

Chapter 1

GENERAL PROVISIONS

[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.

~~The book~~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 ~~By-Laws~~bylaws, rules, regulations and resolutions heretofore or hereafter adopted, except as the context may otherwise require, the following terms shall have the meanings indicated:

~~A.T.M.~~ATM — When referenced within this Code, shall mean the Annual Town Meeting.

~~GL — When referenced within this Code, shall mean~~MGL — Refers to the Massachusetts General Laws. ~~GL~~e; "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.

~~S.T.M.~~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.

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 ~~By-Laws~~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.

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- 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 ~~Roman~~-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 ~~decimal-number-letter~~.
- ~~K. "Paragraph" shall mean a subdivision under a subsection, identified by an alphabetical letter or Arabic number.~~

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

If any chapter, section, or subsection ~~or paragraph~~ 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 ~~or paragraph~~ 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 ~~or paragraphs~~ 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 ~~By-Law~~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.

§ 1-6. Separate violations.

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

§ 1-7. Penalty for zoning ~~violation of the zoning chapter~~violations.

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

Chapter 7

ADMINISTRATOR

[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 ~~of Selectmen~~ as set forth in Chapter 75, Select Board ~~of Selectmen~~, § 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 ~~of Selectmen~~ and shall be responsible to the Select Board ~~of Selectmen~~ for the proper operation of Town affairs for which said Administrator is given responsibility under this ~~By-law~~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 ~~of Selectmen~~ and all functions for which the Administrator is given responsibility, authority or control by ~~T~~the Town of Topsfield Code, Town ~~m~~Meeting vote, or by vote of the Select Board ~~of Selectmen~~.
- B. Chief Procurement Officer. The Town Administrator shall act as Chief Procurement Officer pursuant to § 63-12A of ~~T~~the Town of Topsfield Procurement ~~By-law~~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 ~~of Selectmen~~, except employees of the ~~school department~~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 ~~of Selectmen~~ or other officials pursuant to ~~T~~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 ~~of Selectmen~~. 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 ~~By-law~~Bylaw¹ and Personnel Rules and Regulations of the Town. Any person holding office or employment upon the effective date of the adoption of this ~~By-law~~bylaw, shall continue to perform his or her duties under the provisions of the Personnel ~~By-law~~bylaw and Personnel Rules and Regulations 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 ~~By-law~~bylaw.
- D. Personnel Director. The Town Administrator shall be the Town's Personnel Director and shall administer the Town's Personnel ~~By-law~~Bylaw. In addition, the Town Administrator shall direct the Town's contract negotiations, subject to ratification by the Select Board ~~of~~

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

~~Selectmen;~~__

~~E. — § 7-2. Positions/Committees Abolished.~~ 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

[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. 25 (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.

Chapter 16

BOARDS, COMMITTEES AND COMMISSIONS

[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~~statutory authority. Under the provisions of ~~GL~~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; ~~T~~terms. A Conservation Commission of five members shall be appointed by the ~~Select~~ Board ~~of Selectmen~~ for three-year overlapping terms, commencing July 1 of each year, so arranged that the ~~terms~~s of no more than two members shall expire in any given year.
- C. Powers, ~~D~~uties and ~~A~~uthority. 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 ~~By Laws, Rules~~bylaws, rules and ~~R~~egulations 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, ~~M~~embership and ~~T~~enure. The Council ~~O~~n Aging, as established hereunder, shall consist of seven, nine or 11 members to be appointed by the ~~Select~~ Board ~~of Selectmen~~ for alternating three-year terms commencing on July 1 of each year; provided, however, that initial appointments made hereunder may be for one~~y~~e, two~~y~~e or three-year terms, and thereafter for terms of three years; and provided further that any members of the Council ~~O~~n Aging holding office as of the effective date of this ~~by-law~~bylaw may continue to serve until the expiration of their term or sooner resignation. Members of the Council ~~O~~n 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 ~~by-law~~bylaw, a quorum of members of the Council ~~O~~n Aging shall constitute a majority of those then in office.
- C. Duties. Members shall have the duties, powers and authority as are conferred from time to time by ~~M.G.L. Chapter~~MGL c. 40, ~~Section 8B~~§ 8B, as amended.

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§ 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; ~~M~~members.

- (1) There is hereby established a Topsfield Historical Commission under the provisions of the Historic Districts Act, ~~GLeMGL c. 40C~~, as amended, consisting of five members, appointed by the ~~Select Board-of-Selectmen~~, 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) ~~The alternate~~Alternate members shall be appointed by the ~~Select Board-of-Selectmen~~ 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 ~~GLeMGL c. 40C~~, § 14, the Historical Commission shall have the powers and duties of an Historical Commission as provided in ~~GLeMGL 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, ~~M~~membership and ~~T~~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-of-Selectmen~~ 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-of-Selectmen~~.

B. Duties. The Committee shall be chartered hereunder to review on an annual basis the Town's insurance policies, including but not limited to ~~P~~property and ~~General Liability, Worker's Compensation, Professional Liability, Police~~general liability, workers' compensation, professional liability, police and ~~Fire Accident, Employee Health Insurance~~fire accident, employee health insurance, and provide a recommendation to the ~~Select Board-of-Selectmen~~ concerning said policies relative to comprehensiveness of coverage, statutory requirements and cost impacts."

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

There shall be a five member Board of Health to be appointed by the Select Board-~~of-Selectmen~~ 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 ~~By-Law~~bylaw is approved by the Town, the Select Board-~~of-Selectmen~~ 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-by-law. [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-~~of-Selectmen~~. 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 ~~of-Selectmen~~ shall appoint two alternates who may be full- or part-time farmers or interested in farming. The members shall serve overlapping terms of three years. For the first Agricultural Commission, the ~~Selectmen~~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 ~~of-Selectmen~~ shall fill a vacancy based on the ~~un-expired~~unexpired term of the vacancy in order to maintain the cycle of appointments. The Select Board-~~of-Selectmen~~ shall appoint the alternates for three-year terms. The Commission may recommend appointees to fill vacancies.

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

~~Established.~~ 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.

§ 16-8. Park and Cemetery Commissioners-by-law. [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**~~bylaw~~. [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**~~bylaw~~. [Added 5-3-1988 TM by Art. 44]

A. Members ~~D~~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 ~~R~~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 ~~record-keeping~~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 ~~record-keeping~~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;
- (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 ~~O~~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 ~~O~~officials.

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

~~Appointment.~~—The Moderator shall appoint a ~~C~~committee of five to serve as a Shade Tree Committee acting ~~as~~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.—

~~§ 16-12. Tree Planning Subcommittee.~~

~~Established. The Tree Planning Subcommittee was established by the Topsfield Conservation Commission as a subcommittee in November, 1968.²~~

Chapter 28

FINANCES

[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 ~~the Officers~~Town officers and ~~C~~committees shall, upon ~~its~~request of the Finance Committee, furnish it with facts, figures, and any other information pertaining to their several ~~D~~epartments.

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

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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 ~~of Selectmen~~, 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 ~~Off~~icers 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 ~~G.L.~~MGL c. 44, § 53E 1/2, the following ~~Revolving Funds~~: revolving funds:

Program or Purpose	Department Receipts	Authorized to Spend
Parks Revolving Fund (P aying costs and expenses related to parks and recreation programs, recreational activities, including non-competitive <u>noncompetitive</u> 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
Cemeteries Revolving Fund (P aying costs and expenses related to said operations and programs, including wages, equipment, supplies and operating expenses, cemeteries improvements, purchase of	Receipts from C cemeteries related activities, including grave opening fees.	Park and Cemetery Commissioners

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Program or Purpose	Department Receipts	Authorized to Spend
capital equipment for Parks and Cemeteries operations-))		
Conservation Commission Revolving Fund (P aying 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 C onservation 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 ~~G.L.~~MGL c. 44, § 53E 1/2.

