 - (b) To repair or replace a failed septic system: \$200. This fee applies only to septic systems that have the same design flow as the failed system. Repairs or replacements that would result in an increase over existing design flow shall be assessed on the same basis as a system for a newly constructed dwelling.
 - (c) To request to alter a resource area:
 - [1] Buffer zone: \$0.25 per square foot.
 - [2] Land subject to flooding: \$0.25 per square foot.
 - [3] Land under water: \$0.50 per square foot.
 - [4] Banks (each bank): \$5.00 per linear foot.
 - [5] Freshwater wetland: \$0.50 per square foot.
 - [6] Vernal pool 100-foot buffer zone: \$0.50 per square foot.
 - [7] 200-foot riverfront area: \$0.30 per square foot.

Where resource areas overlap, the higher fee shall be due.
 - (d) To request project activity in a resource area:
 - [1] Review of drainage system and/or flood control structure:
 - [a] On single-family house lot: \$150.

4. Editor's Note: So in original.

[b] Other: \$500.

[2] Restore to prior condition, including waste clean-up: \$250.

- (5) Request for extension of permit: \$100 per lot.
- (6) Request to amend order of conditions: \$100.
- (7) Request for a certificate of compliance: \$100.
- (8) Site inspection for person not owning the land: \$50.

Resource area boundaries shall not be determined; only the existence of jurisdictional areas shall be determined. Any such determination shall be based on topographic maps and a minimal site inspection. Due to the potential for inaccuracies (e.g., resulting from weather conditions), any conclusions shall not be binding. Formal, binding decisions shall be granted through the usual filing process (RDA, NOI, ANRAD, etc.).

- (9) Review of proposed soil testing in buffer zone: \$50. **[Added 12-14-2005]**
- (10) Request for emergency certification: \$50. An emergency certification shall be issued in accordance with the General Wetlands Bylaw and regulations herein. No follow-up filing with the TCC is required for Town-initiated emergency projects that meet the within-24-hours notification and the fourteen-day certificate of emergency condition submission requirements of the General Wetlands Bylaw, and for projects determined by the TCC to meet the criteria for a DNI [Subsection C (1) above]. In other cases, the \$50 request for emergency certification filing fee shall be applied to the required follow-up filing (e.g., RDA, NOI).
- (11) Topsfield Conservation Commission Administrator permit (TCCAP); see § 384- 5B (11) of these regulations: \$75. **[Added 1-27-2010; amended 5-23-2012, effective 6-1-2012]**

§ 384-7. Site visits.

- A. Submittal of a request for determination or a notice of intent shall be accompanied by the property owner's authorization (TCC Form 2) for members of the Commission or its agent(s) to visit the site to obtain information needed to review the request or notice, or to monitor compliance with the conditions of a determination of applicability or order of conditions. Where the person making a request for determination is neither the owner, his/her representative nor project proponent, this requirement may be waived.
- B. Prior to a site visit the site shall be prepared as follows:
 - (1) The location of all proposed alterations must be staked and clearly labeled (corresponding to notations on site plan), including: lot corners; building corners; corners of septic system and expansion area; wells; driveways; roads; drainage system components; cleared and/or regraded areas; replication areas; easements.

- (2) The boundaries of all resource areas within 100 feet of any proposed work (including on abutter's property, with their permission) shall be flagged using numbered flagging keyed to the site plan.

The owner, applicant or their representative, well versed in the plans, shall be present at the site inspection.

- C. Site visits shall occur as necessary to obtain required information about the site and to monitor compliance with permit conditions. Site visits may occur without advance notice to an applicant/permit holder.

§ 384-8. Actions to issue determinations, orders of conditions (permits) or denials; requests to amend permits; emergencies.

- A. A public hearing may be continued in accordance with the provisions of 310 CMR 10.05(5)(b), by mutual agreement between the applicant and the Commission, or at the Commission's discretion to enable the applicant or others to present additional information or evidence.
- B. The period of the time for making a determination of applicability may be extended by mutual agreement between the applicant and the Commission:
 - (1) To an agreed-upon date, which shall be announced at the meeting; or
 - (2) For a period not to exceed 21 days after a submission of a specified piece of information. The date, time and place of the continued meeting shall be publicized in accordance with the requirements of the Bylaw.
- C. The Commission shall issue its decision within 21 days of the close of the public hearing. The decision shall include a finding of fact.
- D. Determinations of applicability and orders of condition expire three years from date of issuance.
- E. A permit holder may request, in writing by certified mail, that a permit condition or approved plan be amended. Perfecting amendments, including but not limited to the correction of typographical errors, may be made in a public meeting. Where the Commission finds that the requested amendment does not represent a substantial change in purpose or substantial increase in the scope or potential for adverse impacts of the project, it may, after public notice, conduct a public hearing to consider and vote whether to amend the order of conditions. Where the Commission finds that the requested change does represent a substantial change in project purpose or a substantial increase in scope or potential for adverse impacts, a new notice of intent shall be required.
- F. Certification of emergency work, including any required conditions, may be recorded at the Registry of Deeds. Fees may be charged in accordance with the fee schedule set forth in § 384-6C.

§ 384-9. Completion of required work.

- A. Upon satisfactory completion of the project or work conditioned by the order of conditions, the permit holder shall make a written request, by certified mail, to obtain a certificate of compliance. The Commission may require certification and/or documentation, in the form of a report and/or as-built plans, by the appropriate professionals that the permit obligations have been satisfactorily fulfilled. Any deviations from the conditions set forth in the permit and approved plans shall be clearly identified, and their impacts on protected areas/interests shall be explained.
- B. The Commission shall notify the owner to arrange a site visit to obtain information regarding compliance with the order of conditions.
- C. If the Commission finds that work complies with the requirements of the order of conditions, it shall vote to issue a certificate of compliance. Any permanent conditions shall be clearly identified. The Commission may issue a partial certificate of compliance where it finds such action appropriate. Those unfulfilled conditions, any permanent conditions and the time requirement for satisfying unfulfilled conditions shall be stated.
- D. A certificate of compliance shall not be issued if the scope of any work or alteration of any resource area is greater than that authorized in the order of conditions. Relatively minor changes that result in the same or decreased impacts on interests protected by the Act and/or the Bylaw shall require an amended order of conditions. Changes that result in increased impacts, a substantial change in scope or a change in project purpose shall require the filing of a new notice of intent.
- E. If the Commission finds that not all work has been completed in compliance with the requirements of the order of conditions, it shall deny the request for a certificate of compliance and specify the reason for the denial. The Commission may also deny the request because of the permit holder's failure to submit professional certification, as-built plans or other documentation, for failure to resolve an outstanding enforcement action, for failure to renew the permit in timely fashion or for other good cause.
- F. The Commission shall act upon the request within 30 days of receipt of the request and professional certification/documentation of work.

§ 384-10. Security.

- A. Required security.
 - (1) When security is required, its amount shall reflect the cost to the Town to carry out any remedial work, inspection services and/or plan preparation necessary to bring the project into compliance with the requirements of the permit, plus a contingency amount of up to 25% of these estimated costs. The Commission and/ or any person knowledgeable in such matters, as designated by the Commission, shall determine said amount.
 - (2) The applicant may request an estimate from the Commission. The cost of preparation of the estimate shall be borne by the applicant. The estimate shall remain effective for 60 days.

- (3) The security shall be approved by the Town Counsel and the Town Treasurer, and shall be contingent upon the completion of such work and observance of conditions within the time frame of the permit or extension, if granted. The security shall be approved and filed with the Town prior to the order of conditions becoming effective.

B. Covenants.

- (1) The applicant may request, or the Commission may require, approval of the notice of intent and plans on condition that no part of the property may be sold and/or no building may be erected thereon until the permit conditions have been satisfactorily fulfilled. Such performance guarantee may be in lieu of or in addition to deposit of security.
- (2) The covenant shall either be contained in a separate agreement or shall be indicated on the approved plan(s), which agreement or plan(s) shall be filed at the Registry of Deeds before the order of conditions becomes effective. The covenant shall be reviewed and approved by Town Counsel prior to the order of conditions becoming effective.

C. Release of performance guarantee. For an order of conditions for which security was given, the permit holder may request a release from the security arrangement following the issuance of a certificate of compliance as provided in § 384-9 herein. The request for release of security shall be made in writing, by certified mail, to the Commission.

- (1) Provided no costs have been incurred by the Town to fulfill obligations of the permit holder, the Commission may authorize the release of the covenant or of the Town's interest in the security, to be returned to the person who furnished same.
- (2) Where a partial certificate of compliance has been issued identifying additional action required by the permit holder and/or monitoring to ensure satisfactory fulfillment of conditions that requires a longer time period for evaluation, the Commission may agree to a revision in the security arrangement reflecting only the costs of the remaining obligations, inspections and/or documentation.

D. Noncompliance.

- (1) After expiration of an order of conditions or denial of a certificate of compliance, where satisfactory fulfillment of the order of conditions was ensured by security, the Commission shall inform the permit holder and bond/surety provider, in writing, of the details wherein work fails to comply with the permit requirements. A copy of the notice shall be filed at the same time with the Town Clerk. The permit holder shall be given a reasonable amount of time, determined by the Commission to be sufficient, to make the necessary remedial measures. If, at the end of the granted period of time, the permit holder fails to take the required steps to bring the project into compliance, the security shall be applied by the Commission for the benefit of the Town, to the extent of the reasonable cost to the Town of completing the project and bringing it into compliance.
- (2) The Commission shall hire consultants, supervisors and/or whatever professionals are necessary to perform the work needed to bring the project into compliance.

and to provide required certification and/or documentation of the work. Any funds remaining following fulfillment of the requirements of the order of conditions shall be returned to the person who furnished the security.

§ 384-11. Enforcement; violations and penalties.

A. When the Conservation Commission determines that an activity is in violation of the Bylaw or a permit issued under the Bylaw, the Commission may:

- (1) Issue an enforcement order under the Bylaw; and/or
- (2) Issue fines under § 250-18 of the Bylaw; and/or
- (3) Take any other action authorized by law.

B. Violations. [Amended 1-23-2002]

(1) Violations include, but are not limited to:

- (a) Failure to comply with a permit, such as failure to observe a particular condition or time period specified in the permit;
- (b) Failure to complete work described in a permit;
- (c) Failure to obtain a valid permit prior to conducting an activity subject to regulation under the Bylaw;
- (d) Causing, suffering or allowing of illegal work or activity;
- (e) Failure or refusal to comply with an enforcement order;
- (f) Failure or refusal to remove illegal fill, restore property or obtain necessary approvals.

(2) Each of the following shall be treated as a separate violation:

- (a) Violations of each or any items listed in Subsection B (1) above;
- (b) Violations of any order of conditions;
- (c) Each 100 square feet or lesser portion of a resource area affected by a violation listed in Subsection B (1) or order of conditions;
- (d) Each day that such violation(s) continues after initial notice.

(3) Separate or ongoing violations with respect to the same property may be aggregated and cited in a single notice of violations ticket.

C. An enforcement order shall be signed by a majority of the Commission. Where circumstances warrant, an enforcement order may be signed by a single member or agent of the Commission, followed by ratification of said order by a majority of the members at the next scheduled meeting of the Commission. An enforcement order may be recorded at the Registry of Deeds.

- D. Upon satisfactory completion of the enforcement order conditions and removal of the violation, the Commission shall, by majority vote, remove the enforcement order and issue a notarized letter stating that the enforcement order is no longer in force.

§ 384-12. Severability.

If any section or provision of any part of these regulations or the application thereof is held to be invalid, such invalidity shall not affect any other section or provision thereof; nor shall it invalidate any permit or determination that has been issued previously.

§ 384-13. Effective date of regulations and amendments.

- A. These rules and regulations, as amended, were approved on October 14, 1992, and will take effect on October 15, 1992. A certified copy is on file with the Town Clerk.
- B. Subsequent amendments will become effective, following public notice and a public hearing to consider said amendments, upon affirmative vote of a majority of the Commission members present or upon a subsequent date specified at the time of their approval. No amendment shall become effective unless and until a certified copy is placed on file with the Town Clerk.
- C. A copy of the rules and regulations, as amended, shall be filed with the Town Clerk on or before their effective date.

ARTICLE II

Appendix 1: Project Application Requirements and Forms

§ 384-14. Submittal requirements.

