

## **Division 1: Bylaws**

### **Part I: Administrative Legislation**

**Chapter 1****GENERAL PROVISIONS**

**[HISTORY: Adopted by the Town Meeting of the Town of Boxford 5-20-1980 ATM, Art. 40, as Article II of the 1980 Bylaws. Amendments noted where applicable.]**

**§ 1-1. Adoption of bylaws; repeal.**

Upon adoption by the Town Meeting, approval by the Attorney General, and proper publication, Division 1 shall constitute the General Bylaws of the Town of Boxford, and all bylaws heretofore in force shall be repealed.<sup>1</sup>

**§ 1-2. Amendment. [Amended 9-12-2020ATM by Art. 19]**

Any or all of these bylaws may be repealed, amended, or other bylaws may be adopted at any Town Meeting, an article or articles for that purpose having been inserted in the warrant for such meeting by the Select Board upon its own initiative or by citizen petition.

**§ 1-3. Enforcement.**

Except when otherwise provided by law, citations for offenses under these bylaws may be made by any constable or police officer of the town.

**§ 1-4. Violations and penalties. [Amended 5-11-1982 ATM, Art. 6]**

Any violation of any provision of these bylaws, whereby any act or thing is enjoined, prohibited or required, shall, unless other provision is expressly made, be punishable by a fine not to exceed \$300 for each offense.

**§ 1-5. Noncriminal disposition of bylaws.**

- A. Any violation of the provisions of these General Bylaws which is subject to a specific penalty, the enforcing person, as an alternative to initiate criminal proceedings, may proceed with a noncriminal disposition of said violation in accordance with the provisions of MGL c. 40, § 21(d), as amended. **[Added 5-12-1981 ATM, Art. 29]**
- B. Specific penalties. **[Amended 5-9-1990 ATM, Art. 28]**
  - (1) The noncriminal method of disposition may also be used for violations of any rule or regulation of any municipal officer, board or department which is subject to a specific penalty.
  - (2) Without intending to limit the generality of the foregoing, it is the intention of this provision that the following bylaws and sections of bylaws are to be included within the scope of this subsection, that the specific penalties as listed here shall apply in such cases and that in addition to police officers, who shall in all cases be considered enforcing persons for the purpose of this provision, the municipal personnel listed for each section, if any, shall also be enforcing persons for such sections. Each day on which any violation exists shall be deemed to be a separate offense.

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1. Editor's Note: Article 1 of the October 24, 2000, Annual Town Meeting provided for the repeal, in their entirety, of the zoning bylaws and the general bylaws of the Town of Boxford and their replacement with the zoning bylaws and general bylaws of the Code of the Town Boxford, dated 10-26-1999, last updated May 9, 2000.

**FINE SCHEDULE - GENERAL BYLAWS****Ch. 45, Alarm Systems**

§ 45-4: false alarms	Director of Communications	\$25
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§ 45-5: alarm shutoff device	Director of Communications	
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For first offense		\$25
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For each subsequent offense in calendar year		\$50
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**Ch. 48, Alcoholic Beverages**

§ 48-1: public drinking		\$100
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**Ch. 52, Animals**

Frightening horses or dogs		\$50
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**Ch. 58, Boarding and Rooming Houses**

Apartment registration		\$200
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**Ch. 61, Boats**

Boat motor horsepower		\$25
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**Ch. 91, Fire Prevention [Added 10-28-2008 STM, Art. 17]**

§ 91-3: open burning		\$100
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**Ch. 102, Hunting and Firearms**

§ 102-1: discharge of firearms		\$100
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§ 102-2: discharge of firearms (hunting)		\$150
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**Ch. 105, Junk Dealers**

§ 105-4: junk dealers' license		\$25
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**Ch. 112, Littering**

Distribution of circulars		\$25
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**Ch. 125, Parking [Amended 5-11-2004 ATM, Art. 34]**

Overnight parking		\$15
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**Ch. 129, Peace and Good Order**

§ 129-1: defacing public property		\$100
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§ 129-2: painting or lettering		\$25
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**Ch. 132, Peddling and Soliciting**