Chapter 54

PERSONNEL

[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.]³

§ 54-1. Purpose and intent.

The purpose of this Personnel ~~By-Law~~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 ~~By-Law~~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 ~~By-Law~~Bylaw is adopted pursuant to the authority granted by the so-called "Home

3. 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.

Rule Amendment 7, 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 ~~chapter~~bylaw and any regulations adopted pursuant to this ~~chapter~~bylaw, excluding elected officers of the Town of Topsfield and ~~school department~~School Department employees. To the extent that any collective bargaining agreement conflicts with any provision of this ~~chapter~~bylaw with respect to employees covered under such labor agreements, the provisions of the collective bargaining agreement shall prevail.

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

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

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

~~A. —~~In accordance with Chapter ~~H~~, ~~Article X~~, ~~section 67-1d~~7, ~~Administrator~~, of the Town Code, the Town Administrator shall be the Town's Personnel Director and shall administer the Town's Personnel ~~By Law~~Bylaw. ~~The Personnel Director shall administer:~~A classification plan;

A. A classification plan;

B. A compensation plan;

C. Development of a centralized ~~record keeping~~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~~personnel appraisal system; and

G. ~~And other~~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 employees subject to this ~~chapter~~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 of Selectmen~~, 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

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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 ~~B~~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~~-of-Selectmen~~.
- 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~~-of-Selectmen~~.
- D. Action by the Select Board~~-of-Selectmen~~. 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~~-of-Selectmen~~. The Select Board~~-of-Selectmen~~ shall consider the recommendations of the Personnel Director and may adopt or reject the recommendations; provided, however, that if the Select Board~~-of-Selectmen~~ 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~~-of-Selectmen~~.
- E. Posting of rules and regulations. The Select Board~~-of-Selectmen~~ 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~~-of-Selectmen~~. A copy of such compilation shall also be maintained by the Town Clerk.

§ 54-7. Ad ~~Hoc Personnel Advisors~~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. ~~(Art. 31, 5-3-2016)~~

§ 54-8. Severability.

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

§ 54-9. Effective date.

- A. This ~~chapter~~bylaw shall take effect on July 1, 2007.
- B. Upon the effective dated of this ~~B~~bylaw, the personnel rules and regulations prepared in anticipation of the passage of this ~~B~~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~~-of Selectmen~~. Such personnel rules and regulations shall remain in full force and effect until amended or revised in accordance with ~~7.0~~§ 54-6 of this ~~B~~bylaw and shall supersede other personnel rules and regulations that may be in effect. —

~~Chapter 59~~

~~PROPERTY, DISPOSAL OF~~

~~[HISTORY: Adopted by the Town Meeting of the Town of Topsfield 3-3-1958 by Art. 28 (Ch. II, Art. VIII, § 2-54, of the General Bylaws). Amendments noted where applicable.]~~

~~§ 59-1. Disposal of personal property bylaw.~~

~~The Board of Selectmen shall have exclusive authority for and on behalf of the Town to sell, or otherwise dispose of, and transfer title to, any personal property owned by the Town except that which is used exclusively for school purposes, provided there is recorded with the Board of Selectmen a certificate of the Board, Department or Officer having charge of the property that, in its opinion, the value of the said property is less than \$1,000 and that said property should be sold, or otherwise disposed of, for the reason that it is either obsolete, surplus, inadequate or requires replacement.~~

Chapter 63

PURCHASING AND CONTRACTS

[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. By-law requiring equal opportunity employer for Town contracts.~~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 his subcontractors are in compliance with ~~GL~~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~~-of Selectmen-.~~

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 ~~M.G.L. Chapter~~MGL c. 58, § 8C, the Select Board ~~of Selectmen~~ or its designee is hereby authorized to negotiate on behalf of the Town an ~~Affordable Housing Tax Agreement~~ ("~~Agreement~~affordable housing tax agreement ("agreement") between the Town and the developer of sites or portions of sites that will be used as affordable housing, as defined in ~~M.G.L. Chapter~~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. ~~Approval~~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 ~~M.G.L. Chapter~~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 ~~of Selectmen~~ or its designee may execute the Agreement.

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

The Agreement must be executed by the Select Board ~~of Selectmen~~ 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 ~~of Selectmen~~_;
- 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~~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. ~~G.L. (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~~.

- (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 ~~A~~agreement entered into pursuant to this ~~B~~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 ~~A~~agreement made in accordance with this ~~B~~bylaw must provide, at a minimum, that if the development later becomes ~~non-conforming~~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 ~~A~~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~~-of-Selectmen~~ is hereby authorized to establish a written policy or policies regarding the circumstances under which agreements under this By-law~~bylaw~~ may be made as well as any parameters regarding the terms of such agreements.

§ 63-9. Amendments.

This By-law~~bylaw~~ may be amended from time to time by a majority vote of the Town Meeting consistent with the provisions of ~~M.G.L. Chapter~~MGL c. 58, § 8C.

§ 63-10. When effective.

Provided ~~the M.G.L. Chapter~~that MGL c. 58, § 8C is accepted by the voters of the Town at a Special or Annual Town Meeting, this By-law~~bylaw~~ shall take effect after all requirements of ~~M.G.L. Chapter~~MGL c. 58, § 8C have been met.⁴

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~~-of-Selectmen~~, 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~~-of-Selectmen~~ 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 ~~M.G.L.~~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 ~~M.G.L.~~MGL c. 30B, ~~see- §~~15, subject to the prior authorization of the Select Board~~-of-Selectmen~~.

⁴. Editor's Note: MGL c. 58, § 8C was accepted at the 2003 Town Meeting.

- D. The acquisition or disposition of interests in real property by the Town shall be governed by the procedures set out in M.G.L., MGL c. 30B, ~~see~~ § 16.

Chapter 75

~~SELECTMEN, BOARD OF~~

[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 ~~of Selectmen~~ shall consist of five members who are elected by popular vote at an ~~a~~ Annual Town ~~e~~ Election in May for alternating terms. Each ~~Selectman~~ Select Board Member shall serve for a three-year term, with no more than two ~~Selectmen's~~ 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 ~~Selectmen~~ Select Board Members at the time of the adoption of this ~~By-law~~ bylaw shall be unchanged.

§ 75-2. Duties.

- A. Distribution of ~~W~~ warrant of Town Meeting to the Finance Committee. The Select Board ~~of Selectmen~~ shall, immediately upon issuance, forward warrants of all Town Meetings to the Finance Committee.
- B. Annual Code ~~S~~ supplementation. The Select Board ~~of Selectmen~~ shall, on an annual basis, subject to appropriation by Town Meeting, contract for a complete supplementation service for the insertion of ~~General By-laws, Zoning By-laws~~ general bylaws, zoning bylaws, operating rules and regulations as enacted and/or adopted by the Town Meeting and/or any Town ~~Board, Committee~~ board, committee or ~~O~~ official in the ~~M~~unicipal Code ~~B~~ook.
- 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 ~~of Selectmen~~ 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-year contract~~. The Town Administrator shall be given a three-year contract which may be terminated by the Select Board ~~of Selectmen~~ sooner, for cause, only upon the vote of not less than four members of the Select Board ~~of Selectmen~~.

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- (2) Upon the appointment of any Town Administrator, the position of Executive Secretary shall be abolished.