- A. Information requirements vary greatly according to the magnitude and complexity of a proposed project, the extent and types of resource areas involved and their proximity to the work, and other factors. The following guidelines indicate information that may be required to evaluate a particular site and proposed project. The Commission may deny any permit application if the information provided is incomplete or inaccurate.
- B. Minor projects (requests for determination or abbreviated notice of intent). Required: an accurate site plan or drawing depicting locations and types of resource areas, location of proposed work and topography; and a detailed description of the proposed work, potential impacts on protected resources and proposed mitigation. The Commission may require additional information it finds necessary to making a decision or documenting the site or proposed work.
- C. General requirements. Unless otherwise specified or agreed, site plans shall be to a scale not more than one-inch equals 40 feet, with a contour interval not more than two feet; shall contain a benchmark referencing USGS elevation data; and shall be prepared, signed and stamped by a registered land surveyor. Hydrologic calculations and reports, designs of drainage systems, water control structures and the like shall be prepared, signed and stamped by a registered professional engineer.

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- D. Additional requirements for replication proposals and lake/pond management proposals are specified in §§ 384-18 and 384-19, respectively.

§ 384-15. Documentation of existing site and protected interests.

A. Site plan(s) showing:

- (1) All resource areas; wetland boundaries indicated by numbered flags corresponding to flags placed in the field;
- (2) Ten-year floodplain (per 310 CMR 10.57); setback areas (per § 384-4E);
- (3) NRCS soil classifications;
- (4) Vegetational communities (general);
- (5) Surface drainage areas;
- (6) Existing structures; paved areas; drains and drainage structures, including critical elevations; septic system components; water/utility lines; woods; roads; trails;
- (7) Wells or water supply sources within 500 feet of proposed work;
- (8) Property boundaries; easements; rights-of-way; restrictions;
- (9) Off-site resource areas within 100 feet of proposed work.

B. Description and baseline data on existing site characteristics and protected interests that may be affected by project:

- (1) Data on plant communities, soils and hydrology, supporting wetlands delineation; general plant communities which may be disturbed;
- (2) Soils, including CSC classifications and hydric classes; soil tests; subsurface conditions; depth to bedrock;
- (3) Pre-development hydrology: watershed; tributary surface drainage areas; water-flow characteristics (depth; velocity; locations/dates of observations); site runoff calculations for ten-, twenty-five- and one-hundred-year storm events; existing drainage system components; groundwater levels and flows [location(s)/date(s) of observations];
- (4) Water quality data: classifications of water bodies and/or groundwater; sampling data for relevant parameters;
- (5) Fisheries value, including food chain organisms; sampling data;
- (6) Wildlife habitat characteristics and field observations,
- (7) Water supply sources;
- (8) Recreational values.

§ 384-16. Documentation of project proposal and acts.

A. Site plan(s) depicting proposed alterations of existing conditions:

- (1) All resource area boundaries; ten-year floodplain; and setback areas with altered area clearly depicted;
- (2) Existing topography and proposed contours (shade cuts and fills distinctly and provide representative cross-sectional views);
- (3) Exact locus and elevation(s) of proposed alterations, including structures (lowest elevation); paved areas; drainage system components and discharge points; wells or water lines; utilities; septic system components and setback distances; areas where existing vegetation or soils will be disturbed; replication or other replacement areas; erosion/sedimentation control measures; application/discharge points for pesticides/pollutants; property lines, rights-of-way, easements. Plan(s) should be clear, and keyed to identifying markers in the field.

B. Report on proposed project and impacts:

- (1) Impact of proposed project on all resource areas and protected interests prepared by a person(s) qualified to conduct environmental assessments. Where the project requires a waiver, the report shall include alternatives that would eliminate or reduce impacts to resource areas and protected interests.
- (2) Drainage report including:
 - (a) Computations comparing site runoff before and after development, for the ten-, twenty-five- and one-hundred-year storm events. Presentation of data shall be clear and to the point, including an index, narrative and summary.
 - (b) Plans showing location, elevation, cross-sections and profiles of all proposed drainage system components.
 - (c) Stormwater residence time in detention/retention or sedimentation structures.
- (3) Erosion/Sedimentation control measures during and after construction, including contingency plans, described in detail.
- (4) Construction implementation phase: detailed description and schedule, including equipment; access routes; sequence of construction; location of stockpiles; calculations of amounts of fill or excavated materials, their sources or destinations; stockpile locations and protection; temporary mitigation; protection of trees; proposals to dispose of unwanted materials; use of chemical products; anticipated problems and contingency plans; supervision.
- (5) Monitoring plan to evaluate impacts on resource areas and protected interests and compliance with permit conditions, including regular assessment and reports by a qualified professional.

- (6) Other information may be required on a case-by-case basis.⁵

ARTICLE III

Appendix 2: Wetlands Delineation Methodology Policies and Guidelines

§ 384-17. Freshwater wetlands boundary delineation methodology.

Freshwater wetlands are identified by the predominance of hydrophytic vegetation or the presence of hydric soils or wetlands hydrology. Delineations shall be done primarily on the basis of vegetation. Soils observations and/or hydrologic observations shall be conducted when there is an indication that the wetland boundary may be more extensive than that indicated by vegetation.

- A. Vegetation. Freshwater wetlands are lands where 50% or more of the vegetation consists of plants which are wetlands indicators. Determination of the wetland boundary may require different techniques and levels of detailed data collection and analysis, depending on the sites in question. In any case, plant communities should be sampled using standard scientific plant community sampling methods, with appropriate, documented adjustments for site-specific conditions.
- (1) Where a detailed survey is necessary, each plant community in the wetland/ upland boundary area should be sampled. Data should be obtained for each vegetative stratum in the plant community (canopy/understory/ground cover, or otherwise as appropriate to the site). The calculation of 50% shall pertain to the spatial extent of species in a particular stratum. Spatial extent shall be measured by basal area for trees (over five inches in diameter and higher than 20 feet) and by percent aerial cover for other vegetation.
 - (2) The current United States Fish and Wildlife Service National List of Plant Species That Occur in Wetlands: Northeast shall be used to determine the wetland indicator status of plant species. (Any divergence from the list's classification shall be well documented technically.) Species listed as "obligate" (OBL), "facultative wetland" (FACW) and "facultative" (FAC) shall be considered wetland indicators.
 - (a) A species listed as "facultative upland" (FACU) shall be considered a wetland indicator if:
 - [1] It is listed in MGL c. 131, § 40; or
 - [2] It is growing in hydric soils; or
 - [3] It is growing in an area where there is evidence of wetland hydrology.
 - (b) The categories of FACW, FAC and FACU shall include the + and - designations for each respective category.

5. Editor's Note: TCC Form 1 through Form 6, as amended, originally included as Sections R:10-17 through R:10-20, which followed this section, are available from the Town offices or on the Town website, topsfeld-ma.gov.

reliable indicators of hydric properties; therefore, soils below another 10 inches should be evaluated.

- (a) Soils are hydric if soils within 18 inches of the surface are gleyed (bluish, greenish or grayish; use Munsell gley chart), or if the dominant color in the soil has a chroma of two or less with mottles, or one or less without mottles. Mottles are spots or blotches of a different color or shade, interspersed within the dominant (matrix) color. Chroma is shown on the Munsell charts.
 - (b) Where such gleyed or low-chroma soils lie over soils of high chroma, evaluation by a soil scientist may be indicated. Where soils are coarse textured or sandy, soil color cannot be used as an indicator. Hydric sandy soils may have an organic surface layer overlying the sandy soil, or dark vertical streaking of subsurface layers by organic matter. Evaluation by a soil scientist may be required.
 - (c) Other field indicators of hydric soils include (without limitation): a thick eight inches by 16 inches organic surface layer; rotten egg odor indicating presence of sulfides; iron and/or manganese concretions appearing as rusty-brown or blackish spots; oxidized root-rhizome channels; and expert observation of reducing conditions using a chemical indicator.
 - C. Hydrology. An area where ponding, flooding or saturation occurs for extended periods sufficient to create anaerobic conditions within 18 inches of the ground surface is a freshwater wetland.
 - (1) Because hydrology may vary considerably for any particular site, on a daily, weekly, seasonal, annual or other basis, a determination of wetland hydrology shall not require proof that the site is wet for a specified length of time, or at a specific time of year. Hydrology should generally be evaluated to establish whether an area is a wetland or not, but delineation of the boundary line should rely primarily upon vegetation analysis and secondarily upon soils analysis.
 - (2) To determine whether an area has wetland hydrology, the Commission will consider recorded data (such as stream or lake data, flood predictions, piezometer data and historical flood records); aerial photographs; photographs or videos of the site (clearly labeled with locus, data, photographer); and field indicators that provide direct or indirect evidence of inundation or soil saturation.
 - (3) Field indicators of wetlands hydrology include, without limitation:
 - (a) Observation of flooding or ponding (taking into account recent weather conditions);
 - (b) Observation of soil saturation within 18 inches of the ground surface during the growing season;
 - (c) Water-stained leaves on ground (appearing grayish or blackish);
 - (d) Oxidized root-rhizome channels in soil;
 - (e) Water marks or strains on tree trunks, structures, etc.;

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- (f) Silt deposited on leaves, plants, structures, etc.;
- (g) Drift lines of debris deposited by flowing water;
- (h) Areas of bare ground indicating prolonged periods of standing water;
- (i) Morphological (or structural) plant adaptations for growth in permanent/periodic flooded or saturated soil, such as: buttressed (swollen) tree trunks; multiple tree trunks; modified aboveground roots (pneumatophores); adventitious ("air") roots; shallow roots; oversize "pores" (hypertrophied lenticels) on plant stems; air-filled (spongy or hollow) tissue in roots and/or stems; floating leaves.
- (4) Qualifications of any person submitting field observations are subject to the approval of the Commission. Observations should be documented by photographs and/or field notes.
- (5) Where calculations of flood hazard are presented, such calculations shall be prepared, signed and stamped by a registered professional engineer.
- (6) Sources of information on site hydrology may include: Army Corps of Engineers; U.S. Geological Survey; Natural Resources Conservation Service; Federal Emergency Management Agency; watershed associations; Board of Health; Town Engineer; Town records; registered professional engineer; owner or developer. Other sources of information may be available for specific sites.
- (7) Dispute of wetlands delineation.
 - (a) During an official site visit to review the wetlands boundary delineation, the applicant/representative shall adjust wetlands boundary flags in the field at the direction of the Commission members or agent. These adjustments shall be shown on a revised site plan.
 - (b) Where the applicant/representative disputes the judgment of the Commission, he/she may establish survey plots and or transects (according to standard scientific methodology) and submit sampling data from these plots to the Commission. The Commission shall have the opportunity to review the sample plots/transects, required adjustments or additional samples to be made, and to collect data to verify the results. Soil tests, evaluation of wetlands hydrology and/or review by additional professionals, subject to the approval of the Commission, may also be required. Where necessary, representatives of the applicant and the Commission shall meet in the field to review all samples and observations. The decision of the Commission shall be final, subject to the applicant's right of appeal pursuant to § 250-12 of the Bylaw.

§ 384-18. Replication policy and guidelines.

- A. Freshwater wetlands are protected for the important public benefits they provide. Past wetland policy has allowed the destruction of natural wetland areas on the promise of creation of "replication" areas. However, replication areas do not always replace all the

functions of natural wetlands, and replications of forested wetlands and isolated wetlands of the types commonly found in Topsfield are especially difficult, and often unsuccessful.

- B. Permitting the destruction of a freshwater wetland makes the public assume the risk of loss of the wetland's beneficial functions. Because the Bylaw requires protection of the public interests associated with wetlands, and because there is insufficient evidence that replication can duplicate natural wetland functions, the policy of the Topsfield Conservation Commission shall be to deny any project proposals involving destruction of freshwater wetlands. Only under unusual and extenuating circumstances may the Commission allow destruction of freshwater wetlands pursuant to § 384-4I. Requirements set forth below shall also apply to proposals to destroy and replicate vernal pool habitat.
- C. Where the requirements of § 384-4I are met and a waiver is granted, the applicant must also demonstrate an understanding of the difficulties and costs associated with replication projects, and must commit sufficient resources to ensure successful implementation.
- D. The following guidelines shall apply:
- (1) The replication area shall be at least 1 1/2 times the area destroyed.
 - (2) The replication shall match the destroyed wetland to the maximum extent possible, in reference to the following parameters:
 - (a) Wetland type(s).
 - (b) Spatial relationship to associated water body/way (adjacency, location).
 - (c) Groundwater and surface water hydrology and flood control.
 - (d) Vegetational community composition and structure.
 - (e) Soils composition, structure, permeability.
 - (f) Fisheries and wildlife habitat values.
 - (g) Water quality protection and enhancement.
 - (h) Sedimentation dynamics.
 - (3) Creation of the replication area shall occur prior to the other site work, to the extent possible.
 - (4) Security pursuant to § 384-10 shall be required.
 - (5) The applicant shall provide an expert consulting team with a proven track record in planning and managing wetland replication projects. Expertise shall include engineering, hydrology, botany, biology/ecology, soil science, geology/geohydrology, horticulture and/or other relevant areas. A list of the consultant team's previous replication projects and other appropriate credentials shall be submitted, and is subject to approval by the Commission. The consultant team shall be responsible for data collection; site documentation; project planning,

including preparation of required plans and reports; supervision of project implementation; troubleshooting and corrective action; monitoring; reports on all activities to the Commission.