§ 132-1: peddlers		\$25
§ 132-2: solicitors' identification		\$25
§ 132-3: Peddler causing disturbance		\$25
<b>Ch. 156, Solid Waste</b>		
§ 156-3: landfill permit [Amended 9-12-2020ATM by Art. 19]	Select Board	\$50
§ 156-4: commercial haulers	Health Agent	\$50
<b>Ch. 162, Streets and Sidewalks</b>		
§ 162-1: snow on public way		\$25
<b>Ch. 65, Buildings, Numbering of</b>		
§ 65-1: wrong house number posted		\$50
§ 65-2: Unposted house number		\$50
<b>Ch. 182, Vehicles, Horse-Driven</b>		
§ 182-1: control of horse-driven vehicle		\$10
§ 182-2: number of horse- driven vehicles under control		\$10
§ 182-3: police regulation of standing vehicles		\$50
<b>Ch. 185, Vehicles, Inoperative</b>		
Unregistered motor vehicle, each vehicle		\$25

COMMISSIONS, COMMITTEES AND BOARDS

**Chapter 7**

COMMISSIONS, COMMITTEES AND BOARDS

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

GENERAL REFERENCES

Board of Health regulations — See Division 2.

Historic Districts — See Ch. 196.

ARTICLE I

**Finance Committee**

**[Adopted 5-20-1980 ATM, Art. 40, as Secs. 3-3-1 and 3-3-2 of the 1980 Bylaws]**

**§ 7-1. Appointment; terms.<sup>2</sup> [Amended 5-17-1989 ATM, Art. 36; 9-12-2020ATM by Art. 19]**

A Finance Committee of seven members shall be appointed by the Select Board for three-year overlapping terms of office.

**§ 7-2. Recommendations on appropriations articles.**

All appropriations articles shall be submitted to the Committee for study prior to insertion in the warrant for any Annual or Special Town Meeting. The Committee shall then submit its recommendations thereon to the Town.

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**2. Editor's Note: See also Ch. 32, Select Board.**

ARTICLE II  
(Reserved)<sup>3</sup>

§ 7-3. (Reserved)

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3. Editor's Note: Former Art. II, Capital Budgeting Committee, adopted 5-20-1980 ATM, Art. 40, as Sec. 3-4-1 of the 1980 Bylaws, as amended, was repealed 10-27-2015 STM, Art. 7, with the intention for the Finance Committee to become responsible for maintaining and reporting on the Town's capital budget needs.

ARTICLE III

**Recreation Committee**

**[Adopted 5-20-1980 ATM, Art. 40, as Secs. 3-7-1 and 3-7-2 of the 1980 Bylaws]**

**§ 7-4. Membership; term. [Amended 5-17-1989 ATM, Art. 35; 9-12-2020ATM by Art. 19]**

A Recreation Committee of seven members shall be appointed by the Select Board for three-year overlapping terms of office.<sup>4</sup>

**§ 7-5. Purpose.**

The Committee's purpose shall be to oversee the recreational needs of the Town, to recommend development of recreational areas as needed and to be responsible for the care, maintenance and operation of such areas.

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**4. Editor's Note: See Ch. 32, Select Board.**



ARTICLE IV

**School Committee**

**[Adopted 5-20-1980 ATM, Art. 40, as Sec. 2-2-1 of the 1980 Bylaws]**

**§ 7-6. Election; terms.**

A School Committee of five members shall be elected from the Town at large for three-year overlapping terms of office.<sup>5</sup>

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5. Editor's Note: See Ch. 150, Smoking, for enforcement of no-smoking rules on school property by School Committee.

ARTICLE V

**Board of Library Trustees**

**[Adopted 5-20-1980 ATM, Art. 40, as Sec. 2-3-1 of the 1980 Bylaws; amended in its entirety  
5-11-2010 ATM, Art. 18]**

**§ 7-7. Election; terms.**

A Board of Trustees of the Boxford Town Library, of seven members, shall be elected from the Town at large for three-year overlapping terms of office.

ARTICLE VI  
**Board of Health<sup>6</sup>**

**[Adopted 5-20-1980 ATM, Art. 40, as Secs. 2-4-1 and 2-4-2 of the 1980 Bylaws]**

**§ 7-8. Election; terms. [Amended 5-12-1987 ATM, Art. 36]**

A Board of Health of five members shall be elected from the Town at large for three-year overlapping terms of office, and to accomplish said change in the Board, at the annual election in 1988, the Town shall elect two members each for three-year terms and one member for a two-year term.