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

Each ~~Selectman~~Select Board Member shall receive, subject to appropriation, an annual salary ~~of \$900~~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.⁵

~~§ 75-4. Distribution of Warrant of Town Meeting to Finance Committee.~~ [Amended 3-3-1919 by Art. 36; 3-6-1939 by Art. III]

~~The Board of Selectmen shall immediately upon issuance, forward warrants of all Town Meetings to the Finance Committee.—~~

~~§ 75-5. Annual Code Supplementation.~~ [Amended 5-2-1995 by Art. 44]

~~The Board of Selectmen shall on an annual basis, subject to appropriation by Town Meeting, contract for a complete supplementation service for the insertion of general By Laws, zoning By Laws, and operating rules and regulations, as enacted and/or adopted by the Town and/or any Town Board, Committee or Official in the Municipal Code Book.—~~

Chapter 81

TOWN MEETINGS AND ELECTIONS

[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. ~~Warrants for Annual Town Meeting and Town Elections.~~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 of Selectmen~~ 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

⁵. 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.

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 of Annual and Special Town Meetings.~~ [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~~federal, state, county or other officials shall be held within the Town of Topsfield.

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

Chapter 96

ZONING BOARD OF APPEALS

[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 of Selectmen~~, is responsible for administering the Topsfield Zoning ~~By-Laws~~Bylaws in conformity with the provisions of ~~GLcMGL c.~~ 40A, as amended (known as "The Zoning Act"). Four Associates, appointed by the ~~Select Board of Selectmen~~, 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 ~~R~~rules and ~~P~~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 ~~By-Law~~Bylaw;
- B. To hear and decide petitions for variances from the requirements of the Topsfield Zoning ~~By-Laws~~Bylaws;
- C. To hear and decide applications for ~~Site Plan Review~~site plan review pursuant to Article IX of the Topsfield Zoning ~~By-Laws~~Bylaws;
- D. To hear and decide applications for ~~Comprehensive Permits~~comprehensive permits pursuant to ~~GLcMGL 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.
- 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 ~~Selectmen~~Select Board.

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- 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.

Chapter 107

ALARM SYSTEMS

[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 ~~for alarm 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 ~~By-Law~~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 ~~By-Law~~bylaw. The fee for each alarm permit shall be \$25.

§ 107-2. ~~Disconnection~~Notification of disconnection, removal or alteration; ~~notification required~~.

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. ~~Mandatory disconnection of automatic~~Automatic dialing devices; disconnection from Police ~~Department or and~~ Fire ~~Department Telephones~~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 ~~By-Law~~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

- (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. ~~Filing of names~~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 ~~alarm~~ 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 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 ~~or 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

[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. ~~Preamble.~~ ~~A.~~ Purpose.

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

- ~~(1)~~A. Establish a Town-wide program to register dogs owned by Topsfield residents.
- ~~(2)~~B. Establish fees for the registration of dogs and to set fines for violations of the ~~By-Law~~bylaw.
- ~~(3)~~C. Establish rules and regulations for the control of dog complaints caused by nuisance.
- ~~(4)~~D. Authorize a Town ~~A~~agent to enforce the provisions of the "~~By-Law~~".

~~B. Authority. The "By-Law" has been adopted pursuant to the provisions of GLe 140 § 147A.~~bylaw.

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

- A. Registration of ~~D~~dogs. Notwithstanding the provisions of ~~GLe~~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 ~~O~~office of the Town Clerk.
- B. Manner of ~~D~~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 a tag in a form as prescribed by the Town Clerk and available at the Town Clerk's office.
- C. Fees ~~E~~established.
 - (1) Notwithstanding the provisions of ~~Section 139 of Chapter~~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:

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- (a) All ~~Dogs Neutered~~dogs neutered or ~~S~~spayed (male or female): \$15~~7~~ per registered dog.
- (b) All ~~Dogs Not Neutered~~dogs not neutered or ~~S~~spayed (male or female): \$20~~7~~ per registered dog.
- (c) Kennel (four or more dogs): \$200~~7~~7; 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 ~~By-Law~~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.

~~D. Fees to Be Paid into Town Treasury. Notwithstanding the provisions of Section 147 of said Chapter 140 or any other provision of law to the contrary, all money received from the issuance of dog licenses by the Town, or recovered as fines or penalties by the Town under the provisions of Chapter 140 relating to dogs, shall be paid into the treasury of the Town and shall not thereafter be paid over by the Town Treasurer to Essex County.~~

~~E. Damages Paid from Town Treasury. Notwithstanding the provisions of Section 147 of said Chapter 140(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.~~⁶ [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 Section 161 of Chapter MGL c. 140, § 161, be paid from the Town Treasury as provided in Section 161 of Chapter MGL c. 140, § 161.~~

§ 111-3. ~~Dog complaints for nuisance.~~Nuisances; abandoned and abused dogs; impounded and quarantined dogs.

- A. Definition of ~~N~~nuisance. Animal behavior which constitutes a nuisance includes, but is not limited to, the following: molesting passer~~s~~by 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 ~~P~~powers of Animal Control Officer. The Animal Control Officer shall attend to

⁶. 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.

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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 this ~~By-Law~~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~~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 ~~D~~dogs. Impounded dogs shall be kept for ~~10~~seven days unless reclaimed by their owners. Dogs not claimed by their owners within ~~10~~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 ~~D~~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 ~~D~~dogs in ~~H~~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 ~~D~~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 ~~D~~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~~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~~up fees. The owner of any stray dog picked up by the Animal Control Officer shall be charged a \$25 fee.
- K. Appeal of ~~O~~orders. The owner or keeper of a dog, about which the Animal Control Officer has issued an order, under the above sections of the ~~By-Law~~bylaw, who wishes to appeal the order, may make such an appeal in writing to the Select Board ~~of Selectmen~~ within 10 days of the issuance of the order. In the event of such an appeal, the Select Board ~~of Selectmen~~

will hold a public hearing.

§ 111-4. Enforcement; ~~penalty-violations and penalties.~~

- A. Violation; ~~F~~ines. Any person violating any provision of the ~~By-Law~~bylaw, other than those provisions of § ~~130~~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 ~~be~~is continuing, each day's violation shall be deemed a separate violation. Complaints will be sought in District Court according to ~~GLe~~MGL c. 140, § 173A. Under the provisions of this ~~By-Law~~bylaw, the Town Clerk is authorized to accept payment of fines for violations, sought in the District Court.
- B. Enforcement ~~O~~fficer. The Animal Control Officer and/or ~~P~~police are hereby authorized to issue a ~~N~~notice of ~~V~~violation to an owner or keeper who has violated any provision of the ~~By-Law~~bylaw.
- C. Enforcement ~~A~~authority. Notwithstanding the provisions of this ~~By-Law~~bylaw, all other aspects of ~~Chapter~~MGL c. 140, ~~Sections 135A~~§§ 136A through 1754F, 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. 26 (Ch. LXVII of the General Bylaws)]

§ 111-5. Purpose.

The purpose of this ~~B~~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 ~~article~~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.

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. ~~Prohibition~~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 animalss.
- B. Any ~~non-domesticated~~nondomesticated animal that is not included in this bylaw's definition of "~~W~~wild or ~~Exotic Animal~~exotic animal."
- C. Exhibits that are part of an organization that is accredited by the Association of Zoos and Aquariums (AZA).

§ 111-9. Enforcement; violations and penalties.

This ~~B~~bylaw shall be enforced by any available means in law or equity, including but not limited to enforcement by ~~non-criminal~~noncriminal disposition pursuant to ~~M.G.L. Chapter~~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 ~~non-criminal~~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

[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~~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 ~~420115~~AA, including any amendments and modifications, is herein incorporated by reference.

ARTICLE II

Street Numbering

[Adopted 6-20-2020 ATM by Art. 24 (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.

Chapter 125

DEMOLITION DELAY

[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 ~~By-Law~~Bylaw is to preserve, protect and document significant buildings and structures within the Town of Topsfield that are outside ~~Local Historic Districts~~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 ~~By-Law~~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 ~~By-Law~~bylaw is intended to encourage and assist owners and ~~T~~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 ~~By-Law~~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:

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, ~~General Laws, Chapter~~MGL c. 40C.