- (6) Cooperative scientific research efforts in conjunction with accredited universities are encouraged.
- (7) Restoration of natural wetlands destroyed by prior filling/alteration is encouraged where feasible.
- (8) Replication areas shall not be used for direct discharges of wastewater or stormwater, or for detention/retention of stormwater.
- (9) The notice of intent shall include data to fully and accurately describe and document:
 - (a) The general setting, including: relationship to water body/way; seasonal water levels, including dry weather and flood conditions; water supply issues; water quality issues; direction of groundwater flows; tributary surface drainage areas; normal and peak runoff conditions; surficial soil and geologic characteristics in tributary areas; land use within 500 feet; habitat values;
 - (b) Specific site characteristics of wetland to be destroyed (plans one- inch equals five feet); cross-sections, plan views, reports, photos, etc. as appropriate to fully depict existing site, including: topography, including microrelief; soil profile and permeability; depth to bedrock; surficial and groundwater hydrology, including seasonal variations; extent of flooding; plant community(ies) composition and structure; fisheries and wildlife habitat; water quality (list parameters);
 - (c) Specific site characteristics of proposed replication/restoration area [plans and documentation as in Subsection D(9)(b) above]. Particular data regarding site hydrology, geohydrology, groundwater hydrology must be included to document the suitability of the site to support wetland vegetation, and to persist over time. In addition, the existing values of the upland area must be evaluated;
 - (d) Planimetric calculations, critical and spot elevations; benchmark(s).
- (10) The consulting team shall identify potential problems and prepare contingency plans to be reviewed with the Commission.
- (11) Implementation shall be undertaken by skilled personnel under supervision of a wetland scientist experienced in wetland replication work. A detailed implementation plan and schedule shall be submitted to the Commission. Site preparation techniques must be detailed, including: type of equipment; rough grading and verification; verification of groundwater levels; sources and handling techniques for soils; plant species list; quantities and sources of native plant materials; handling of plant materials; planting scheme; hydraulic connection to wetland; protection against erosion/sedimentation; and other appropriate data.

Documentation of site work to create the replication area and fill/alter the existing wetland shall be prepared and submitted to the Commission.

- (12) A monitoring plan shall be prepared and submitted to the Commission. Qualified personnel shall take measurements/samples needed to assess the progress of the replication area in replacing the functions of the natural wetland. Reports shall be submitted quarterly unless otherwise specified by the Commission. Monitoring shall address, at a minimum:
 - (a) Erosion/Sedimentation control.
 - (b) Plant community reestablishment: species; distribution; percentage of cover by stratum; vigor; mortality; growth rates; successional patterns; need for replanting (species, dates, action taken).
 - (c) Evidence of wetland hydrology.
 - (d) Evidence of reestablishment of habitat value, repopulation by animals.
 - (e) Water quality parameters.
 - (f) Problems and actions taken.
- (13) No certificate of compliance shall be issued for any replication area unless it has been established for at least two years, and has met criteria specified.
- (14) Further alterations of wetlands on the subject property will be limited or prohibited. A permanent condition recorded against the title to the property shall specify this limitation. Replication area shall be subject to protection afforded to natural wetlands.

§ 384-19. Lake/Pond management projects.

- A. Policy. Topsfield's lakes and ponds are often the subjects of proposals to dredge, apply chemicals, remove vegetation, change water levels or otherwise alter them to enhance a certain use or interest.
 - (1) In some cases, enhancement of one use may create other benefits; in other cases, a treatment to benefit one use may be harmful to other uses. In addition, because of the complex hydrology and ecology of many lakes and ponds, alteration of any one aspect of a lake or pond typically creates multiple effects, some of which may be unanticipated and adverse.
 - (2) For these reasons, the Commission requires that an applicant provide detailed information, as outlined below. The Commission may require a diagnostic-feasibility study prepared by professionals qualified in lake/pond management and restoration.
 - (3) The Commission will consider all interests in evaluating lake/pond management proposals. Where conflicts arise, interests protected by both MGL c. 131, § 40 (the Massachusetts Wetlands Protection Act) and the Topsfield General Wetlands

Bylaw⁶ shall take precedence. For example, where a recreational interest may conflict with protection of wildlife habitat, the wildlife habitat protection shall prevail.

- (4) The Commission recognizes that many ponds in Topsfield are man-made and were created for specific uses (agriculture, recreation, fire protection, wildlife habitat, fish production, sedimentation control, etc.). Maintenance of such ponds/uses may be permitted, when the applicant provides sufficient information to document the existing conditions and values provided by the pond, and demonstrates that the proposal will not create any significant or permanent, adverse impacts on protected interests or other property. Any such project shall require the filing of a notice of intent. Permits required by other authorities shall be obtained before an order of conditions may become effective.
 - (5) Where research reports indicate a significant potential for adverse impacts from a proposed management technique, the Commission shall deny the project. For example, proposals shall be denied which may result in increased flood hazard (shoreline, upstream or downstream); changes in groundwater levels (dry up wells, damage septic systems, etc.); alteration to vegetational communities; loss of habitat; increases in invasive species; loss of native species; increased water pollution (sediments, oxygen-demand, nutrients, toxins); or other threats to protected interests.
 - (6) The Commission does not presume that removal of aquatic vegetation is beneficial or harmful, but instead will evaluate each case individually.
- B. Information that may be required for lake/pond management projects. The Commission may require a diagnostic-feasibility study of the water body and management proposal, prepared by professionals qualified in lake/pond management and restoration, whose qualifications are subject to approval by the Commission.
- (1) Pond data: size; depth; volume; basin shape; side slopes; dams; inlet/outlet structures; sediment analyses; man-made or natural; original and current use(s).
 - (2) Watershed: size; soils; slopes; land use/cover; point/non-point sources of pollutants.
 - (3) Hydrologic data: flood data; flow characteristics; residence time; downstream discharge volumes and rates.
 - (4) Resource values:
 - (a) Water quality: dissolved oxygen; pH; temperature (depths); transparency; bacteria; nutrients; oxygen-demand; algae; other parameters as appropriate.
 - (b) Pollution attenuation: sedimentation rate; composition of sediments; nutrient budgets.
 - (c) Fisheries: species and specific habitat requirements; food sources (sampling), including invertebrates.

6. Editor's Note: See Ch. 250, Wetlands.

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- (d) Wildlife habitat: observations; food sources; shelter; breeding habitat; overwintering; consider value to amphibians, reptiles, birds and mammals.
- (e) Value to flood control; storm damage prevention; downstream and upstream interests which may be impacted.
- (f) Water supply: wells, reservoirs, downstream uses.
- (5) Reason for project.
 - (a) Documentation of problem.
 - [1] Excess algae: types.
 - [2] Excess "weeds": species.
 - [3] Sediments.
 - [4] Shallowness.
 - [5] Water quality.
 - [6] Fishing.
 - [7] Other.
 - (b) Areas of lake/pond affected: uses of lake that are impaired;
 - (c) History of problem(s) and past control measures: cause(s).
- (6) Proposed solution.
 - (a) Details of how solution will address causes of problems/reasons for project.
 - (b) Part of long-term management strategy?
 - (c) Nature and extent of alteration of resource area(s).
 - (d) Applicable thresholds for alterations.
 - (e) Details of implementation (equipment; mitigation controls; scheduling; disposal/discharge issues; longevity of impacts; contingency; personnel/supervisor; etc.).
 - (f) Other required permits.
 - (g) Impacts on protected interests.
 - (h) Experience with management technique; associated benefits and problems.
 - (i) Duration of benefits/duration of problems and impacts.
- (7) Alternatives.
- (8) Monitoring proposal.
- (9) Security provision.

§ 384-20. Drainage maintenance project policies and guidelines.

- A. The Town receives numerous requests for maintenance of ditches, drainage easements and other streams, usually when someone experiences a drainage problem on their property. The Commission recognizes that certain maintenance projects must occur to prevent flooding of streets and damage to property.
- B. Unfortunately, drainage maintenance projects can cause damage to areas or interests protected under the Massachusetts Wetlands Protection Act and the Topsfield General Wetlands Bylaw.⁷ For example, dredging often disrupts aquatic habitat and causes excessive siltation downstream; removing vegetation may eliminate fish or wildlife habitat, or diminish water quality; and ditching may exacerbate flooding on downstream properties.
- C. The Conservation Commission reviews drainage maintenance proposals, under authority of the Massachusetts Wetlands Protection Act and the Topsfield General Wetlands Bylaw, to ensure that public interests associated with wetlands are understood and protected. The review considers the nature of the resource areas and protected interests affected by the project, as well as the seriousness of the drainage problem. The following guidelines govern the consideration of drainage projects:
 - (1) The Commission must be notified in advance of all drainage maintenance projects. Notification must allow sufficient time for the Commission to determine what level of review and authorization is required, and for statutory permitting procedures to occur.
 - (a) No prior notification or review is required for routine catch basin cleaning, nor for hand removal of debris (not involving cutting, uprooting, digging or any activities requiring tools).
 - (b) Cleaning of detention ponds, sedimentation ponds, roadside ditches (which can be accessed from the road pavement), pipes, culverts, headwalls and riprap by the Town Highway Department may be permitted by the TCC without filing of a notice of intent.
 - (2) The Commission may permit drainage maintenance projects which restore documented preexisting flow capacities or storage capacities of drainageways or drainage structures, as provided in § 384-4G of these regulations and 310 CMR 10.53(3)(k). Such maintenance projects may include repair or exact replacement of drainage structures, removal of excess sediments or cutting or removal of vegetation.
 - (3) The Commission will work with the Topsfield Highway Superintendent, Town Engineer and/or other appropriate officials to evaluate drainage maintenance needs and to ensure that required permits are obtained.
 - (4) The Commission will consider the extent and seriousness of the drainage problem in light of the extent of proposed alterations to protected resource areas and the impacts on protected interests. The Commission may deny a project if it finds that protected resource areas or interests will be seriously impaired.

⁷ Editor's Note: See Ch. 250, Wetlands.

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- (5) All resource areas associated with the drainageway or drainage structure must be identified (body of water: stream; banks; land under water; freshwater wetland; bordering land subject to flooding; buffer zone). Protected interests at the project site, upstream and downstream must be identified.
- (6) General information requirements are indicated below:
 - (a) Does the drainageway flow only in direction response to precipitation?
 - (b) Does characteristic wetland vegetation grow in the channel, on the banks or bordering the stream? Does the stream flow into or out of a wetland?
 - (c) What habitat characteristics would be altered by the proposed project?
 - (d) What downstream interests may be affected?
 - (e) Is there clear documentation indicating location, size, elevation, inverts, flow capacity or storage capacity of the channel or drainage structure at a prior time?
 - (f) What is the nature and extent of the drainage problem, and how quickly is it likely to recur?
 - (g) If sediment removal is proposed, how will the depth and extent of the dredging/removal be determined? Where will sediments be placed (bank, wetland floodplain, buffer zone)?
 - (h) Is equipment to be used? How large is it, especially in relation to the size of the channel? How will it access and exit the stream? Will wetlands or bank be altered by access, direct work, placing dredged materials, etc.? Will vehicles be driven in or park in the wetland?
- (7) General conditions applying to drainage maintenance work include (without limitation):
 - (a) Work shall occur only during dry or low-flow conditions. Water diversion to avoid the work area may be required. Work should begin upstream and proceed downstream.
 - (b) Hay bale/silt fence check dams shall be properly installed across drainage channel/outlet prior to work. As sediments accumulate at the check dams, they must be cleaned out to maintain the sediment control capacity.
 - (c) Contingency plans and materials sufficient to deal with sudden rains or high water should be readily available during work.
 - (d) Work shall be confined to the existing channel. Sediment removal shall not exceed original channel depths. The banks of the stream and the wetland shall not be disturbed.
 - (e) Where machinery is to enter a stream to remove sediment, the machinery must be less than the width of the stream to protect the banks, and the bucket must be toothless and less than the width of the stream. The access

point for the machine must be specified, and must be chosen to prevent disturbance of the bank.

- (f) Sediments shall not be placed on the banks, in the wetland or floodplain.
- (g) Where cutting/removal of vegetation is permitted, vegetation shall be removed from the resource areas. A member of the Commission or the Conservation Administrator must specifically authorize cutting of any trees on-site.
- (h) Where habitat values are significant, cutting or removal of vegetation may be limited or prohibited, and machinery may be prohibited from the stream.
- (i) The maintenance projects considered under the guidelines shall not include any enlargement of preexisting structures, nor ditching or channelizing beyond the existing stream banks.
- (j) Channel width and depth should be documented so that future maintenance proposals can be readily reviewed.
- (k) A continuing maintenance proposal for the drainage way/structure should be established.