**§ 7-9. Recycling operations. [Amended 6-18-1991 STM, Art. 4]**

The Board shall maintain a Saturday and Sunday schedule as part of a three-day weekly schedule at the sanitary landfill for recycling operations.

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6. Editor's Note: See Division 2 of the Code for Board of Health Regulations.

ARTICLE VII

**Planning Board**

**[Adopted 5-20-1980 ATM, Art. 40, as Sec. 2-5-1 of the 1980 Bylaws]**

**§ 7-10. Election; terms.**

A Planning Board of seven members shall be elected from the Town at large for five-year overlapping terms of office.

ARTICLE VIII

**Conservation Commission**

**[Adopted 5-20-1980 ATM, Art. 40, as Secs. 3-5-1 and 3-5-2 of the 1980 Bylaws]**

**§ 7-11. Appointment; terms. [Amended 9-12-2020ATM by Art. 19]**

A Conservation Commission of seven members shall be appointed by the Select Board for three-year overlapping terms of office.

**§ 7-12. Purpose.**

The Commission's purpose shall be the promotion and development of the natural resources and the protection of the watershed resources of the Town.

ARTICLE IX

**Water Resources and Drainage Committee**

**[Adopted 5-20-1980 ATM, Art. 40, as Secs. 3-9-1 and 3-9-2 of the 1980 Bylaws]**

**§ 7-13. Appointment; terms. [Amended 9-12-2020ATM by Art. 19]**

A Boxford Water and Drainage Committee of five members shall be appointed by the Select Board for three-year overlapping terms of office.

**§ 7-14. Purpose.**

The Committee's purpose shall be to plan the development and protection of water resources within the Town.

## ARTICLE X

**Council on Aging****[Adopted 5-20-1980 ATM, Art. 40, as Secs. 3-8-1 through 3-8-4 of the 1980 Bylaws]****§ 7-15. Appointment; terms. [Amended 9-12-2020ATM by Art. 19]**

A Council on Aging of seven members shall be appointed by the Select Board for four-year overlapping terms of office. The terms of no more than three members shall expire in any calendar year. Members shall be eligible for reappointment for concurrent terms.

**§ 7-16. Duties.**

The duties of the Council shall be to:

- A. Identify the total needs of the Town's elderly population.
- B. Educate the community and enlist support and participation of all citizens concerning such needs.
- C. Design, promote or implement services to fill such needs, and coordinate present services in the Town.
- D. Promote and support any other programs designed to assist elderly persons in the Town.

**§ 7-17. Cooperation with state and federal agencies.**

The Council shall cooperate with the state Office of Elder Affairs and shall be cognizant of all state and federal legislation concerning funding, information exchange and program planning which exists for better community programming for the elderly.

**§ 7-18. Annual report. [Amended 9-12-2020ATM by Art. 19]**

The Council shall furnish the Select Board with an annual report and provide a copy thereof to the state Office of Elder Affairs.

ARTICLE XI  
**Permanent Building Committee**  
**[Adopted 5-14-2011 ATM, Art. 23<sup>7</sup>]**

**§ 7-19. Creation.**

There shall be a committee to study the requirements and needs of all municipal buildings, including school buildings, in the Town of Boxford. The committee shall be known as the "Permanent Building Committee." Said committee shall manage building projects as charged by the Town pursuant to votes of Town Meeting, this bylaw, and the Massachusetts General Laws.

**§ 7-20. Membership. [Amended 10-23-2018 STM, Art. 4; 9-12-2020ATM by Art. 19]**

- A. Regular members. The Permanent Building Committee shall consist of five regular voting members, all serving without compensation. The appointing authority shall endeavor to appoint, to the extent possible, one registered architect, one licensed engineer, one licensed builder, one accountant, and one attorney, none of whom serve on other regulatory boards within the Town. All regular members shall be residents of the Town of Boxford. All regular members shall be appointed for one-year terms by the Select Board.
- B. Temporary members. For each municipal project, two temporary members shall be appointed who are members, professional employees of the Town, and/or designees of the appointed or elected board or committee sponsoring or requesting a construction or major maintenance project; or in the case of major maintenance initiated by the Permanent Building Committee itself, the board or committee whose facility would be the recipient thereof. In the case of a project with multiple buildings with simultaneous and coordinated design and construction, in addition to the two temporary members from the sponsoring committees cited above who have full membership and voting rights during deliberation on their respective building's project, an additional two temporary members shall be appointed at large. The temporary members shall be appointed at large for one-year terms by the Select Board. Temporary members shall have the right to vote on the activities of the Permanent Building Committee only with respect to the particular project for which such member was appointed.