PREFERABLY PRESERVED — Any ~~Significant Structures~~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, ~~MA~~Massachusetts.

§ 125-3. Regulated buildings and structures.

The provisions of this ~~By-Law~~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 Structures~~significant structure, or any portion thereof, shall be permitted except in conformity with the provisions of this ~~By-law~~bylaw. A permit for the demolition of such a structure or portion thereof shall be issued only upon compliance with the provisions of ~~the By-Law~~this bylaw.
- B. The Commission shall maintain and keep current a ~~L~~list of ~~Significant Structures~~significant structures that meet the criteria specified in the definition of "significant structure" in § 125-2, and shall provide said ~~L~~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~~significant structure, the Building Inspector shall deny the application and notify the Commission in writing of this action.

- 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 ~~A~~application for ~~Significant Structure Review~~significant structure review ("~~Application~~application for ~~R~~review") with the Commission. The ~~A~~application for ~~R~~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 ~~A~~application for ~~R~~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, ~~by-~~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~~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~~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 ~~web site~~website, in lieu of publication in a local newspaper.

- (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, ~~by 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 ~~A~~application for ~~R~~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, ~~by 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 ~~of Selectmen~~, 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 ~~the~~ owner.

Once a ~~Significant Structure~~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 ~~By Law~~bylaw.

§ 125-6. Emergency demolitions.

- A. Notwithstanding any other provisions of the ~~By Law~~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 ~~By-Law~~bylaw is intended to conflict with or abridge any obligations or rights conferred by ~~G.L.~~MGL c. 143 regarding removal or demolition of dangerous or abandoned structures. In the event of a conflict, the applicable provisions of ~~Chapter~~MGL c. 143 shall control.

§ 125-7. Historic Districts Act.

Nothing in this ~~By-Law~~bylaw shall be deemed to conflict with the provisions of the Historic Districts Act, ~~Massachusetts General Laws, Chapter~~MGL c. 40C, with respect to requirements of notice, hearing and issuance by the Commission of a ~~C~~certificate of ~~A~~appropriateness, a ~~C~~certificate of ~~Non-applicability~~nonapplicability or a ~~C~~certificate of ~~H~~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 ~~By-Law~~bylaw to prevent a threatened violation thereof.
- B. During the six-month delay period following the Commission's determination that a structure ~~beis~~ considered preferably preserved, the Commission can advise~~d~~ 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~~t~~ 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~~-moving-or~~ 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~~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 ~~By-Law~~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 ~~By-Law~~bylaw better serves the intent and

purpose of this ~~By-Law~~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 ~~By-Law~~bylaw, authorize issuance of a building permit, upon such conditions as the Commission deems necessary or appropriate to effectuate the purposes of this ~~By-Law~~bylaw, and may so notify the Building Inspector pursuant to this ~~By-Law~~bylaw.

§ 125-9. Severability.

If any section, paragraph or part of this ~~By-Law~~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

[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 ~~Massachusetts General Laws Chapter~~MGL c. 40A, ~~Section-§~~ 3, Paragraph 1; ~~Chapter~~MGL c. 90, ~~Section-§~~ 9; ~~Chapter~~MGL c. 111, ~~Section-§~~ 125A and ~~Chapter~~MGL c. 128-~~Section-, §~~ 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 ~~By-law~~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 ~~By-law~~bylaw shall apply to all jurisdictional areas within the Town.
- B. The benefits and protections of this ~~By-law~~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 ~~non-commercial~~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 —~~The words "farming" or "agriculture" or their derivatives shall include, but not be limited to the following:—~~

~~A.~~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;
- ~~B.~~(2) Dairying;
- ~~C.~~(3) Production, cultivation, growing, and harvesting of any agricultural, ~~aqua~~
~~cultural~~aquacultural, floricultural, viticulture, or horticultural commodities;
- ~~D.~~(4) Growing and harvesting of forest products upon forest land, and any other forestry or
lumbering operations;
- ~~E.~~(5) Raising of livestock, including horses;
- ~~F.~~(6) Keeping of horses as a commercial enterprise; and keeping and raising of poultry,
swine, cattle, ratites (such as emus, ostriches and rheas) and ~~came-lids~~camelids (such
as llamas and camels), and other domesticated animals for food and other agricultural
purposes, including bees and fur-bearing animals.

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

- ~~A.~~(1) Operation and transportation of slow-moving farm equipment over roads within the
Town;
- ~~B.~~(2) Control of pests, including, but not limited to, insects, weeds, predators and disease
organisms of plants and animals;
- ~~C.~~(3) Application of manure, fertilizers and pesticides;
- ~~D.~~(4) Conducting agriculture-related educational and farm-based recreational activities,
including ~~agrie-tourism~~agritourism, provided that the activities are related to marketing
the agricultural output or services of the farm;
- ~~E.~~(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;
- ~~F.~~(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
- ~~G.~~(7) On-farm relocation of earth and the clearing of ground for farming operations.

§ 142-3. Right to farm declaration.

The ~~R~~right to ~~F~~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 ~~by-laws~~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 ~~by-laws~~bylaws and rules and regulations take precedence over this ~~By-law~~bylaw.
- B. The provisions of this ~~by-law~~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

[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 ~~aan~~an Historic District under the provisions of the Historic Districts Act, ~~GLc~~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 ~~N~~North 40° ~~W~~West to the westerly side of Main Street and continuing 500 feet to an unmarked point at the easterly edge of Proctor Field; thence ~~N~~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 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 ~~considered~~included in ~~Historic District~~district.

Wherever only part of any building or structure is within the Historic District, according to the boundary lines as heretofore defined in this ~~section~~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 ~~By-Law~~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, ~~GLeMGL c.~~GLeMGL 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.

§ 153-4. ~~Adopting rules~~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, ~~GLc~~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 ~~permitted to~~frame for review.

When taking action under the provisions of Section 11 of the Historic Districts Act, ~~GLc~~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~~-clause~~.

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

Chapter 159

HUNTING AND TRAPPING

[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~~-of-Selectmen~~ 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~~police officer, game warden, or to any other local or ~~S~~state law enforcement official or to the property owner, legal occupant, or his agent.

§ 159-2. Exceptions.

This ~~By-Law~~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 ~~By-Law~~bylaw may be enforced pursuant to ~~GLc~~MGL c. 40, § 21D by any ~~Police Officer~~police officer of the Town. The penalty for such ~~non-criminal~~noncriminal enforcement shall be \$50 per violation.

Chapter 168

JUNK DEALERS

[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 ~~junk~~ dealers and collectors.

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

Chapter 176

LICENSES AND PERMITS

[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 ~~municipal~~ 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~~department, board, commission or ~~D~~ivision, 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 a pending petition before the Appellate Tax Board.

§ 176-2. Denial, ~~refusal~~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 w 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 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 ~~license~~ing 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 ~~be~~is given notice and a hearing as required by applicable provisions of law.

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

The ~~Select~~ Board ~~of Selectmen~~ 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 ~~Section 1 of Chapter~~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 ~~By-Law~~bylaw shall not apply to the following licenses and permits: ~~O~~open burning, ~~Section 13 of Chapter~~MGL c. 48, § 13; bicycle permits, ~~Section 11A of Chapter~~MGL c. 85, § 11A; ⁷ sales of articles for charitable purposes, ~~Section 33 of Chapter~~MGL c. 101, § 33; children work permits, ~~Section 69 of Chapter~~MGL c. 149, § 69; clubs, associations dispensing food or beverage licenses, ~~Section 27E of Chapter~~MGL c. 140, § 21E; dog licenses, ~~Section 137 of Chapter~~MGL c. 140, § 137; fishing, hunting, trapping licenses, ~~Section~~MGL c. 131, § 12 ~~of Chapter 101~~; marriage licenses, ~~Section 28 of Chapter~~MGL c. 207, § 28; and theatrical events, public exhibition permits, ~~Section 181 of Chapter~~MGL c. 140, § 181.