ARTICLE IV

Stormwater Management and Drainage for Construction Projects [Added 4-9-2003; amended 3-8-2006; 4-9-2008]

§ 384-21. Findings and intent.

- A. Conservation Commission authority and responsibility. Conservation Commissions were given responsibility in 1972 for administering the Wetlands Protection Act (MGL c. 131, § 40) (the Act). In 1996 MassDEP created the Stormwater Management Policy and Stormwater Management Standards pursuant to its authority under the Wetlands Protection Act, MGL c. 131, § 40, and the Wetlands Protection Act Regulations, 310 CMR 10.00 (Act Regulations), giving Conservation Commissions responsibility for local management of stormwater. In 2005, MassDEP incorporated a reference to Stormwater Management into the Act Regulations, 310 CMR 10.00. Effective January 2, 2008, MassDEP applied the standards, when reviewing projects subject to jurisdiction under the Act, by incorporation into the Act Regulations. Mass DEP also applied the Stormwater Management Standards when reviewing projects that require a water quality certification pursuant to 314 CMR 9.00. MassDEP also incorporated into 310 CMR 10.00 and 314 CMR 9.00 definitions of the terms used in the Stormwater Management Standards.
- B. Inclusion of stormwater regulations in the Topsfield General Wetlands Bylaw Regulations. The goal of the stormwater regulations is protection from the adverse impacts of storms and floodwaters, promotion of groundwater recharge, encouragement of the use of low-impact development (LID) techniques and improved operation and maintenance of stormwater structures and facilitators. Storms and floodwaters may adversely affect the functions and values of wetlands resources, and are therefore the

purview of the Conservation Commission. Such adverse impacts include erosion, pollution of surface and groundwater, loss of recharge to groundwater, increased turbidity of surface water and destruction of natural features and wildlife habitat. These regulations reiterate portions of the Massachusetts stormwater regulations in order to facilitate the implementation of the Massachusetts regulations and to expand upon those with supplementary stormwater management standards for protecting resource area functions and values important to Topsfield.

§ 384-22. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ENVIRONMENTALLY SENSITIVE SITE DESIGN — Design that incorporates low-impact development techniques to prevent the generation of stormwater and non-point source pollution by reducing impervious surfaces, disconnecting stormwater sheet flow paths and treating stormwater at its source, maximizing open space, minimizing disturbance, protecting natural features and processes and/or enhancing wildlife habitat.

ILLICIT DISCHARGE — A discharge that is not entirely comprised of stormwater. Notwithstanding the foregoing, an illicit discharge does not include discharges from the following activities or facilities: firefighting, water line flushing, landscape irrigation, uncontaminated groundwater, potable water sources, foundation drains, air conditioning condensation, footing drains, individual resident car washing, flows from riparian habitats and wetlands, dechlorinated water from swimming pools, water used for street washing and water used to clean residential buildings without detergents.

LOW-IMPACT DEVELOPMENT TECHNIQUES — Innovative stormwater management systems that are modeled after natural hydrologic features. Low-impact development techniques manage rainfall at the source using uniformly distributed decentralized microscale controls. Low-impact development techniques use small, cost-effective landscape features located at the lot level.

STORMWATER BEST MANAGEMENT PRACTICE — A structural or nonstructural technique for managing stormwater to prevent or reduce non-point source pollutants from entering surface waters or groundwaters. A structural stormwater best management practice includes a basin, discharge outlet, swale, rain garden, filter or other stormwater treatment practice or measure, either alone or in combination, including without limitation any discharge pipe, overflow pipe, conduit, weir control structure that: a) is not naturally occurring; b) is not designed as a wetland replication area; and c) has been designed, constructed and installed for the purpose of conveying, collecting, storing, discharging, recharging or treating stormwater. Nonstructural stormwater best management practices include source control and pollution prevention measures.

§ 384-23. Regulations.

- A. There shall be no increase in stormwater runoff from a driveway or construction area to street drains or to an abutting property.
- B. Building structures shall have drip trenches or other means of infiltration.

- C. All driveways shall be pitched so that water does not flow into the roadway.
- D. Porous walls or other means of infiltration are acceptable for catch basins.
- E. The first one inch of stormwater flowing from parking or building lots shall be pretreated (with BMPs) in compliance with state stormwater management standards prior to entering any Town stormwater system, waterway or wetland resource area.
- F. On-site infiltration devices shall be used so that post-construction lot surface runoff shall not be greater than pre-construction lot surface runoff.
- G. Activities within buffer zone and/or riverfront area shall be low-impact development techniques to the greatest extent possible.
- H. Work performed, including any structure such as a roadway, driveway or any other structure, in a buffer zone or riverfront area shall be mitigated, at a ratio of at least 1:1, with implementation of low-impact development techniques outside of these resource areas on the property.
- I. No new stormwater conveyances (e.g., outfalls) may discharge untreated stormwater directly to or cause erosion in wetlands or waters of Topsfield.
- J. Stormwater management systems shall be designed so that post-development peak discharge rates do not exceed pre-development peak discharge rates.
- K. Loss of annual recharge to groundwater shall be eliminated or minimized through the use of infiltration measures, including environmentally sensitive site design, low-impact development techniques, stormwater best management practices and good operation and maintenance. At a minimum, the annual recharge from the post-development site shall approximate the annual recharge from the pre-development conditions based on soil type. This standard is met when the stormwater management system is designed to infiltrate the required recharge volume as determined in accordance with the current Massachusetts Stormwater Handbook.
- L. Stormwater management systems shall be designed to remove 80% of the average annual post-construction load of total suspended solids (TSS). This standard is met when:
 - (1) Suitable practices for source control and pollution prevention are identified in a long-term pollution prevention plan and thereafter are implemented and maintained;
 - (2) Structural stormwater best management practices are sized to capture the required water quality volume determined in accordance with the current Massachusetts Stormwater Handbook; and
 - (3) Pretreatment is provided in accordance with the current Massachusetts Stormwater Handbook.
- M. For land uses with higher potential pollutant loads, source control and pollution prevention shall be implemented in accordance with the Massachusetts Stormwater Handbook to eliminate or reduce the discharge of stormwater runoff from such land uses to the maximum extent practicable. If, through source control and/or pollution

prevention, all land uses with higher potential pollutant loads cannot be completely protected from exposure to rain, snow, snow melt and stormwater runoff, the proponent shall use the specific structural stormwater BMPs determined by the Topsfield Conservation Commission to be suitable for such use as provided in the Massachusetts Stormwater Handbook. Stormwater discharges from land uses with higher potential pollutant loads shall also comply with the requirements of the Massachusetts Clean Waters Act, MGL c. 21, §§ 26 through 53, and the regulations promulgated thereunder at 314 CMR 3.00, 314 CMR 4.00 and 314 CMR 5.00.

- N. Stormwater discharges within the Zone II or Interim Wellhead Protection Area of a public water supply and stormwater discharges near or to any other critical area require the use of the specific source control and pollution prevention measures and the specific structural stormwater best management practices determined by the Conservation Commission to be suitable for managing discharges to such area as provided in the Massachusetts Stormwater Handbook. A discharge is near a critical area if there is a strong likelihood of a significant impact occurring to said area, taking into account site-specific factors. Stormwater discharges to outstanding resource waters and special resource waters shall be removed and set back from the receiving water or wetland and receive the highest and best practical method of treatment. A "stormwater discharge" as defined in 314 CMR 3.04(2)(a) or (b) to an outstanding resource water or special resource water shall comply with 314 CMR 3.00 and 314 CMR 4.00. Stormwater discharges to a Zone I or Zone A are prohibited, unless essential to the operation of the public water supply.
- O. A redevelopment project is required to meet the following Stormwater Management Standards only to the maximum extent practicable: Standard 2, Standard 3 and the pretreatment and structural stormwater best management practice requirements of Standards 4, 5 and 6. Existing stormwater discharges shall comply with Standard 1 only to the maximum extent practicable. A redevelopment project shall also comply with all other requirements of the Stormwater Management Standards and improve existing conditions.
- P. A plan to control construction-related impacts, including erosion, sedimentation and other pollutant sources during construction and land disturbance activities (construction period erosion, sedimentation and pollution prevention plan), shall be developed and implemented.
- Q. A long-term operation and maintenance plan shall be developed and implemented to ensure that the stormwater management system functions as designed.
- R. All illicit discharges to the stormwater management system are prohibited.
- S. For phased projects, the determination of whether the Stormwater Management Standards apply is made on the entire project as a whole, including all phases. When proposing a development or redevelopment project subject to the Stormwater Management Standards, proponents shall consider environmentally sensitive site design that incorporates low-impact development techniques in addition to stormwater best management practices.

ARTICLE V

Rules for Hiring Independent Consultants
[Added 7-14-2004]

§ 384-24. Authority to impose fees.

As provided by MGL c. 44, § 53G, the Topsfield Conservation Commission may impose reasonable fees, paid by the applicant, for the employment of independent consultants, engaged by the Conservation Commission, for specific expert services deemed necessary by the Commission in order to reach final decisions on applications submitted to the Conservation Commission pursuant to the requirements of the Wetlands Protection Act, MGL c. 131, § 40, the Topsfield General Wetlands Bylaw, Chapter 250, the Conservation Commission Act (MGL c. 40, § 8C) or any other state or municipal statute, bylaw or regulation, as they may be amended or enacted from time to time.

§ 384-25. Disposition of funds.

Funds received by the Conservation Commission pursuant to these rules shall be deposited with the Town of Topsfield Treasurer, who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Conservation Commission without further appropriation as provided in MGL c. 44, § 53G. Expenditures from this account shall be made only in connection with the review of a specific project or projects for which a consultant fee has been collected from the applicant.

§ 384-26. Consultant services.

Specific consultant services may include, but are not limited to, resource area survey and delineation, analysis of resource area values, hydrogeologic and drainage analysis, impacts on municipal conservation lands, wildlife studies and environmental or land use law. The consultant shall be chosen by, and report only to, the Commission and/or its Administrator.

§ 384-27. Selection of consultant.

The Conservation Commission shall give written notice to the applicant of the selection of an independent consultant. Such notice shall state the identity of the consultant, the amount of the fee to be charged to the applicant and a request for payment of said fee in its entirety. Such notice shall be deemed to have been given on the date it is mailed or delivered. No such costs or expenses shall be incurred by the applicant if the application or request is withdrawn within five days of the date notice is given.

§ 384-28. Payment of fee required for services.

The fee must be received in its entirety prior to the initiation of consulting services. The Commission may request additional consultant fees if, because of unforeseen circumstances, necessary review requires a larger expenditure than originally anticipated or new information requires additional consultant services. Failure by the applicant to pay the consultant fees specified by the Commission within 10 business days of the request for payment shall be

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cause for the Commission to determine that the application is administratively incomplete (except in the case of an appeal). The Commission shall state such in a letter to the applicant, copied to the DEP. No additional review or action shall be taken on the permit/order request until the applicant has paid the requested fee. Additionally, under the General Wetlands Bylaw, failure by the applicant to pay the consultant fee specified by the Commission within 10 business days of the request for payment shall be cause for the Commission to deny the permit application.

§ 384-29. Appeals.

The applicant may appeal the selection of the independent consultant to the Topsfield Select Board, which may disqualify the independent consultant selected only on the grounds that the consultant has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist of either an educational degree or three or more years of practice in the field at issue or a related field. Such an appeal must be in writing and received by the Select Board and a copy received by the Conservation Commission, so as to be received within 10 days of the date consultant fees were requested by the Conservation Commission. The required time limits for action upon the application shall be extended by the duration of the administrative appeal.

Chapter 392

ZONING BOARD OF APPEALS PROCEDURES

- | | |
|---|---|
| § 392-1. Jurisdiction. | § 392-11. Repeal of previous rules. |
| § 392-2. Organization. | § 392-12. Conflicts with state law and local Zoning Bylaw. |
| § 392-3. General filing procedures; fees. | Form A, Application for Zoning Relief |
| § 392-4. Public notice procedure. | Application Supplement Form B, Assessors' List |
| § 392-5. Public hearing procedure. | Application Supplement Form C, Site Plan Review Submittal Requirements and Format |
| § 392-6. Decision of Board. | |
| § 392-7. General information. | |
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| § 392-9. Severability. | |
| § 392-10. Effective date. | |

[HISTORY: Adopted by the Zoning Board of Appeals of the Town of Topsfield effective 11-27-1979, as last amended 4-26-2011. Subsequent amendments noted where applicable.]