**§ 7-21. Purpose. [Amended 9-12-2020ATM by Art. 19]**

The Permanent Building Committee shall have continuing responsibility for the execution of major construction and maintenance projects for the Town, and for the development and annual updating of a long-range building maintenance capital spending plan for all municipal buildings. Working with the Select Board, School Committee and other Town committees and boards which propose building and renovation projects, the Permanent Building Committee shall establish general criteria for Town building projects and guidelines for communication regarding these projects between and among interested committees and the public. The Permanent Building Committee shall oversee and supervise the planning, design, construction, reconstruction, major alteration, renovation, enlargement, major maintenance, demolition, and removal of all Town buildings and recreation structures and playing fields and courts, including any significant installation, renovation or upgrade of service equipment and major systems.

**§ 7-21.1. Duties.**

In carrying out its duties and responsibilities under this charge, the Committee shall:

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7. Editor's Note: This article also repealed former Art. XI, School Building Committee, adopted 8-8-1995 STM, Art. 5.



- A. Oversee and supervise the planning, design and construction of all projects within its jurisdiction, including the designer selection process for the solicitation, evaluation and recommendation of a project designer, schematic design, design development, production of construction documents, public construction bidding, contract award recommendation and construction administration in compliance with the General Laws. All projects shall be developed in a manner consistent with the project goals and physical requirements of the appointed or elected board or committee sponsoring or requesting a construction or major maintenance project, or in the case of major maintenance initiated by the Permanent Building Committee itself, the board of committee whose facility would be the recipient thereof, in accordance with applicable provisions of the General Laws. All solicitations for designer services and invitations for bids for construction shall be coordinated with the Town Administrator, acting as the Chief Procurement Officer, to assure compliance with the applicable provisions of the General Laws. The Town Administrator, acting as Chief Procurement Officer, shall award and execute all designer services contracts and construction contracts.
- B. Seek comments from and coordinate activities with appropriate Town officials, including but not limited to the Superintendent of Public Works, Town Administrator, School Superintendent, School Director of Facilities, Police Chief, Fire Chief, Director of Public Health, Director of Conservation, Inspector of Buildings, and other Town boards and committees, including but not limited to the Planning Board, Zoning Board of Appeals, Conservation Commission, Historical Commission, Board of Health, Finance Committee, Capital Budgeting Committee, Community Preservation Committee.
- C. Review and report the financial requirements of all projects within its jurisdiction, or for which it may become responsible, and oversee the expenditure of funds in the course of execution of such projects.
- D. In consultation with the Superintendent of Public Works and School Facilities Director, conduct periodic review and audit of the physical condition of all municipal buildings, including service equipment and major systems.
- E. In consultation with the Superintendent of Public Works and School Facilities Director, develop a rolling ten-year capital property management plan for the major maintenance, construction, enlargement, or replacement of all municipal buildings, including service equipment and major systems.
- F. On or about November 15 of each calendar year, prepare and present to the Select Board, School Committee, Finance Committee and Capital Budgeting Committee a recommendation of major construction and/or maintenance project(s) to be undertaken by the Town in the ensuing fiscal year.  
**[Amended 9-12-2020ATM by Art. 19]**

## ARTICLE XII

**Historic District Commission****[Adopted 3-1-1971 ATM; amended 10-28-1997 STM, Art. 8]****§ 7-22. Establishment.**

- A. There is hereby established a Boxford Historic District Commission under the provisions of the Historic Districts Act, MGL c. 40C, consisting of five members and three alternate members, appointed by the Select Board Members, including one member, where possible, from two nominees submitted by the Boxford Historical Society, one member, where possible, from two nominees, one of whom shall be submitted by the Massachusetts State Chapter of the American Institute of Architects, and one of whom shall be submitted by the Boston Society of Landscape Architects, and one member, where possible, from two nominees of the Board of Realtors covering Boxford. One or more of the foregoing shall be a resident of the Historic Districts established in Boxford 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 terms 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. **[Amended 9-12-2020ATM by Art. 19]**
- B. When the Commission is first established, one alternate member shall be appointed in like manner for a term of one year; one alternate member shall be appointed for a term of two years; one alternate member shall be appointed for a term of three years, and their successors shall be appointed in like manner for terms of three years.