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

Chapter 181

MARIJUANA ESTABLISHMENTS

[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

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

§ 189-1. ~~Purpose~~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 ~~By-law~~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 ~~chapter~~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 ~~non-commercial~~noncommercial entity.

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 ~~By-law~~bylaw.

§ 189-4. Administration and enforcement.

- A. Retail establishments may apply to the ~~Select~~ Board ~~of Selectmen~~ for approval of new single-use bag products as they come on the market that meet, or exceed, the ASTM D6400 standards.
- B. This ~~By-law~~bylaw shall be enforced through any lawful means in law or in equity, including, but not limited to, ~~non-criminal~~noncriminal disposition pursuant to ~~G.L.MGL c. 40-section,~~ § 21D. For purposes of ~~non-criminal~~noncriminal disposition, any police officer of the Town of Topsfield or the Health Agent shall be the enforcing authority.
- C. If enforced using ~~non-criminal~~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. ~~Applicability~~Effective date.

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

Chapter 197

SCENIC ROADS

[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, ~~G.L.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 ~~B~~bylaw, the Planning Board shall be the ~~Permit-Granting Authority~~permit granting authority. The ~~Permit-Granting Authority~~permit granting authority shall have the authority to review and render decisions on applications for special permits for ~~a~~ 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.

§ 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 ~~by-law~~bylaw is required.

§ 197-5. Violations and penalties.

- A. Without waiving any other enforcement authority, violations of the Scenic Road ~~By-law~~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 required₂ within a reasonable amount of time but not less than 60 days₂ to:
- (1) Restore any altered stone walls to the condition they were in prior to the alterations₂; and
 - (2) Plant new trees of similar species to those which may have been cut or removed₂; 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~~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 ~~M.G.L. Chapter~~MGL c. 40, § 21D. Each day a violation exists shall constitute a separate violation. When enforced through ~~non-criminal~~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

[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. ~~General~~Permit required; violations and penalties.

- A. Permit to ~~Remove Required~~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 ~~By-Law~~bylaw.
- B. Violations; ~~Penalty Established~~penalty established.
- (1) For violation of this section or § 2063-4 of this ~~By-Law~~bylaw, the penalty shall be \$50 for the first offense, \$100 for the second offense, and \$200 for each subsequent offense. Under this ~~By-Law~~bylaw, each individual truckload removed will be considered a violation.
 - (2) Topsoil will be retained on the property and ~~re-spread~~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 ~~By-Law~~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 ~~B~~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 of Selectmen~~ 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 ~~By-Laws~~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.

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- (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 Soil-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 By-Law ~~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 B ~~bylaw~~.

§ 203-4. Safeguards ~~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; ~~A~~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 bankings 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, ~~GL~~eMGL 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.
- 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 ~~By-Law~~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 ~~By-Law~~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 ~~By-Law~~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 § 2063-1B of this ~~By-Law~~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~~police officer of the Town of Topsfield, by any available means in law or equity, including but not limited to enforcement by ~~non-criminal~~noncriminal disposition pursuant to ~~M.G.L. Chapter~~MGL c. 40, § 21D. Each day a violation exists shall constitute a separate violation. When enforced through ~~non-criminal~~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.

§ 203-6. Exceptions.

- A. The provisions of this ~~By-Law~~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 ~~By-Law~~bylaw, be obtained for any further removal and initial deviation from the requirements of this ~~By-Law~~bylaw shall be treated under § 20~~63~~-5, Notice of ~~Violation;—Hearing; Revocation~~violation; hearing; revocation of ~~Permit~~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 § 20~~63~~-3A(2) and (3) and/or § 20~~63~~-4J.

§ 203-7. Waivers.

Any part of this ~~by-law~~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

[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.

~~For purposes of~~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~~police officer of the Town of Topsfield, by any available means in law or equity, including but not limited to

enforcement by ~~non-criminal~~noncriminal disposition pursuant to ~~MG.L.~~MGL c. 40, § 21D. Each day a violation exists shall constitute a separate offense. ~~For the purposes of non-criminal disposition, the following fine schedule shall apply:~~

~~A.B.~~ For the purposes of noncriminal disposition, the following fine schedule shall apply:

(1) First ~~Offense~~ offense: \$50.

~~B.(2)~~ Second and each subsequent offense: \$100.

Chapter 212

STORAGE TANKS, UNDERGROUND

[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

~~Preamble~~ General Provisions

§ 212-1. Purpose.

The purpose of the Underground Petroleum Product Storage Tank System ~~By-Law~~Bylaw, hereinafter called the "~~By-Law~~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 ~~the By-Law~~this bylaw is authorized pursuant to ~~GLE~~MGL c. 148, §§ 9 and 13 and to ~~GLE~~MGL c. 40, § 21, as amended.

§ 212-3. Applicability.

The ~~By-Law~~bylaw shall apply to all underground tank systems containing flammable petroleum products which are presently located within the jurisdiction of the ~~By-Law~~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 ~~GLE~~MGL c. 111F, as amended, shall not be permitted within the jurisdiction of the ~~By-Law~~bylaw.

ARTICLE II
Definitions

§ 212-4. ~~Definitions.~~Terms defined.

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

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

APPLICANT — ~~Applicant shall mean any~~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 — ~~Local Licensing Authority shall mean the~~The Topsfield Fire Chief or his authorized deputy in his absence.

B. All other terms used in the ~~By-Law~~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. ~~Permit procedure~~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~~",underground tank," shall secure the necessary permits from the ~~Local Licensing Authority~~local licensing authority.

§ 212-6. ~~Permit to Maintain Underground Tanks~~Permits for existing underground tanks.

~~Existing Underground Tanks.~~ Permits granted to owners and operators of underground tanks prior to the date of adoption of this ~~By-Law~~bylaw shall remain in effect; provided, however, that:

- A. The owner of every underground tank in Topsfield installed prior to May ~~9th~~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 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 ~~By-Law~~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~~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. ~~Permit to New Underground Tanks~~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~~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 ~~P~~plans.
- (1) Copies of the above plan together with ~~f~~Form T, which shall be available at the Town Clerk's office and appended to the ~~By-Law~~bylaw, shall be sent to the Board of Health, the Conservation Commission, the Inspector of Buildings, and the Board of Water Commissioners.⁸
 - (2) The application for a permit to install and maintain an underground tank shall be sent to the ~~Local Licensing Authority~~local licensing authority, together with a copy of the aforementioned plan and certificate that the respondent boards, commission, and agent have received ~~f~~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 ~~f~~Form T approval or disapproval of said plan. In the event of disapproval, the ~~B~~boards,

⁸. Editor's Note: Form T is included as an attachment to this chapter.

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- Commission or ~~A~~agent shall cite wherein the plan is in violation of local ~~By-Laws~~bylaws, rules and regulatory codes.
- (4) Form T containing the ~~Boards', Commissions'~~boards', Commission's or ~~A~~agents' approval or disapproval shall be returned to the ~~Local Licensing Authority~~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 ~~H~~hearing.
- (1) In the event of a disapproval by ~~anyone~~any one of the plan review respondents, the ~~Local Licensing Authority~~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 ~~B~~board, Commission or ~~A~~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~~the board, Commission, or ~~A~~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~~local licensing authority.
- D. Issuance of ~~P~~permit. The ~~Local Licensing Authority~~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 ~~B~~board, Commission or ~~A~~agent has disapproved the plan. The ~~Local Licensing Authority~~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~~local licensing authority may not issue a permit for the installation of the proposed ~~Underground Tank~~underground tank unless it has obtained approval from all respondent ~~B~~boards, Commissions, and ~~A~~agents.
- E. Certificate of ~~C~~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 ~~T~~tests. All new underground tanks shall be tested for tightness in accordance with the applicable provisions of 527 CMR 9.18, as amended.
- G. Approval to ~~Commence Service~~commence service. The ~~Local Licensing Authority~~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~~local licensing authority.