A Board of Appeals of five members is responsible for administering the Topsfield Zoning Bylaws in conformity with the provisions of Massachusetts General Laws Chapter 40A, as amended (known as "The Zoning Act"). These rules and procedures shall incorporate the Zoning Act, as amended, as if fully set forth herein.

§ 392-1. Jurisdiction.

- A. To hear and decide applications for special permits pursuant to Article V, Section 5.02 of the Topsfield Zoning Bylaw;
- B. To hear and decide petitions for variances from the requirements of the Topsfield Zoning Bylaws;
- C. To hear and decide applications for site plan review pursuant to Article IX of the Topsfield Zoning Bylaws;
- D. To hear and decide applications for comprehensive permits pursuant to MGL c. 40B, §§ 20 through 23;
- E. To hear and decide appeals from decisions of the Building Inspector or others pursuant to § 392-7C of these rules and procedures.

§ 392-2. Organization.

- A. The Board of Appeals shall annually elect a Chair and a Clerk from its membership.

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- B. Meetings of the Board of Appeals shall be held at the call of the Chair. Public notice of meeting time and place shall be filed with the Town Clerk at least 48 hours prior to the meeting.
- C. The Chair may designate an alternate member to sit on the Board in case of absence, inability to act or conflict of interest on the part of any member thereof, or in the event of a vacancy on the Board until said vacancy is filled by appointment of the Select Board.
- D. A concurring vote of at least four out of five Board members shall be required for the granting of a variance or special permit, or any extension, modification or renewal thereof, and for any order or decision or reversal.
- E. Records of the Board's proceedings shall be kept by the Clerk and shall, upon approval of the Board, become public record.

§ 392-3. General filing procedures; fees.

- A. The application. Form A (Application for Zoning Relief) and Supplement Form B (Assessor's List) must be completed by all petitioners/applicants/appellants (hereinafter "applicants") and are available at the Community Development Coordinator's Office, Town Clerk's Office and on the Town's website at www.topsfield-ma.gov.¹ Applications accepted and date-stamped by the Town Clerk shall be reviewed by the Board for compliance with the submission requirements referenced in Form A.
- B. Time for filing applications. The Zoning Board of Appeals generally meets the fourth Tuesday of each month. Except in the matter of a comprehensive permit, in order for a matter which is the subject matter of an application above described to be placed on the agenda for the next monthly meeting of the Board, the Board strongly recommends that the application be filed with the Town Clerk's office by the first Tuesday of the month. Note, however, that the Board cannot render a decision on application for site plan review for at least 30 days after the filing of such an application.
- C. Supporting data.
 - (1) Applications for special permits, findings or variances. All applications for special permits, findings or variances must be made as follows:
 - (a) General requirements.
 - _____ 7 copies of Application Form A
 - _____ 7 copies of Application Supplement Form B with Assessor's certification
 - _____ 7 copies of Assessor's map
 - _____ 7 copies of plot plan to scale certified by a registered land surveyor
 - _____ 7 copies of Building Inspector's denial, if any

1. Editor's Note: Copies of the forms are included as attachments to this chapter.

- _____ 2 pre-addressed, stamped envelopes for each lot owner or party of interest set forth in Supplement Form B. (Return address shall be: ZBA, Town Hall, Topsfield, MA 01983)
 - _____ 2 self-addressed, stamped envelopes with the same return address as above
 - (b) Certified plot plan requirements.
 - _____ All dimensions of land
 - _____ All existing and proposed structures with dimensions
 - _____ Distance of all existing and proposed structures, additions or changes from front, side and rear lot lines
 - _____ Zoning district classification and any zoning district boundary line that may pass through the property
 - _____ All driveways and parking areas with dimensions
 - _____ All roads and properties abutting lot
 - _____ Title indicating lot number, street address, property owner and scale
 - _____ North arrow
 - _____ Certification by registered land surveyor of accuracy of plot plan (signed and dated)
 - (c) The Board may, in certain circumstances, waive the requirement for a certified plot plan. Such a waiver shall be approved by the Board prior to the submission of any formal application to the Town Clerk. Copies of said waivers shall be made a part of the submission.
 - (2) Applications for site plan review. All applications for site plan review shall be made in accordance with the provisions of Article IX, Section 9.05 of the Topsfield Zoning Bylaw (also see Guidelines and Performance Standards for Activities Subject to the Provisions of Article IX of the Topsfield Zoning Bylaws; and Supplement Form C for submittal requirements and formats). Supplement Form B and two pre-addressed stamped envelopes for each lot owner or party of interest set forth in Supplement Form B are required.
 - (3) Application for comprehensive permit. All applications for comprehensive permits shall be made in accordance with the provisions of MGL c. 40B, §§ 20 through 23. Supplement Form B and two pre-addressed stamped envelopes for each lot owner or party of interest are required.
 - (4) Building Inspector appeals. All appeals from decisions of the Building Inspector or others shall be made in accordance with these rules and procedures, § 392- 7C (3). Supplement Form B and two pre-addressed stamped envelopes for each lot owner or party of interest are required.
- D. Filing fees. In the case of an application for special permit, finding, variance or site plan review, the applicant shall pay a nonrefundable filing fee of \$200 for each such application to the Town of Topsfield. For an application also requiring site plan review, the applicant shall pay an additional nonrefundable fee of \$200. The applicant will also

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be responsible for the cost of the publication of the legal notice and other expenses associated with the required public hearing.

- E. Noncomplying applications. It is critical for an efficient and expeditious determination of an application or appeal that all required accompanying and supporting data as set forth in Form A, NECESSARY ACCOMPANYING DATA, be submitted with the application or appeal. Failure to submit appropriate and complete data could result in delay and/or denial of an application for zoning relief.

§ 392-4. Public notice procedure.

- A. The Board shall fix a date and time for the hearing of the matter subject to an application or appeal and shall cause the notice of the time and place of such hearing and of the subject matter, sufficient for identification, to be published in a newspaper of general circulation in the Town once in each of two successive weeks, all in accordance with MGL c. 40A.
- B. The legal notice shall be posted in a conspicuous place in the Town Hall for a period of not less than 14 days before the day of the hearing, all in accordance with MGL c. 40A.
- C. Notice shall be also sent by the Board to the Topsfield Planning Board, Select Board, and if pertinent, to the Planning Boards of Wenham, Hamilton, Ipswich, Danvers, Middleton and Boxford.

§ 392-5. Public hearing procedure.

- A. The following shall be read aloud at the public hearing: applicant's application (or summary thereof) and legal notice of the public hearing. It shall be noted for the record that notice was sent to all lot owners within 300 feet as provided by the applicant on Supplement Form B of the application and made available to the public at the Town Clerk's office.
- B. The applicant is then given an opportunity to comment further upon the application if he/she so desires.
- C. Other persons present are then given an opportunity to be heard. Any person, whether entitled to notice or not, may appear in person or by agent or by attorney.
 - (1) If statements or letters have been submitted by individuals who could not be or are not present, such statements (or summaries thereof) are read at this time.
 - (2) When all who wish to speak have been heard, the hearing may be closed.
- D. A vote will be taken by the Board on the application following its deliberation on the application.

§ 392-6. Decision of Board.

- A. The Board shall cause to be made a detailed record of its proceedings, indicating the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and setting forth clearly the reason or reasons for its decision and of its official actions, copies of all of which shall be filed within 14 days in the office of Town Clerk and shall be made a public record; and notice of the decision shall be mailed forthwith to the applicant, to the parties in interest (landowners within 300 feet of the property line) as shown on Supplement Form B and to every person at the public hearing who requested that notice be sent to him/her and stated the address to which such notice was to be sent. Notice shall specify that appeals, if any, shall be made pursuant to MGL c. 40A, § 17 and shall be filed within 20 days after the date of filing of such notice of decision in the office of the Town Clerk.
- B. Furthermore, upon the granting of a variance, finding, special permit or any extension, modification or renewal thereof, the Zoning Board of Appeals shall issue to the owner and to the applicant, if other than the owner, a copy of its decision, certified by the Board of Appeals, containing the name and address of the owner, identifying the land affected, setting forth compliance with the statutory requirements for the issuance of such a variance, finding or special permit and certifying that copies of the decision and all plans referred to in the decision have been filed with the Planning Board and the Town Clerk.
- C. No variance, finding or special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the Town Clerk that 20 days have elapsed and no appeal has been filed, or if such appeal has been filed, that it has been dismissed or denied, is recorded by the applicant in the Registry of Deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title or as otherwise provided in MGL c. 40A. The fee for recording or registering shall be paid by the owner or applicant.

§ 392-7. General information.

- A. Special permits.
 - (1) For uses permitted by special exception in the Table of Use Regulations of the Topsfield Zoning Bylaws that require a special permit from the permit granting authority (Zoning Board of Appeals), application shall be filed as outlined in § 392-3 of these rules and procedures. The Board may require additional information as necessary to judge adequately the merits of the request.
 - (2) Within 65 days after the filing of a complete special permit application, a public hearing shall be held as provided for in § 392-5 of these rules and procedures.
 - (3) The Board of Appeals, in granting any special permit, shall conform with the provisions of Section 5.04 of the Topsfield Zoning Bylaws.
 - (4) The Board shall make a decision on the special permit within 90 days (or any extended time) following the close of the public hearing. Failure of the Board to take a final action within said 90 days (or any extended time) shall be deemed to

be a grant of the permit applied for so long as the applicant complies with the requirements of the Zoning Act, MGL c. 40A, § 9 regarding notice, etc.

- (5) The decision of the Board shall be filed with the Town Clerk in accordance with § 392-6 of these rules and procedures.
- (6) Copies of the decision shall be sent to the Building Inspector, Select Board, Planning Board and applicant. Issuance of the special permit does not constitute issuance of a building permit, which must be obtained by filing an application with the Building Inspector.
- (7) A special permit so granted shall lapse within one year of the date of approval if a substantial use thereof has not sooner commenced except for good cause, or, in the case of permit for construction, if construction has not begun by such date except for good cause.
- (8) No application for special permit which has been unfavorably acted upon by the Board of Appeals shall be considered on its merits by said Board within two years after the date of such unfavorable action except in accordance with the Zoning Act and unless the Board finds, by a vote of four out of five, specific and material changes in the conditions upon which the previous unfavorable action was based and describes such changes in the record of its proceedings, and unless all but one of the members of the Planning Board consents thereto and after notice is given to parties of interest of the time and place of the proceedings when the question of such consent will be considered.

B. Variances.

- (1) No variance may authorize a use or activity not otherwise permitted in the district in which the land or structure is located.
- (2) The Board of Appeals may authorize a variance after a public hearing has been held in accordance with § 392-5 of these rules and procedures for a particular parcel of land or to an existing building thereon from the terms of the Topsfield Zoning Bylaws where the following are found:
 - (a) Owing to circumstances relating to soil conditions, shape or topography of such land or such structures, but not affecting generally the zoning district in which it is located; and
 - (b) A literal enforcement of the Bylaw would involve a substantial hardship, financial or otherwise, to the applicant; and
 - (c) The desired relief may be granted without substantial detriment to the public good; and
 - (d) The desired relief may be granted without nullifying or substantially derogating from the intent or purpose of the Bylaw.
- (3) The Board of Appeals may impose conditions, safeguards and limitations both of time and of use, including the continued existence of any particular structures, but excluding a condition, safeguard or limitation based upon continued ownership of the land or structures to which the variance pertains by the applicant or owner.

- (4) The Board shall hold the public hearing within 65 days after the filing of an application and shall make a decision on the application within 100 days (or any extended time) after the date of the filing of the application. Failure to take final action upon an application for a variance within said 100 days (or any extended time) shall be deemed to be a grant of the variance sought, subject to the provisions of the Zoning Act.
- (5) The decision of the Board shall be filed with the Town Clerk in accordance with the procedures set forth in § 392-6 of these rules and procedures.
- (6) Copies of the decision shall be sent to the Inspector of Buildings, Select Board, Planning Board, Board of Assessors and applicant.
- (7) If the rights authorized by a variance are not exercised within one year of the date of grant of such variance, they shall lapse; provided, however, that the permit granting authority, in its discretion and upon written application by the grantee of such rights, may extend the time for exercise of such rights for a period not to exceed six months; and provided, further, that the application for such extension is filed with permit granting authority prior to the expiration of the one-year period. If the permit granting authority does not grant such extension within 30 days of the date of application therefor, and upon the expiration of the original one-year period, such rights may be re-established only after notice and a new public hearing.
- (8) Variances properly granted prior to January 1, 1976, but limited in time may be extended by the Board on the same terms and conditions in effect for such variance upon said effective date.