**§ 7-23. Boundaries of Historic Districts.**

There are hereby established two Historic Districts under the provisions of the Historic Districts Act, MGL c. 46C, bounded and described as follows:

- A. Boxford Village District: Beginning at a point on the centerline of Topsfield Road, at its intersection with the eastern boundary of the Maddock property lying north of Topsfield Road; thence following the Maddock boundary northerly to a point lying 400 feet from the centerline of Topsfield Road as measured perpendicular to that centerline; thence following westerly a line parallel to and 400 feet back from the road centerline until it intersects the Coolidge property; thence northeasterly along a line perpendicular to Topsfield Road until it reaches a distance of 750 feet from the road centerline; thence northwesterly along a line parallel, to and 750 feet from the road centerline until it intersects the Meeker property; thence continuing parallel to and 750 feet from the road centerline until it intersects the Fort property; thence following the eastern Fort boundary until it reaches a point 400 feet from the road centerline; thence following a straight line until it intersects the northeast corner of the Lausten property; thence following the northern Lausten boundary until it intersects the centerline of Cross Road; thence following the road centerline until it intersects the northern boundary of the Gould property; thence following, as necessary for a continuous uninterrupted boundary, the back lot lines of the Gould property, the Boxford Historical Society property, the Smith property, the Public Library property, and the Falk property until it intersects the centerline of Depot Road; thence following the centerline of Depot Road until it intersects the east boundary of the East Parish Parsonage property; thence following the east boundary of the Parsonage property until it meets the boundary of the Gale Section of the cemetery; thence following the boundary of the Gale Section until it meets the northern boundary of the Village Cemetery; thence following the northern boundary of the Village Cemetery until it intersects the centerline of Georgetown Road; thence following the road centerline until it meets the intersection of the northern boundary of the Sawyer property; thence

following the boundary of the Sawyer property until it reaches a bend in the stone wall marking the most westerly point on the Sawyer property as it adjoins the Nelson property; thence following southwesterly along a line parallel to Middleton Road until it intersects the Haynes property, thence following a straight line until it intersects the watercourse that empties Butman Pond into Fish Brook, at a point, where that watercourse intersects a stone wall approximately 600 feet back along the watercourse from the centerline of Main Street; thence following a line parallel to the road centerline until it intersects the western boundary of the Lord property; thence following the western boundary of the Lord property, across Main Street to intersect the western boundary of the Lane property; thence following the Lane boundary until it reaches a point the same distance from the road centerline as the distance from the road centerline of the intersection of Fish Brook and the tributary watercourse which separates the Lane and Haynes properties at Fish Brook; thence following parallel to the road centerline, until it meets Fish Brook at the intersection of the above mentioned tributary watercourse, thence following along the centerline of Fish Brook until it intersects with the centerline of Middleton Road; thence following the centerline of Middleton Road until it intersects the southern boundary of the Hunter property; thence following the Hunter boundary until it meets the Fenton property; thence following, as necessary for a continuous uninterrupted boundary, the backlot lines of the Fenton property, the Parsons property, the Cutler property, and the Walsh property, until it intersects the centerline of Main Street; thence following the centerline of Main Street until it intersects the western boundary of the Heeremans property; thence following, as necessary for a continuous uninterrupted boundary, the backlot lines of the Heeremans property, the Marsh property, the Throensen property, and the Loebel property, until it intersects the western boundary of the Cahoon property; thence following a line parallel to the centerline of Topsfield Road across the Cahoon property until it intersects the Maddock property; thence continuing parallel to the centerline of Topsfield Road until it intersects the eastern boundary of the Haddock property; thence following the Haddock boundary until it intersects the centerline of Topsfield Road; thence following the centerline of Topsfield Road to the point of beginning.