§ 212-8. Permit to ~~Reinstate Service~~reinstate service of ~~Underground Tanks.~~

~~Underground Tanks Temporarily Removed~~underground tanks temporarily removed from ~~S~~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~~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. ~~Fines.~~Violations and penalties.

Any owner or operator who violates any provision of ~~the By-Law~~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. ~~Legal Action.~~Noncriminal disposition of violations.

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

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

- A. In the event of any violation of the provisions of ~~the By-Law, the Local Licensing Authority~~this bylaw, the local licensing authority may, instead of or in addition to the fines and legal action prescribed in §§ 21~~5~~2-10 and 21~~5~~2-11, 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~~local licensing authority.
- B. In the event of an order to remove a tank, the ~~Local Licensing Authority~~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 ~~R~~regulations.

The ~~Local Licensing Authority~~local licensing authority may issue rules and regulations relative to the administration of ~~the By-Law~~this bylaw. All rules and regulations in effect on the date of the adoption of ~~the By-Law~~this bylaw and not inconsistent with same or with 527 CMR 9.00 shall remain in effect unless amended by the ~~Local Licensing Authority~~local licensing authority.

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ARTICLE V
Severability

§ 212-13. ~~Provisions severable.~~ **Severability.**

The invalidity of any provision of the ~~By-Law~~bylaw shall not affect the validity of the remainder.

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 ~~20~~16

SEWERS

STORM DRAINS

[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)]

§ ~~20~~16-1. PurposeFindings 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.

§ ~~20~~16-2. **Definitions.**

~~For the purposes of~~As used in this bylaw, the following terms shall ~~mean~~have the meanings indicated:

AUTHORIZED ENFORCEMENT AGENCY — ~~t~~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

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Health, the Police and Fire Departments, the Conservation Commission and the Inspectional Services Department.

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

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

GROUNDWATER — ~~w~~Water beneath the surface of the ground.

ILLCIT CONNECTION — ~~a~~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-~~storm-water~~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.

ILLCIT DISCHARGE — ~~d~~direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in § 2016-8. The term does not include a discharge in compliance with an NPDES ~~Storm Water Discharge Permit~~stormwater discharge permit or a ~~Surface Water Discharge Permits~~surface water discharge permit.

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

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) ~~O~~R MUNICIPAL STORM DRAIN SYSTEM — ~~t~~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) ~~STORM WATER~~STORMWATER DISCHARGE PERMIT — ~~a~~a permit issued by United States Environmental Protection Agency or jointly with the ~~S~~state that authorizes the discharge of pollutants to waters of the United States.

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

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

POLLUTANT — ~~a~~anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; ~~non-hazardous~~nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ~~ord~~inances, 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 — ~~w~~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 — ~~t~~The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

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

SURFACE WATER DISCHARGE PERMIT — ~~a~~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 — ~~a~~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 ~~T~~toxic or ~~H~~hazardous under ~~G.L. ChMGL c.~~ 21C and ~~Chc.~~ 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

WASTEWATER — ~~a~~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, ~~byproduct~~by-product or waste product.

WATERCOURSE — ~~a~~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 — ~~a~~All waters within the jurisdiction of the ~~C~~commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.

§ ~~2016~~-3. Applicability.

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

§ ~~2016~~-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.

§ ~~2016~~-5. Responsibility for administration.

The Select Board ~~of Selectmen~~ shall appoint the Stormwater Officer. The Stormwater Officer shall

administer, implement and enforce this bylaw.

§ 2016-6. 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.

§ 2016-7. Prohibited activities.

- A. Illicit ~~D~~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 ~~C~~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~~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.

§ 2016-8. 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) ~~Waterline~~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;
 - (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 Permits](#) 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.

§ 2016-9. 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.

§ 2016-10. 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 ~~C~~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~~Fire, Police and ~~highway departments~~Highway Departments. In the event of a release of other than oil or ~~non-hazardous~~nonhazardous material, the reporting person shall notify the Stormwater Officer no later than the next business day. The 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.

§ 2016-11. Enforcement; [violations and penalties](#).

A. The Stormwater Officer or an authorized agent of the Stormwater Officer shall enforce this

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bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

- B. Civil ~~R~~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 ~~P~~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. ~~Non-Criminal Disposition~~Noncriminal disposition. As an alternative to criminal prosecution or civil action, the Town of Topsfield may elect to utilize the ~~non-criminal~~noncriminal disposition procedure set forth in ~~G.L. Ch~~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~~perform duties under this ~~B~~bylaw. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Stormwater 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. ~~Further,~~ except that relief may be sought in a court of competent jurisdiction. [Amended at time of adoption of Code]
- I. Remedies ~~Not Exclusive~~not exclusive. The remedies listed in this bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

§ ~~2016~~-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.

§ ~~2016~~-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

[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~~; best management practices;

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- E. Localities in the Commonwealth of Massachusetts are required to comply with a number of both ~~S~~state and ~~F~~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 ~~re-development~~redevelopment projects.
- 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 ~~B~~ylaw 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. —

~~C.~~—This ~~B~~ylaw 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; ~~E~~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; ~~E~~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; ~~C~~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 ~~B~~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; ~~E~~establish certain administrative procedures and fees for the submission, review, approval~~;~~ or disapproval of stormwater plans, and the inspection of approved projects.
- ~~DC~~. Nothing in this ~~B~~bylaw is intended to replace the requirements of either~~;~~ the Town of Topsfield ~~Flood Plain~~Floodplain Zoning Bylaw, the Town of Topsfield General Wetlands Protection Bylaw,⁹ or any other ~~B~~bylaw that may be adopted by the Town of Topsfield. Any activity subject to the provisions of the above-cited ~~B~~bylaws must comply with the specifications of each.

§ 220-3. Definitions.

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

ALTER — ~~a~~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, non-structural~~Structural, nonstructural and managerial techniques that are recognized to be the most effective and practical means to

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

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 — ~~s~~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.

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 — ~~l~~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~~The policy issued by the Department of Environmental Protection, and as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act ~~G.L.~~, MGL c. 131, § 40 and ~~the~~ Massachusetts Clean Waters Act ~~G.L.~~, MGL c. 21, §§ 23- through 56. The ~~P~~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 — ~~a~~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 — ~~p~~Pollution from many diffuse sources caused by rainfall or snowmelt moving over and through the ground. As the runoff moves, it picks up and carries away natural and human-made pollutants, finally depositing them into water resource areas.

PERSON — ~~a~~Any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the ~~C~~commonwealth or political subdivision thereof to the extent subject to Town ~~B~~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.

POORLY DRAINED SOILS — ~~p~~"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 ~~US~~United States Department of Agriculture, ~~Soil~~Natural Resources Conservation Service - Donald Fuller, editor, first printed 1981 and following editions. Poorly drained soils shall include all such soils listed as "moderately poorly drained," "poorly drained," and "very poorly drained" as well as soils that contain a fragipan layer in the section entitled "Soil ~~s~~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 — ~~a~~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 ~~B~~bylaw. Other ~~B~~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.¹⁰

STORMWATER MANAGEMENT PERMIT (SMP) — ~~a~~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 ~~a~~effects of uncontrolled and untreated stormwater runoff.

§ 220-4. Authority.

This ~~B~~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 ~~B~~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.