C. Appeals.

- (1) No appeal or petition from the terms of the Topsfield Zoning Bylaw with respect to an application for a special permit which has been unfavorably acted upon by the Planning Board under Section 5.02, Subsection B, of the Zoning Bylaw shall be considered on its merits by the Board of Appeals.
- (2) No appeal or petition from the terms of the Topsfield Zoning Bylaws with respect to a particular parcel of land or building thereon which has been unfavorably acted upon by the Board of Appeals shall be considered on its merits by said Board within two years after the date of such unfavorable action except in accordance with The Zoning Act.
- (3) Otherwise, an appeal to the Board of Appeals may be taken by a person aggrieved by reason of his or her inability to obtain a permit or enforcement action from any administrative officer under the provisions of MGL c. 40A, §§ 8 and 15, by the regional planning agency in which jurisdictional area Topsfield is situated, or by any person, including an officer or board of the Town of Topsfield, or of an abutting city or town aggrieved by an order or decision of the Inspector of Buildings or other administrative official in violation of any provision of MGL c. 40A or the Topsfield Zoning Bylaws.
 - (a) Any such appeal shall be taken within 30 days from the date of the order or decision which is being appealed by filing a notice of appeal specifying the

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grounds thereof with the Town Clerk, who shall forthwith transmit copies thereof to such officer or board whose order or decision is being appealed, and to the members of the Board of Appeals. Such officer or board shall forthwith transmit to the Board of Appeals all documents and papers constituting the record of the case in which the appeal is taken.

- (b) The Board shall hold a public hearing within 65 days from the date of the filing of the notice of appeal.
 - (c) The Board shall make a decision on the appeal within 100 days after the date of filing of the notice of appeal.
 - (d) The decision of the Board shall be filed with the Town Clerk in accordance with § 392-6 of these rules and procedures.
- D. Waiver of compliance. The Board may, where such action is in the public interest and not inconsistent with the intent and purpose of the Zoning Bylaws, waive strict compliance with the application procedures set forth herein.
- E. Withdrawal without prejudice. Any application which has been transmitted to the Board of Appeals may be withdrawn without prejudice by the applicant prior to the publication of the notice of a public hearing thereon. Thereafter, an application may be withdrawn without prejudice only with approval of the Board of Appeals.

§ 392-8. Amendments.

These rules and procedures may be amended from time to time in accordance with The Zoning Act and the Topsfield Zoning Bylaws.

§ 392-9. Severability.

The invalidity of any of the foregoing rules, regulations, procedures and requirements shall not affect the validity of the remainder.

§ 392-10. Effective date.

These rules and procedures were effective on the 27th day of November 1979 and revised on the 27th day of October 1981, the 1st day of January 1994 and the 25th day of May 2006 and April 26, 2011.

§ 392-11. Repeal of previous rules.

Any previous rules and procedures governing the Zoning Board of Appeals are repealed in whole.

§ 392-12. Conflicts with state law and local Zoning Bylaw.

In the instance that any rule or procedure herein is in conflict with any state law or with the local Zoning Bylaw, such statutory law or local Zoning Bylaw shall govern.

ZONING BOARD OF APPEALS PROCEDURES

392 Attachment 1

Town of Topsfield

Application for Zoning Relief

Form A

Before you file this application, it is necessary that you be familiar with the requirements for filing plans and other materials in support of this application as specified in the Topsfield Zoning Bylaws and the Topsfield Zoning Board of Appeals Rules and Procedures that are available from the Town Clerk.

Incomplete applications will not be considered unless waivers are previously obtained from the Zoning Board of Appeals

BOARD USE ONLY

Date Filed:

Date Action Due

Public Hearing:

Decision:

Revised Form Date: 04/26/2011

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NATURE OF APPLICATION:

- _____ Petition for Special Permit pursuant to Article_____, Section_____of the Zoning Bylaw.
- _____ Petition for Finding pursuant to Article_____, Section_____of the Bylaw.
- _____ Petition for a Variance from Article_____, Section_____, of the Zoning Bylaw.
- _____ Petition for Site Plan Review pursuant to Article IX of the Zoning Bylaw (and the Guidelines and Performance Standards for Activities Subject to the Provisions of Article IX of the Topsfield Zoning Bylaw; and Supplement Form C for submitted requirements and formats).
- _____ Petition for a Comprehensive Permit pursuant to MGL c. 40B, §§ 20 through 23.
- _____ Appeal from the decision dated_____of the Building Inspector or others pursuant to MGL c. 40A, § 15.

DESCRIPTION OF APPLICANT:

- a. Name _____
- b. Address _____
- c. Phone Number _____
- d. Interest in Premises (e.g., owner, tenant, prospective purchaser, etc.) _____
(Attach copy of lease and/or letter of authorization from owner, if applicable)

DESCRIPTION OF PREMISES:

- a. Assessor’s Map_____, Lot(s)_____, Zoning District _____
- b. Location of Premises (number and street) _____
- c. Name and address of legal owner (if different from Applicant) _____
- d. Deed to the Premises recorded at (if known):
 - _____ Essex South District Registry of Deeds, Book_____Page _____
 - _____ Essex South Registry District of the Land Court, Certificate Number_____
- e. Prior zoning decisions affecting the Premises (if any):
 - Date of Decision_____Name of Applicant _____
 - Nature of Decision _____
- f. Present use of the Premises _____
- g. Present structures conform to current Zoning Bylaw._____Yes_____No
If no, in what respect does it not conform: _____

ZONING BOARD OF APPEALS PROCEDURES

PROPOSAL (attach additional sheets if necessary):

a. General Description:

b. If proposal is for construction or alteration of an existing structure, please state:

	FRONT	REAR	SIDE(S)	
1. Setbacks required per Bylaw	<hr/>	<hr/>	<hr/>	<hr/>
2. Existing setbacks	<hr/>	<hr/>	<hr/>	<hr/>
3. Setbacks proposed	<hr/>	<hr/>	<hr/>	<hr/>

	FRONTAGE		AREA
4. Frontage and area required by Bylaw	<hr/>		<hr/>
5. Existing frontage(s) and area	<hr/>	<hr/>	<hr/>
6. Frontage(s) and area proposed	<hr/>	<hr/>	<hr/>

	FEET	STORIES
7. Existing height	<hr/>	<hr/>
8. Height proposed	<hr/>	<hr/>

c. Other town, state or federal permits or licenses required, if any:

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NECESSARY ACCOMPANYING DATA:

It is required that every application be accompanied by appropriate supporting data. Failure to submit appropriate and complete data could result in delay and/or denial of application for zoning relief. Place a check next to the applicable accompanying supporting data:

Variance or Special Permit Applications:

(See Zoning Board of Appeals Rules and Procedures § 392-3.)

All required supporting data attached _____ Yes _____ No

Site Plan Review Applications:

(See Town of Topsfield Zoning Bylaw, Article IX, Section 9.05. See also Guidelines and Performance Standards for Activities Subject to the Provisions of Article IX of the Topsfield Zoning Bylaw.)

All required supporting data attached _____ Yes _____ No

Comprehensive Permit Applications:

(See MGL c. 40B, §§ 20 through 23.)

All required supporting data attached _____ Yes _____ No

Appeals from decisions of Building Inspector or Others:

(See Zoning Board of Appeals Rules and Procedures, § 392-3E.)

All required supporting data attached _____ Yes _____ No

If all required supporting data is not attached, why not:

Date

Signature of Applicant

ZONING BOARD OF APPEALS PROCEDURES

392 Attachment 2

Town of Topsfield, MA

**Zoning Board of Appeals
Application Supplement Form B**

Attach to this form a copy of the Assessor’s map (scale 1” equals 200’) showing the property and all other properties and roadways within 300 feet of any portion of the property. Also, show the lot number and lot owner’s name on each lot within the 300 feet.

List below the lot owner names and mailing addresses as shown in the Assessors’ records, beginning with the property of the Applicant (locus).

Applicant’s Name, Mailing Address: _____

Telephone No. _____

Locus: _____

Map	Block	Location	Owner	(If different from location) Mailing Address
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SEE ATTACHED LIST

If needed, attach additional sheets.

Assessor’s Certification

To the Topsfield Zoning Board of Appeals:

This is to certify that, at the time of the last assessment for taxation made by the Town of Topsfield, the names and mailing addresses of the parties assessed as owners of land within 300 feet of the parcel of land shown in the attached sketch were as listed.

Authorized Signature
Assessors’ Office _____

Date of Verification _____

ZONING BOARD OF APPEALS PROCEDURES

392 Attachment 3

Town of Topsfield, MA

**Zoning Board of Appeals
Application Supplement Form C
Site Plan Review Submittal Requirements and Formats**

Submittal Distribution Requirements and Formats:

1. An applicant shall file with the Town Clerk copies of all required documents in the quantities and forms as outlined below. The Clerk’s copy of the required documents shall be kept on file by the Town Clerk for the duration of the permitting process, and the remaining copies shall be distributed immediately by the Town Clerk to the following:

	Plan
Town Clerk	1
Granting Authority*	7
Granting Authority electronic	1
Reviewing Engineer	1
Conservation Commission	1
Public Works Department (Water and Highway)	1
Board of Health**	1
Historical Commission**	1
Building Inspector**	1
Fire Department**	1
Police Department**	1
Tree Warden**	1
Planning Board or Board of Appeals	1
if not the Granting Authority **	

* Two full size and five reduced size (11” x 17”)

** Reduced size plans (11” x 17”) are acceptable

Additional copies of any and all documents shall be furnished if requested by the Granting Authority or any other Board, Commission or Department.

2. An electronic copy of all documents shall be submitted to the Granting Authority, formatted in a single paginated PDF file with descriptive bookmarks for each plan set and for each document on either a CD or DVD disc.
3. An electronic copy of the final plans with same format as in section “4.11.2.” above, and a full-size hard copy of said plans showing the Signatures of the Granting Authority and date of approval shall be submitted to the Granting Authority.

SUMMARY:

* Granting Authority: (2) Full Scale, (5) Reduced Size 11 x 17
Town Clerk, Review Engineer, Conservation, Public Works: Full Scale
All Others: Reduced Size 11 x 17

Total: (6) Full Scale; (12) Reduced Size 11 x 17; (1) electronic copy

APPENDIX

Chapter A400

SPECIAL ACTS AND ACCEPTANCES

§ A400-1. List of Special Acts pertaining to Topsfield.

§ A400-2. List of General Law acceptances.

§ A400-1. List of Special Acts pertaining to Topsfield.

The following Special Acts that have been adopted by the Massachusetts Legislature and pertain to the Town of Topsfield are referred to by the year of enactment and chapter number.

Year	Chapter	Short Title
Acts of 1892	Chapter 384	Incorporating the Haverhill, Georgetown and Danvers Street Railway
Acts of 1902	Chapter 295	Incorporating the Danvers and Georgetown Street Railway
Acts of 1909	Chapter 438	Authorizing the Beverly Gas and Electric Company to furnish electricity to the Town of Topsfield
Acts of 1911	Chapter 161	Authorizing the Congregational Church of Topsfield to hold as Trustee funds now in hands of Trustees of Bixby Donation Farm corporation, which is dissolved
Acts of 1913	Chapter 706	Taking lands for water supply purposes in the Towns of Topsfield, Beverly and Salem
Acts of 1919	Chapter 302	Authorizing the Essex County Commissioners to construct a bridge over the Ipswich River in the Town of Topsfield
Acts of 1926	Chapter 200	Authorizing the Town of Danvers to take additional sources of water supply in the Town of Middleton and improve its water system in Topsfield and other towns
Acts of 1931	Chapter 382	Authorizing the Town of Topsfield to borrow money for school purposes
Acts of 1936	Chapter 96	Changing and establishing the boundary line between the Town of Middleton and Town of Topsfield

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Year	Chapter	Short Title
Acts of 1937	Chapter 138	Establishment of a Water District in the Town of Topsfield and the election and terms of the local Board of Water Commissioners
Acts of 1948	Chapter 80	Validating the Acts of Persons Acting as Registrars of Voters in the Town of Topsfield in 1947 and 1948
Acts of 1949	Chapter 526	Validating and Confirming the election of officers and other proceedings of the Annual Town Meeting in Topsfield in 1947 and 1948
Acts of 1951	Chapter 697	Authorizing the Water Supply Board to take land for a water reservoir
Acts of 1956	Chapter 631	Authorizing the development of Bay Circuit in the Town of Topsfield
Acts of 1957	Chapter 154	Validating the location of certain gas main lines and other equipment of the Haverhill Gas Company in Haverhill, Merrimac, Amesbury, Salisbury, Newburyport, Groveland, Georgetown, Rowley, Ipswich, Hamilton, Wenham and Topsfield
Acts of 1957	Chapter 441	Authorizing the Town of Topsfield to lay water pipes in the Town of Boxford and to sell water to the Masconomet Regional School District, and authorizing said District to borrow money for the cost of laying pipes
Acts of 1962	Chapter 20	Providing for life tenure for Roger G. Peabody, incumbent in the Office of Chief of Police.
Acts of 1963	Chapter 461	Authorizing the Town of Topsfield to receive water from the Town of Danvers
Acts of 1967	Chapter 156	Authorizing the formation of a Vocational Regional School District by Haverhill, Newburyport, Amesbury, Boxford, Georgetown, Groveland, Ipswich, Merrimac, Newbury, Rowley, Salisbury, Topsfield and West Newbury
Acts of 1971	Chapter 327	Authorizing the Town of Topsfield to purchase land in the Town of Boxford for conservation purposes