- B. Howe Village District: Beginning at the intersection of the Boxford Town line, the centerline of Salem Road (Route 97), and the southern boundary of the Dougher property; thence following the Dougher boundary until it meets the eastern boundary of the Shelly property; thence following, as necessary for a continuous uninterrupted boundary, the backlot lines of the Shelly property, the Barr property, the Perkins property, and the Murray property, so as to include the Murray property, until it intersects the centerline of Salem Road; thence following southwesterly the centerline of Salem Road until it intersects an easterly extension of the northern boundary of the Perry property, at approximately where Ipswich Road joins Salem Road; thence running westerly across Ipswich Road and along the northern Perry boundary; thence following, as necessary for a continuous uninterrupted boundary, the backlot lines of the Perry property, the LeBlanc property, the Carbone property, the Mueller property, and the Cole property, until it intersects the centerline of Pye Brook Lane; thence following this centerline until it intersects the western boundary of the Dawes property; thence following the Dawes boundary until it intersects the Boxford Town line; thence following the Town line across the Dawes property, and then across the Scott Thompson property to the point of beginning.

#### **§ 7-24. Buildings partially within Historic Districts.**

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

**§ 7-25. Powers and duties.**

The Historic District Commission shall have all the powers and duties of historic district commissions as provided by the Historic Districts Act, MGL c. 40C, and of subsequent amendments thereto.

**§ 7-26. Rules and regulations.**

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

**§ 7-27. Time limit for determinations. [Amended 10-26-1999 STM, Art. 17]**

When taking action under the provisions of the second paragraph of Section 7 of the Historic Districts Act, MGL c. 40C, the Historic District Commission shall make a determination within 60 days after the filing of the application for a certificate of appropriateness, or such further time as the applicant may in writing allow.

**§ 7-28. Severability.**

In case any section, paragraph or part of this bylaw be for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect.

ARTICLE XIII  
**Land Committee**  
**[Adopted 10-28-1998 STM, Art. 22]**

**§ 7-29. Membership.**

- A. A Land Committee consisting of five members shall be established. Members of the Land Committee shall be appointed as follows: **[Amended 9-12-2020ATM by Art. 19]**
- (1) One member selected by and from the Planning Board and appointed by the Select Board Members.
  - (2) One member selected by and from the Conservation Commission and appointed by the Select Board Members.
  - (3) One member selected by and from the Finance Committee and appointed by the Select Board Members.
  - (4) Two members to be selected and appointed by the Select Board Members.
- B. It is desirable that at least one member of the Land Committee have professional experience in the field of commercial real estate financing and/or acquisition.

**§ 7-30. Terms. [Amended 9-12-2020ATM by Art. 19]**

Members shall be appointed for a term of three years. Initially, however, the members shall be appointed by the Select Board Members as follows: one Select Board Member's appointee to a one-year term; two members, one from the Finance Committee and one from the Conservation Commission, to two-year terms; and two members, one from the Planning Board and one Select Board Member's appointee, to three-year terms.

**§ 7-31. Land acquisition procedures. [Amended 9-12-2020ATM by Art. 19]**

The Land Committee shall function as follows:

- A. All potential acquisitions of land, improved or unimproved, by the Town for conservation or municipal needs will be referred to the Select Board. The Select Board and the Land Committee will jointly determine whether the potential transaction fits within the Town's long-range priorities and plans and will outline the required due-diligence process. If approved, the Land Committee shall be involved in all phases of the proposed acquisition from this point on.
- B. The Land Committee will obtain from the owner, or from other available sources as may be necessary, all pertinent information regarding the real estate in question. The Land Committee will perform a due-diligence process, as required, for each potential acquisition. This due diligence will consist of, but is not limited to, appraisals by an independent licensed appraiser and a land use plan by a registered engineer, as reviewed by the Planning Board and Conservation Commission. A title search and an environmental profile study may be required as specified in Subsection D below. Other steps may be added at the discretion of the Land Committee, as deemed necessary. The Select Board and the Land Committee may agree to waive or modify these requirements depending on the particular real estate involved.
- C. The Land Committee will render written and oral recommendations to the Select Board Members,

with copies to the Finance Committee, Planning Board, Conservation Commission and Capital Budgeting Committee. The report will be submitted in a timely manner, providing adequate time for review and recommendation prior to potential Town action. The Land Committee's report will include the reasons for said recommendation and shall include a review of all appraisals and data supporting such appraisals and any other information deemed necessary by the Land Committee. **[Amended 9-12-2020ATM by Art. 19]**