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

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- B. Stormwater Regulations.¹¹ 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 ~~B~~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 ~~B~~bylaw.
- 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 ~~B~~bylaw. This ~~P~~policy includes a list of acceptable stormwater treatment practices, including the specific design criteria for each stormwater practice. The ~~P~~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~~stormwater management permit as more specifically defined as part of Stormwater Regulations promulgated as a result of this ~~Bylaw: Approval, Approval~~bylaw: approval, approval with ~~Conditions, Disapproval, conditions, disapproval~~ or ~~D~~disapproval without ~~P~~prejudice.
- E. Appeals of ~~A~~action by the Planning Board. A decision of the Planning Board shall be final. A decision by the Planning Board made under this ~~B~~bylaw shall be reviewable in the ~~C~~court.

§ 220-6. ~~Stormwater management permit requirement~~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~~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~~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~~stormwater management permit. The exemptions in

¹¹. Editor's Note: See Ch. 364, Stormwater and Erosion Control Regulations.

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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 ~~Chapter~~ 40A ~~Section~~ § 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 ~~multi-family~~ 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 ~~B~~ bylaw.

§ 220-7. Procedures.

Permit ~~P~~ procedures and ~~R~~ requirements shall be defined and included as part of any rules and regulations promulgated as permitted under § ~~219~~ 220-5 of this ~~B~~ bylaw.¹²

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

§ 220-8. Enforcement.

The Stormwater Coordinator, the Planning Board or an authorized agent of the Planning Board shall enforce this ~~B~~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 ~~R~~Regulations promulgated as permitted under § ~~219~~220-5 of this ~~B~~bylaw.¹³ This bylaw may also be enforced by the Planning Board, its agent, or any ~~Police Officer~~police officer of the Town of Topsfield, by any available means in law or equity, including but not limited to enforcement by ~~non-criminal~~noncriminal disposition pursuant to ~~M.G.L. Chapter~~MGL c. 40, § 21D. Each day a violation exists shall constitute a separate violation. When enforced through ~~non-criminal~~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 ~~B~~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

[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 ~~GL~~MGL c. 40, § 21D, any person violating this ~~By-Law~~bylaw

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

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

[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. ~~Keeping of unregistered motor vehicles~~Outdoor storage prohibited. [Amended at time of adoption of Code]

~~Prohibition; Exception.~~ The keeping of more than one unregistered motor vehicle, assembled or disassembled, except by a person licensed under ~~GLc 140 § 59~~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 ~~required to keep more than one unregistered vehicle~~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 ~~of Selectmen~~ if it finds that such keeping ~~is~~:

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

§ 238-3. ~~Restrictions~~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 ~~By-Law~~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 ~~section of the By-Law~~bylaw shall be liable to penalty of

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\$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 ~~of Selectmen~~.

ARTICLE II

Recreational Vehicles

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

§ 238-6. ~~No overnight street~~ Overnight parking ~~of certain recreational vehicles on streets prohibited.~~

~~That there~~ 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~~ 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 ~~S~~state and ~~C~~county ways.

§ 238-8. Exceptions.

Nothing contained in this ~~By-Law~~ 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

[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 ~~A~~article sets forth the purpose, authority, and applicability of the Topsfield Water Supply Betterment ~~By-Law~~ Bylaw hereinafter called "~~By-Law~~" bylaw."

§ 245-2. Purpose.

The purpose of ~~the By-Law~~this bylaw is to establish a procedure:

- A. For creating water supply betterment zones in accordance with the applicable requirements of ~~GLeMGL 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 ~~GLeMGL c. 80.~~

§ 245-3. Authority.

This ~~By-Law~~bylaw has been adopted pursuant to the provisions of ~~GLeMGL c. 40, §§ 42G, 42H, and 42I.~~

§ 245-4. Applicability.

- A. The provisions of this ~~By-Law~~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 ~~By-Law~~bylaw, except that, if the Town accepts the provisions of ~~GLeMGL c. 80, § 13B,~~ owners of land affected by the provisions of this ~~By-Law~~bylaw may apply for an exemption thereof with the Board of Water Commissioners.
- B. The provisions of the ~~By-Law~~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 ~~By-Law~~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 ~~By-Law~~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 ~~By-Law~~bylaw.

BENEFIT — For the purposes of the ~~By-Law~~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 ~~By-Law~~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.

§ 245-6. **Betterment zones.**

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

A. Preparation of the ~~P~~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 "~~O~~order of ~~B~~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 "~~O~~order of ~~B~~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 ~~(a)~~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 ~~(c)~~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 ~~H~~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 ~~G~~LeMGL 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.

- (4) Thereafter, the Board may recommend to the Select Board-of-~~Selectmen~~ 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-of-~~Selectmen~~ shall thereupon be notified of said assessment.
- C. Recordation of ~~Water Betterment Plan~~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 "~~O~~order of ~~B~~etterment", 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 GLcMGL 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 By-Law~~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 GLcMGL 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 By-Law~~bylaw~~. Such rules and regulations shall be consistent with the provisions of GLcMGL 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 GLcMGL c. 80 to the reassessment of land or the subdivision thereof shall apply to all land assessed under the provisions of this By-Law~~bylaw~~.

§ 245-11. ~~Amendment of application~~Existing betterment zones.

This amendment shall not apply to any existing betterment zone and said vote waives any requirements for amendment in the By-Law~~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 ~~B~~bylaw is adopted by the Town under its police powers to protect public health and welfare and its powers under ~~M.G.L.~~MGL c. 40, § 21 et seq., as amended from time to time, and implements the Town's authority to regulate water use pursuant to ~~M.G.L.~~MGL c. 41, § 69B. This ~~B~~bylaw also implements the Town's authority under ~~M.G.L.~~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 ~~B~~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 — ~~r~~Restrictions on water use as defined in § 245-16.

DEP — ~~t~~The Massachusetts Department of Environmental Protection.

ESSENTIAL USE — ~~i~~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 — ~~i~~Includes uses of water that are not essential uses.

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

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

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

PEAK HOURS — ~~shall be between~~Between 9:00 a.m. and 5:00 p.m. each day.

PERSON — ~~any Individual, Corporation Trust, Partnership~~Any individual, corporation, trust, partnership or ~~A~~association, or other entity.

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

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

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

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

§ 245-15. Declaration of ~~a state~~State of ~~water supply conservation~~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,~~"outdoor water use peak hours ban," an ~~Outdoor Water Use Peak Hours Ban~~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,~~"outdoor water use restriction," an ~~Outdoor Water Use Restriction~~outdoor water use restriction will be imposed on all water users in order to comply with the WMA requirements.

B. Public ~~N~~notice of a State of Water Supply Conservation shall be given under § 245-17 of this ~~B~~bylaw before it can be enforced.

§ 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~~public notice

required under § 245-17 and shall not apply to essential uses.

- A. Outdoor ~~Watering Odd/Even Day Restriction~~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~~water use peak hours ban. Outdoor water use is prohibited during peak hours.
- C. Outdoor ~~Water Use Restriction~~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 ban. Outdoor water use is prohibited.

§ 245-17. Public notification of ~~a state~~State of ~~water supply conservation~~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 ~~a state~~State of ~~water supply conservation~~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~~s~~. 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 ~~the Bylaw~~this bylaw shall be superseded by water usage restrictions issued by the DEP under its declaration.

§ 245-19. State of ~~water supply emergency~~Water Supply Emergency.

Upon notification to the ~~P~~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 ~~S~~State of ~~E~~Emergency.

§ 245-20. ~~Penalties~~Violations and penalties.

- A. Any person violating any ~~S~~Section of this ~~B~~Bylaw shall be liable to the Town in the amount listed below:
 - (1) First ~~V~~Violation: warning.
 - (2) Second ~~V~~Violation: \$50.