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Year	Chapter	Short Title
Acts of 1972	Chapter 545	Authorizing the formation of a Vocational Regional High School District by Beverly, Gloucester, Peabody, Salem, Boxford, Danvers, Essex, Hamilton, Manchester, Marblehead, Middleton, Rockport, Swampscott, Topsfield and Wenham
Acts of 1973	Chapter 1100	Authorizing the Town of Topsfield to hold Town Meetings at the Masconomet Regional School in the Town of Boxford
Acts of 1974	Chapter 387	Authorizing payment by the Town of Topsfield of a certain retirement allowance to Roger G. Peabody
Acts of 1975	Chapter 406	Establishing an Historic and Scenic District Planning Commission in Essex County
Acts of 1977	Chapter 412	Authorizing payment by the Town of Topsfield of a certain retirement allowance to Roger G. Peabody (Repealed by Ch. 387, Acts of 1974)
Acts of 1987	Chapter 494	Authorizing the conveyance by the Commonwealth of Massachusetts of a certain parcel of land (State Police Barracks Property) to the Town of Topsfield
Acts of 1988	Chapter 92	Validating certain votes taken in the Town of Topsfield in 1986 and 1987 relative to certain bonds
Acts of 1989	Chapter 453	Authorizing the Town of Topsfield to establish a Board of Park and Cemetery Commissioners
Acts of 1990	Chapter 278	Authorizing the conveyance by the Commonwealth of Massachusetts of a certain parcel of land to the Town of Topsfield, known as "Maryknoll"
Acts of 1990	Chapter 500	Providing for a certain method of assessing betterment costs for supplying water in the Town of Topsfield
Acts of 1992	Chapter 99	Validating the Acts and Proceedings of the Annual and Special Town Meetings of May 5 and 6, 1992 of the Town of Topsfield
Acts of 1996	Chapter 10	Providing for the appointment of a Treasurer/Collector in the Town of Topsfield

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Year	Chapter	Short Title
Acts of 2001	Chapter 144	An act authorizing the Town of Topsfield to convey a certain parcel of conservation land to the Town of Boxford for conservation purposes
Acts of 2003	Chapter 57	An act authorizing the Town of Topsfield to grant special liquor licenses for the sale of wines and malt beverages to be drunk on the premises
Acts of 2003	Chapter 58	An act authorizing the Town of Topsfield to grant a license for sale of wines and beverages to be drunk on the premises
Acts of 2003	Chapter 61	An act authorizing the Town of Topsfield to grant a license for the sale of wines and beverages not to be drunk on the premises
Acts of 2005	Chapter 170	An act increasing the number of the Board of Selectmen to 5 members.
Acts of 2006	Chapter 225	An act authorizing the grant of an additional license to Gil's Grocery for the sale of wines and malt beverages not to be drunk on the premises
Acts of 2006	Chapter 350	An act authorizing the Town of Topsfield to establish a DPW, provided the voters vote in the majority at the next Town Election to do so. If so voted in the affirmative, this act shall take effect on the date of the annual Town election of 2008. NOT ENACTED. The Town Election of May 3, 2007, voted against establishment of a DPW. Chapter 350 Acts of 2006 will not take effect in 2008 due to the vote of May 2007.
Acts of 2008	Chapter 127	An act authorizing the Town of Topsfield to issue a license for the sale of wines and malt beverages not to be drunk on the premises
Acts of 2008	Chapter 235	An act authorizing the Secretary of State to place the Office of Selectman on the state election ballot in the Town of Topsfield
Acts of 2012	Chapter 128	An act authorizing the Town of Topsfield to convey certain conservation land
Acts of 2013	Chapter 135	An act authorizing the Town of Topsfield to grant a license for the sale of wine to be consumed on the premises of a farmer-winery

Year	Chapter	Short Title
Acts of 2014	Chapter 315	An act relative to the sale of all alcoholic beverages to be drunk on the premises in the Town of Topsfield
Acts of 2015	Chapter 72	An act authorizing the Board of Selectmen to appoint the Town Clerk
Acts of 2015	Chapter 101	An act authorizing the Town of Topsfield to grant 2 additional licenses for the sale of wines and malt beverages not to be drunk on the premises

§ A400-2. List of General Law acceptances.

In order to provide cities and towns with a measure of self-determination, the Massachusetts Legislature has enacted permissive, or enabling, laws which have force only in those communities which accept them. Permissive legislation generally is codified in the General Laws volumes. Prior to codification, many such laws are frequently cited by the chapter and year of their enactment. As a result, this reference stands when the question comes before the voters for acceptance. In the Topsfield General Law Acceptance listing which follows, some acceptances are cited by the appropriate codified chapter and others are cited by the chapter and year of enactment.

Year of Acceptance	Reference to Chapter of General Laws or to Codified Laws (MGL)	Short Title
1891	Ch. 264, Acts of 1890	Providing for public cemeteries
1891	Ch. 304, Acts of 1888; Ch. 112, Acts of 1889	Authorizing public libraries
1896	Ch. 431, Acts of 1888	Providing for a Superintendent of Schools
1900	Ch. 466, Acts of 1898	Providing for a School Union and Superintendent of Schools
1900	Election Act of 1893	Providing for use of official ballots
1905	Ch. 346, Acts of 1902	Providing for a one-year term for the Moderator
1916	Ch. 28, §§ 1-14	Providing for the election of Park Commissioners
1917	Ch. 13, Acts of 1916	An act relative to the auditing of Town accounts
1921	Ch. 624, Acts of 1910	Authorizing the Board of Selectmen to appoint a Town Accountant

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Year of Acceptance	Reference to Chapter of General Laws or to Codified Laws (MGL)	Short Title
1934	Ch. 136, §§ 21-28 (Repealed)	Amateur sports and games on the Lord's Day
1939	Ch. 152, §§ 69-75	Providing workmen's compensation for Town employees
1940	Ch. 403, Acts of 1936	Workmen's compensation
1941	MGL c. 44, § 35	Periodic audit of the Town's accounts annually under supervision of the Director of Accounts
1945	Ch. 332, Acts of 1943, §§ 3, 4	Providing for the licensing of slaughterhouses
1945	Ch. 496, Acts of 1924	License fees for slaughterhouses
1947	MGL c. 41, §§ 81A-81J	Establishing a Planning Board
1949	MGL c. 40, §§ 42A-42F	Authorizing liens on real estate for nonpayment of water charges
1949	MGL c. 82, § 25	Concerning the laying of water and sewer pipes in unconstructed ways
1949	MGL c. 54, § 103A, making MGL c. 54, §§ 86 to 103, inclusive, and MGL c. 56, §§ 27 and 34 applicable	Absentee ballots
1949	MGL c. 41, § 38A	Town Collector to collect all accounts due the Town and have remedies provided by MGL c. 60, §§ 35, 36 and 93
1949	MGL c. 40, § 39A and MGL c. 41, § 69A	Establishing a Board of Water Commissioners
1950	Ch. 639, Acts of 1950 and Ch. 639, § 1, Acts of 1950	Establishing a Department of Civil Defense
1958	MGL c. 40, § 21, cl. 11	Regarding personal property disposed
1960	MGL c. 40, § 8C	Establishing a Conservation Commission
1960	Ch. 223, Acts of 1957	Establishing 5 members of the Conservation Commission, including 1 member of the Planning Board
1960	MGL c. 41, § 97A	Establishing a Police Department

Year of Acceptance	Reference to Chapter of General Laws or to Codified Laws (MGL)	Short Title
1962	MGL c. 25, § 12H	Department of Public Safety; appointing annually an Inspector of Gas Piping and Appliances in Buildings
1963	Ch. 461, Acts of 1963	Authorizing the extension by the Town of Danvers of its water mains into the Town of Topsfield on Salem Street
1964	MGL c. 32B	Providing group health and life insurance for Town employees and their dependents
1964	MGL c. 40, § 5(51)	Conservation Fund
1964	MGL c. 142, § 13	Adopting a Plumbing Code
1965	MGL c. 32B, § 9A	Providing for Town payment of 50% of insurance premium for retired Town employees
1967	Ch. 401, Acts of 1966	To extend workmen's compensation coverage to include certain elected and/or appointed officials
1968	MGL c. 111, § 27A	Establishing a Regional Health District with the Town of Boxford and the Town of Wenham
1969	MGL c. 54, § 16A	Authorizing the deputizing of election workers
1971	MGL c. 40, § 22D	Permits Selectmen to make regulations authorizing the towing of vehicles which impede snow removal
1971	MGL c. 40, § 8D	Establishing an Historical Commission
1972	Ch. 835, Acts of 1970	Providing for police incentive salary increases for police officers
1972	MGL c. 121B, § 3	Establishing a Topsfield Housing Authority
1972	MGL c. 40, § 8B	Establishing a Council on Aging
1972	MGL c. 41, § 62	Regarding Highway Surveyor
1974	Ch. 220, Acts of 1972, Section 8G	Authorizing intergovernmental agreements for mutual police aid programs
1975	MGL c. 85, § 11A	Registration of bicycles

Year of Acceptance	Reference to Chapter of General Laws or to Codified Laws (MGL)	Short Title
1975	MGL c. 32, § 85H MGL c. 41, § 100	Acceptance of liability with regard to bodily injury, disability retirement, disability and death and dismemberment of call firefighters
1976	MGL c. 90, § 20C	Non-criminal parking offenses
1981	Ch. 217, Acts of 1980	Increasing to \$4,000 the amount of non-bid contracts
1981	MGL c. 262, § 34	Establishing a Uniform Fee Schedule
1981	MGL c. 41, § 21	Establishing a Board of Health
1981	MGL c. 90, §§ 20A 1/2-20E	Establishing fines for parking violations
1983	Ch. 496, Acts of 1981	Providing for acceptance of revenue from rental of school and property
1985	MGL c. 32B, § 8A	Establishing a Group Insurance Trust Fund
1985	Ch. 55, Acts of 1984	Concerning collection of property taxes; that any property tax not in excess of \$25 shall be due and payable in a single payment (Rescinded by vote 5-1-2007 TM, Art. 32)
1986	Ch. 188, Sections 16 and 17, Acts of 1985	Provide for an \$18,000 minimum salary for teachers effective July 1, 1986
1986	MGL c. 59, § 5, cl. 17C and MGL c. 59, § 5, cl. 41B	Relating to real estate tax exemptions for handicapped and elderly
1987	Ch. 640, Acts of 1985	Relating to the granting and renewing of certain licenses and permits
1987	Ch. 194, Acts of 1986	Establishing a Town scholarship fund
1987	MGL c. 40, §§ 42G, 42H and 42I	Relating to the levying of special assessments to meet the whole or part of costs incurred in laying of pipes in public ways for the conveyance and distribution of water
1988	MGL c. 59, § 5, cl. 37A	Real estate exemptions for the legally blind
1988	MGL c. 59, § 5, cl. 17D	Relative to real estate exemptions for the elderly, surviving spouses and minor children which would replace Clause 17C

Year of Acceptance	Reference to Chapter of General Laws or to Codified Laws (MGL)	Short Title
1988	MGL c. 59, § 5, cl. 41C	Real estate exemptions for the elderly which would replace Clause 41B
1988	MGL c. 32B, § 7A	Permits Town to increase to 77% Town's share of medical coverage
1988	MGL c. 41, § 1	Appointment of Tree Warden
1988	MGL c. 41, § 63	Election of Road Commissioners
1988	MGL c. 262, § 34	Establishing Town Clerk Fee Schedule REPEALED
1989	MGL c. 40, § 39K	Authorizing cities and towns to establish an enterprise fund
1989	MGL c. 40C, § 14	Grants Historic District Commission powers and duties of an Historical Commission as provided in MGL c. 40, § 8D; and renames the "Historic District Commission" the "Topsfield Historical Commission"
1991	Ch. 291, Acts of 1990	Allows Town to receive enhanced 911 service
1991	Ch. 516, Section 5, Acts of 1958	Withdrawal from Essex County Mosquito Central Project (Note: Joined Project by Article 8, 11-23-1965 STM)
1991	Ch. 223, Acts of 1990	Establishing Town membership in Essex-Middlesex Sanitary District
1992	MGL c. 40, § 22F	Relative to the setting of municipal fees
1992	MGL c. 32B, § 18	Requires all retirees, their spouses and dependents who are enrolled in Medicare Part A at no cost to the retiree, their spouse or dependents, or eligible for coverage thereunder at no cost to the retiree, their spouse or dependents, to enroll in a Medicare health benefits supplement plan offered by the Town
1994	Ch. 71, Section 83, Acts of 1993 ("Education Reform Act of 1993")	Provides for an early retirement incentive program for Topsfield elementary teachers
1996	MGL c. 41, § 53F 1/2	Establishment of Enterprise Fund for Water Department