- D. If the Town votes to acquire land recommended by the Land Committee, the Select Board will authorize the Land Committee to purchase services to conduct an examination of the record title. The Select Board will also authorize the Land Committee to purchase services, to conduct an environmental profile study (i.e., Chapter 21E), when it is deemed necessary by the Land Committee and the Select Board, to ensure the satisfactory condition of the property before authorizing the acquisition of the real estate in question.
- E. The Land Committee will request an annual budget which will be used in part to cover the cost of appraisals, title searches and environmental studies as specified above, and for any other services necessary to carry out its obligations as set forth in this bylaw. The Land Committee, when authorized by the Select Board, will have the authority to contract for such services.
- F. The Land Committee will report its activities to the Select Board on a regular basis, or as requested by the Select Board.
- G. The Land Committee shall schedule, post and conduct meetings in accordance with MGL c. 39, § 23B, the so called "Open Meeting Law." Written minutes shall be taken, a copy of which shall be made available in the Select Board Members' Office. **[Amended 9-12-2020ATM by Art. 19]**

## ARTICLE XIV

**Computer Management Committee**  
**[Adopted 10-28-1998 STM, Art. 23]****§ 7-32. Establishment; appointment; terms. [Amended 9-12-2020ATM by Art. 19]**

A Computer Management Committee consisting of five members shall be established. Members shall be appointed by the Select Board Members for terms of three years, except that initially the terms of appointment shall be determined by the Select Board Members, so that one member so appointed shall initially have a one-year appointment, two members so appointed shall have two-year appointments, and two members so appointed shall initially have three-year appointments.

**§ 7-33. Duties. [Amended 9-12-2020ATM by Art. 19]**

The Computer Management Committee reporting to the Select Board is charged as follows:

**A. Computer-related requests.**

- (1) All computer-related requests for special warrant articles or any computer-related purchases shall be submitted first to the Computer Management Committee for review and consultation with the requesting committee, board or department. The request shall be submitted in a timely manner so as to allow adequate time for review and discussion between the requester and the Computer Management Committee.
- (2) The Select Board shall require that the requesting board, committee or department and Computer Management Committee work in good faith to agree as to the configuration and specifications prior to purchase of said items. The Computer Management Committee's recommendation for or against the board's, committee's or department's purchase must be reported in the warrant article or purchase request.

**B. The committee will request an annual budget to be used in part to cover the cost of Town-wide service and training as may be necessary.****C. The Committee will report its activities to the Town and Select Board yearly, or as requested by the Select Board.****§ 7-34. Meetings.**

The Computer Management Committee shall schedule, post and conduct meetings in accordance with the Massachusetts General Laws.

ARTICLE XV  
**Community Preservation Committee**  
**[Adopted 5-8-2001 ATM, Art. 20]**

**§ 7-35. Creation; term of office; removal.**

- A. There is hereby established a Community Preservation Committee, consisting of nine voting members pursuant to MGL c. 44B. The composition of the Committee, the appointment authority and the term of office for the Committee members, each of whom shall be a resident and registered voter in Boxford at the time of appointment, shall be as follows:
- (1) One member of the Conservation Commission as designated by the Commission;
  - (2) One member of the Historic Districts Commission as designated by the Commission;
  - (3) One member of the Planning Board as designated by the Board;
  - (4) One member of the Recreation Committee, whose responsibilities include those of the Board of Park Commissioners, as designated by the Committee;
  - (5) One member of the Housing Partnership Committee, whose duties include those of the housing authority, as designated by the Committee; and
  - (6) Four members to be appointed by the Select Board. **[Amended 9-12-2020ATM by Art. 19]**
- B. Each member of the Committee shall serve for a term of one year, or, where applicable, until the person no longer serves in the position or on the Board, Committee, or Commission as set forth above, whichever is earlier.
- C. Should any of the Commissions, Boards, or Committees who have appointment authority under this bylaw be no longer in existence for whatever reason, and provided that no successor commission, board or committee is created in which case the appointment power shall remain with the successor, the nomination authority for that entity shall become the responsibility of the Select Board. **[Amended 9-12-2020ATM by Art. 19]**
- D. Any member of the Committee may be removed for cause by their respective appointing authority after hearing.