- (3) Third ~~V~~violation: \$100.
- (4) Fourth and subsequent ~~V~~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 ~~non-criminal~~noncriminal disposition in accordance with ~~section MGL c. 40, § 21D of Chapter 40 of the General Laws.~~ For purposes of ~~non-criminal~~noncriminal disposition, the enforcing person shall be any ~~Police Officer~~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~~building, dwelling or business property shall be restricted as follows:

- A. Public ~~B~~buildings may only be entered during normal business hours and in areas normally available to the general public, or upon the order of a ~~C~~court of ~~L~~law having jurisdiction.
- B. Private property may be entered only with the advice and consent of the owner, or upon the order of a ~~C~~court of ~~L~~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 ~~B~~bylaw shall be plumbed so that a ~~shut-off~~shutoff valve is located outside the building and situated so that it may be shut off if found to be in violation of this ~~B~~bylaw and/or the Water Use Restriction Bylaw.¹⁴ For the purposes of this section only, ~~Police Officers~~police officers of the Town and/or ~~A~~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

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

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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 ~~P~~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~~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 ~~P~~public, of approved rain sensor devices.

§ 245-26. Enforcement;~~;~~ violations and penalties.

- A. This ~~B~~bylaw may be enforced using the ~~Non-Criminal~~Noncriminal Disposition Bylaw. The enforcing person shall be any ~~Police Officer~~police officer of the Town as well as duly appointed ~~A~~agents of the Board of Water Commissioners.
- B. The ~~non-criminal~~noncriminal penalties for violations of ~~the Bylaw~~this bylaw shall be:
 - (1) First ~~V~~yiolation: warning.
 - (2) Second ~~V~~yiolation: \$50.
 - (3) Third and subsequent ~~V~~yiolations: \$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 ~~the Bylaw~~this bylaw shall not invalidate any other portion or provision thereof.

Chapter 250

WETLANDS

[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 ~~By-Law~~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 ~~By-Law~~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.

§ 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 ~~By-Law~~bylaw, no person shall remove soil or vegetation from, fill, dredge, build upon, discharge into, or alter the following ~~Resource Areas~~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~~ freshwater wetlands, bodies of water, land under water, banks or vernal pools;

- (7) Riverfront ~~A~~area;
 - (8) Land ~~S~~subject to ~~F~~flooding;
 - (9) Isolated ~~W~~wetlands 5,000 square feet or less in size that are within the one-hundred-foot ~~Resource~~~~Area~~resource area of a wetland, stream, or within ~~Riverfront~~~~Area~~riverfront area.
- B. Any activity proposed or undertaken outside the above areas is not subject to regulation under this ~~By-Law~~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~~resource area as identified in this ~~By-Law~~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 ~~By-Law~~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 ~~By-Law~~bylaw or regulations of the Commission, the definitions of terms in this ~~By-Law~~bylaw shall be as set forth in the Wetlands Protection Act, ~~GL~~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 ~~By-Law~~bylaw:

ALTER — ~~to~~To change the condition of any area subject to protection under this ~~By-Law~~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;
- (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;

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- (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 — ~~a~~Any lake, pond, river or stream, whether intermittent or not, man-made or natural.

~~FLOOD PLAIN~~ ~~— bordering~~ ~~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 — ~~i~~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 ~~By-Law~~bylaw.

LAND SUBJECT TO FLOODING — ~~i~~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 — ~~t~~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~~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, gauge 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.
- (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

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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 ~~a State~~ notices of intention as required pursuant to ~~GL~~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 ~~By-Law~~bylaw. No work shall begin until the permit, which may be the same as the ~~Order of~~ Conditions issued under ~~GL~~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 ~~By-Law~~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 ~~By-Law~~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 ~~By-Law~~bylaw.
- C. The applicant shall pay fees as specified in the regulations adopted under this ~~By-Law~~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 ~~By-Law~~bylaw.

§ 250-6. Request ~~to determine if by-law applies~~for determination of applicability.

An applicant may submit a written request to the Commission for a determination of the applicability of this ~~By-Law~~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 ~~By-Law~~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. ~~Hearing~~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 ~~B~~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 ~~L~~land within 100 feet of ~~Freshwater Wetlands, Bodies~~freshwater wetlands, bodies of ~~Water, Land Under Water~~water, land under water, or ~~B~~banks, but excluding ~~Riverfront Area~~riverfront area, in connection with existing residential uses. Such administrative permits may be 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 protected by this ~~By-Law~~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 ~~By-Law~~ 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. ~~Permit~~ 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 ~~By-Law~~ 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 ~~By-Law~~ 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.
- B. The Commission shall not approve any amendments to conditions contained in permits for work that has sy 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 ~~By-Law~~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 ~~GLe~~MGL c. 249, § 4, as amended.

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

The notice provisions of this ~~By-Law~~bylaw shall not apply to emergency projects initiated by the Town of Topsfield or other governmental ~~Boards, Agencies, boards, agencies~~ or ~~C~~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 ~~of Selectmen~~ or Board of Health. A certificate of emergency condition shall be filed with the Commission by the ~~Board, Agency, board, agency~~ or ~~C~~commission which authorized the project, within 14 days after the initiation of work.

§ 250-14. ~~Pre-acquisition violation.~~Preacquisition violations. [Amended at time of adoption of Code]

Any person who pur~~p~~chases, inherits, or otherwise acquires real estate upon which work has been done in violation of the provisions of this ~~By-Law~~bylaw or in violation of any order issued pursuant to this ~~By-Law~~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. 15

After due notice and public hearing, the Commission shall promulgate regulations and procedures for compliance with this ~~By-Law~~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 ~~C~~court of ~~L~~aw shall not act to suspend or invalidate the effects of this ~~By-Law~~bylaw.

§ 250-16. Severability.

The invalidity of any section or provision of this ~~By-Law~~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 ~~By-Law~~bylaw, in addition to any security required by any other ~~M~~municipal or ~~State Board, Agency~~state board, agency or ~~O~~official, the Commission may require that the performance and observance of the conditions imposed hereunder be secured

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

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 ~~C~~ourt of ~~L~~aw, 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 ~~By-Law~~bylaw, its regulations, and permits issued thereunder by violation notices, enforcement orders, and civil and criminal ~~C~~ourt actions.
- B. Upon request of the Commission, the ~~Select~~ Board-~~of-Selectmen~~ 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 ~~By-Law~~bylaw, the Commission, its agents, officers and employees, and any ~~O~~fficer with ~~P~~olice powers may issue enforcement orders directing compliance with this ~~By-Law~~bylaw and may undertake any other enforcement action authorized by law. Any person who violates the provisions of this ~~By-Law~~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 ~~By-Law~~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 ~~By-Law~~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.
 - (1) Criminal ~~C~~omplaint. Whoever violates any provision of the General Wetlands ~~By-Law~~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) ~~Non-Criminal Disposition~~Noncriminal disposition. In addition to the procedure set forth in Subsection D(1), the provisions of the General ~~Wetland-By-Law~~Wetlands Bylaw may also be enforced by the Conservation Administrator or a ~~Police Officer~~police officer of the Town, by a ~~non-criminal~~noncriminal complaint pursuant to the provisions of ~~G~~L~~e~~MGL c. 40, § 21D. Each day on which any violation continues

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to exist shall be deemed to be a separate offense.

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

	Buffer Zone	By-Law <u>Bylaw</u> Resource Area (other than Buffer Zone) — Non- Compliance<u>buffer</u> zone)	— <u>Noncompliance</u> with an Order of Conditions or Enforcement Order
— <u>1st</u> <u>First</u> offense	\$50	\$100	\$200
— <u>2nd</u> <u>Second</u> offense	\$200	\$200	\$300
— <u>3rd</u> <u>Third</u> offense and any subsequent	\$300	\$300	\$300

§ 250-19. **Recording of permits and adjustments**~~thereto~~. [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 ~~C~~ommonwealth. A copy of the recorded permit shall be submitted to the Commission.