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Year of Acceptance	Reference to Chapter of General Laws or to Codified Laws (MGL)	Short Title
1998	MGL c. 48, § 42	Provides for the appointment of a "strong" Fire Chief
1998	MGL c. 41, § 23A	Provides for the appointment of an Executive Secretary or Town Administrator
1999	Ch. 41, Section D	Provides for public employees' payroll direct deposit
1999	Ch. 81, Section 1, Acts of 1995, which amends MGL c. 59, § 5	Cost-of-living adjustment
2001	Ch. 73, Section 4, Acts of 1986, as amended by Ch. 126, Acts of 1988	Provides for additional property tax exemption of 100% for FY2002 for qualifying taxpayers
2001	Ch. 380, Acts of 2000	Provides for certain real estate exemptions
2001	MGL c. 64G, § 3A	Imposing a local room occupancy excise tax of 4%
2001	Ch. 159, Section 114, Acts of 2000	Provides for small personal property accounts; Town voted to establish a minimum value of \$1,000
2002	MGL c. 32B, § 9E	Allows for the payment of insurance in excess of 50% for retired Town employees and their dependents
2003	MGL c. 58, § 8C	Allows the Town to enter into agreements with developers of affordable housing for the abatement of outstanding property taxes
2003	MGL c. 59, § 5, cl. 41C	Adjusts eligibility requirements of MGL c. 59, § 5, cl. 41C as amended by Section 5 of Ch. 184 of the Acts of 2002 (real estate exemption for elderly)
2003	Ch. 73, Section 4, Acts of 1986, as amended by Ch. 126, Acts of 1986	Allows exemption increase of 100% for FY2004 for taxpayers qualifying for a personal exemption
2004	Ch. 73, Section 4, Acts of 1986, as amended by Ch. 126, Acts of 1986	Allows an exemption increase of 100% for FY2005 for taxpayers qualifying for a personal exemption

Year of Acceptance	Reference to Chapter of General Laws or to Codified Laws (MGL)	Short Title
2004	MGL c. 44B, §§ 3-7	Acceptance of Community Preservation Act contingent upon passage of ballot question NOT ENACTED
2005	MGL c. 71, § 16G 1/2	Established Masconomet Regional School District Stabilization Fund
2005	Ch. 73, Section 4, Acts of 1986, as amended by Ch. 126, Acts of 1988	Allows exemption increase of 100% for FY2006 for all taxpayers qualifying for a personal exemption
2005	MGL c. 59, § 57C	Implements quarterly tax billing system effective July 1, 2006 for FY2007
2006	Ch. 73, Section 4, Acts of 1986, as amended by Ch. 126, Acts of 1988	Allows exemption increase of 100% for FY2007 for all taxpayers qualifying for a personal exemption
2007	Ch. 73, Section 4, Acts of 1986, as amended by Ch. 126, Acts of 1988	Allows exemption increase of 100% for FY2008 for all taxpayers qualifying for a personal exemption
2007	MGL c. 39, § 23D	Allows that a member of a board, committee or commission holding an adjudicatory hearing shall not be disqualified from voting in the matter solely due to absence from 1 session of such hearing, provided certain conditions are met; and said acceptance shall apply to all adjudicatory hearings
2007	MGL c. 148, § 261	Requires installation of an approved system of automatic sprinklers for new construction or substantially rehabilitated buildings that are occupied in whole or part for residential purposes and contain not less than 4 dwellings
2007	MGL c. 60, § 106	Rescinded acceptance of said chapter voted under Article 43 of the 1985 May Annual Town Meeting
2008	Ch. 73, Section 4, Acts of 1986, as amended by Ch. 126, Acts of 1988	Allows exemption increase of 100% for FY2009 for all taxpayers qualifying for a personal exemption

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Year of Acceptance	Reference to Chapter of General Laws or to Codified Laws (MGL)	Short Title
2008	MGL c. 59, § 5K	Authorizes the Board of Selectmen to establish a tax work-off for senior citizen volunteers in the Town of Topsfield, to be effective July 1, 2008
2009	Ch. 73, Section 4, Acts of 1986, as amended by Ch. 126, Acts of 1988	Allows exemption increase of 100% for FY2010 for all taxpayers qualifying for a personal exemption
2009	MGL c. 41, § 81U	Allows the Planning Board to apply amounts of a surety bond, deposit or other security to complete work in a subdivision in accordance with the approved plans and conditions in the event a developer fails to do so
2011	MGL c. 53, § 9A	Provides that the Town office nomination papers for nomination be 48 weekday hours prior to the required submission to the Registrars of Voters for certification.
2011	MGL c. 59 § 5, cl. 41A	Allows the Town to increase the amount of gross receipts that senior citizens 65 years of age and older may have in a calendar year and still be eligible to defer assessed property taxes in the following fiscal year. Under MGL c. 59 § 5, cl. 41A, the gross receipts limit may be increased above \$20,000 by any amount up to \$40,000. "Gross receipts" means income from all sources and is broader than taxable income for federal or state income tax purposes.
2011	MGL c. 59, § 5, cl. 41A	Allows the Town to reduce the rate of interest that accrues on property taxes deferred by eligible seniors 65 years of age and older from 8% to 4%. Interest on deferred taxes accrues at 8% per annum. This reduction does not apply after a property is transferred or the owner dies before the account is paid, in which case interest accrues at 16% per annum.
2012	Ch. 126, Acts of 1988	Allows exemption increase of 100% for FY2013 for all taxpayers qualifying for a personal exemption

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Year of Acceptance	Reference to Chapter of General Laws or to Codified Laws (MGL)	Short Title
2013	MGL c. 40, § 13D	Allows for establishment of a compensation reserve fund for future payment of accrued liabilities for compensated absences due any employee or full-time officer of the Town upon termination of employment
2013	Ch 126, Acts of 1988	Allows exemption increase of 100% for FY2014 for all taxpayers qualifying for a personal exemption
2013	Ch. 46, Sec. 48, Acts of 2003, cl. 55	Provides property tax owners' exemption to units leased and occupied as domiciles by cooperative members
2013	MGL c. 59, § 5N	Allows the Board of Selectmen to establish a program for veterans to volunteer to provide certain services to Town in exchange for a reduction in real estate taxes up to \$1,000
2014	Ch. 73, Sec. 4, Acts of 1986, as amended by Ch. 126, Acts of 1988	Allows exemption increase of 100% for FY2015 for all taxpayers qualifying for a personal exemption
2015	MGL c. 59, § 5C 1/2	Additional tax exemption for residential real property in cities or towns assessing at full and fair cash valuation
2020	MGL c. 59, § 5, cl. 22G	Allowing real estate tax exemptions available under MGL c. 59, § 5, cl. 22, 22A, 22B, 22C, 22D, 22E and 22F for estate that is the domicile of a veteran or veteran's surviving spouse but is owned by a trustee, conservator or other fiduciary for the benefit of the veteran or veteran's surviving spouse to the same extent as if the veteran or their surviving spouse were the owner of the real estate

- * Note: On occasion, the Town has accepted the provisions of MGL c. 44, § 53E 1/2, thereby establishing revolving funds for certain Town departments for the ensuing fiscal year. As said provisions are in effect for only the year voted, they have not been included here, but may be found in Town Meeting Minutes records.

DERIVATION TABLE

Chapter DT

DERIVATION TABLE

§ DT-1. Derivation Table of General Bylaws to new Code

In order to assist Code users in the transition to the new Code's organization, the Derivation Table indicates where chapters and articles of the General Bylaws have been included in the new Code, or the reason for exclusion.

§ DT-1. Derivation Table of General Bylaws to new Code

NCM	=	Not Code material (legislation is not general or permanent in nature).
REP	=	Repealed effective with adoption of Code; see Ch. 1, Art. I.
NI	=	Not included in Code but saved from repeal.
NLP	=	New legislation is pending.

Chapter/Title from General Bylaws	Location in New Code
PART I - ADMINISTRATIVE LEGISLATION	
Ch. I, General Provisions	
1-1 through 1-4, Definitions; Interpretation of Terms	Ch. 1, Art. I
1-5, Penalty	Ch. 1, Art. II
Ch. II, Administration	
Art. I, Town Meeting and Elections	Ch. 81
Art. II, Warrant for Annual Town Meeting	Ch. 81
Art. III, Board of Selectmen	Ch. 75
Art. IV, Finance Committee	Ch. 28, Art. I
Art. V, Zoning Board of Appeals	Ch. 96
Art. VI, Annual Audit	Ch. 28, Art. II
Art. VII, Boards, Committees and Commissions	Ch. 16
2-14, Capital Program Commission	Repealed 3-1-2005 STM by Art. 4, effective 1-1-2007
2-19, Community Preservation Committee	Not effective ¹

1. Editor's Note: The Community Preservation Committee Bylaw was adopted 5-4-2004 ATM by Art. 45. It required passage of the Community Preservation Act at the next election to become effective. The Community Preservation Act failed to be adopted by ballot vote at the 5-3-2005 election.

Chapter/Title From General Bylaws	Location in New Code
Art. VIII, Policies and Procedures	
2-54, Disposal of Personal Property by By-Law	REP
2-55, Street Numbering By-Law	Ch. 114, Art. II
2-59, Payment of Fees to Town Treasury By-Law	Ch. 28, Art. III
Art. IX, Contracts and Agreements	
2-65, By-Law Requiring Equal Opportunity Employer for Town Contracts	Ch. 63, Art. I
2-66, Affordable Housing Tax Agreement By-Law	Ch. 63, Art. II
Art. X, Town Administrator Powers and Duties	Ch. 7
PART II – TOWN BYLAWS	
Ch. XXI, Alarm System By-Law	Ch. 107
Ch. XXIII, Canine Control By-Law	Ch. 111, Art. I
Ch. XXIV, Procurement Contract By-Law	Ch. 63, Art. III
Ch. XXV, Delinquent Taxpapers: Licenses and Permits By-Law	Ch. 176, Art. I
Ch. XXVI, Demolition Delay By-Law	Ch. 125
Ch. XXVII, Historic District By-Law	Ch. 153
Ch. XXVIII, Hunting and Trapping By-Law	Ch. 159
Ch. XXIX, Junk Dealers By-Law	Ch. 168
Ch. XXX, Non-Criminal Disposition Enforcement By-Law	Ch. 12, Art. I
Ch. XLI, Personnel By-Law	Ch. 54
Ch. XLVIII, Right to Farm By-Law	Ch. 142
Ch. XLIX, Soil Removal By-Law	Ch. 203
Ch. L, Snow Removal By-Law	Ch. 224, Art. I
Ch. LI, Stormwater Management and Erosion Control By-Law	Ch. 220
Ch. LII, Litter By-Law	Ch. 207, Art. I
Ch. LIII, Underground Petroleum Product Storage Tank System By-Law	Ch. 212
Ch. LIV, Unregistered Motor Vehicle By-Law	Ch. 238, Art. I
Ch. LV, Topsfield Scenic Road By-Law	Ch. 197

Chapter/Title From General Bylaws	Location in New Code
Ch. LVII, Recreational Vehicle Overnight Parking Ban By-Law	Ch. 238, Art. II
Ch. LVIII, Water Supply By-Laws	
§ 58-1, Water Supply Betterment By-Law	Ch. 245, Art. I
§ 58-2, Water Use Restriction By-Law	Ch. 245, Art. II
§ 58-3, Automatic Lawn Sprinkler By-Law	Ch. 245, Art. III
Ch. LIX, Bylaw Governing Illicit Discharges to the Municipal Storm Drain System	Ch. 216, Art. I
Ch. LX, Weight Limit Commercial Vehicles By-Law	Ch. 238, Art. III
Ch. LXII, General Wetlands Bylaw	Ch. 250
Ch. LXIII, Stretch Energy Code Bylaw	Ch. 114, Art. I
Ch. LXIV, Revolving Funds Bylaw	Ch. 28, Art. IV
Ch. LXV, Marijuana Establishments	Ch. 181
Ch. LXVI, Plastic Bag Reduction	Ch. 189
Ch. LXVII, Wild and Exotic Animals	Ch. 111, Art. II

DISPOSITION LIST

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