**§ 7-36. Duties.**

- A. The Community Preservation Committee shall study the needs, possibilities and resources of the Town regarding community preservation. The Committee shall consult with existing municipal boards, including the Conservation Commission, the Historic Districts Commission, the Planning Board, the Recreation Committee and the Housing Partnership Committee, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the Committee shall hold one or more public informational hearings on the needs, possibilities and resources of the Town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the Town.
- B. The Community Preservation Committee shall make recommendations to the Town Meeting for the acquisition, creation and preservation of open space, for the acquisition and preservation of historic resources, for the acquisition, creation and preservation of land for recreational use, for the creation,



preservation and support of community housing and for rehabilitation or restoration of such open space, historic resources, land for recreational use and community housing that is acquired or created as provided in this section. With respect to community housing, the community preservation committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.

- C. The Community Preservation Committee may include in its recommendation to the Town Meeting a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose or to set aside for later spending funds for general purposes that are consistent with community preservation.
- D. In every fiscal year, the Community Preservation Committee must recommend that the Town Meeting spend, or set aside for later spending, not less than 10% of the annual revenues in the Community Preservation Fund for:
  - (1) Open space (not including land/for recreational use);
  - (2) Historic resources; and
  - (3) Community housing.

**§ 7-37. Requirement for quorum and cost estimates.**

The Community Preservation Committee shall comply with the provisions of the Open Meeting Law, MGL c. 39, § 23B. The Committee will not meet or conduct business without the presence of a majority of the members of the Community Preservation Committee, except to postpone a meeting until a later date certain. The Community Preservation Committee shall approve its actions by majority vote. Recommendations to the Town Meeting shall include the Committee's anticipated costs.

**§ 7-38. Amendments.**

This bylaw may be amended from time to time by a majority vote of the Town Meeting, consistent with the provision of MGL c. 44B.

**§ 7-39. Conflict.**

When in conflict, this bylaw shall prevail over other articles or bylaws, as provided for in MGL c. 44B.

ARTICLE XVI  
**Agricultural Commission**  
**[Adopted 5-10-2005 ATM, Art. 28]**

**§ 7-40. Legislative purpose and intent.**

- A. The purpose and intent of this article is to approve the formation of an Agricultural Commission to represent citizens of the Town of Boxford with respect to issues concerning commercial and recreational farming; inform, facilitate, and represent citizens of the Town of Boxford on farming issues; preserve and protect farmland; work with other Town boards and commissions; assist or facilitate resolution of farm-related problems or conflicts; assist with natural resource management; and establish communication with the Massachusetts Department of Agricultural Resources.
- B. Approval of an Agricultural Commission does not alter requirements of Town, state or federal statutes, regulations or bylaws.

**§ 7-41. Definitions.**

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

FARMING or AGRICULTURE (or their derivatives) — Include, but shall not be limited to, the following:

- A. Farming in all its branches and the cultivation and tillage of the soil;
- B. Production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodity;
- C. Growing and harvesting of forest products upon forest land and any other forestry or lumbering operations;
- D. Keeping, raising, and training of horses as a commercial or recreational enterprise; for pleasure, therapy, and 4-H projects; and
- E. Keeping and raising of poultry, swine, cattle, ratites (such as emus, ostriches and rheas) and camelids (such as llamas and camels), and other domesticated animals for food, dairying, recreation, 4-H projects or other agricultural purposes, including bees.

**§ 7-42. Formation of Commission. [Amended 9-12-2020ATM by Art. 19]**

The Commission shall consist of five members appointed by the Select Board. The Commission will consist of two commercial agricultural enterprise operators (landowner or lessee) or individuals from related professions and industries, with the primary goal of promoting commercial agriculture. One of the remaining positions must be representative of Boxford's recreational farming community and the two remaining positions shall be appointed at-large. The Commission must represent diversity of farming within the Town of Boxford. The initial terms for Commission members shall be staggered: 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. Successive terms will be three-year, appointments. In addition, up to five nonvoting associate members shall be selected by the Commission for a term of one year to represent Town boards and farming interests.

**§ 7-43. Resolution of disputes.**

- A. Any person aggrieved by an activity being conducted on a farm may, notwithstanding pursuing any

other available remedy, file a grievance with the Select Board, Zoning Enforcement Officer, Conservation Commission, or any other Town commission or board, depending upon the nature of the grievance. The filing of the grievance does not suspend the time within which to pursue any other available remedies the aggrieved may have. The Select Board, Zoning Enforcement Officer, Conservation Commission, or any other Town commission or board may forward a copy of the grievance to the Agricultural Commission, which shall review and facilitate the resolution of the grievance, and report its recommendations to the referring Town authority within an agreed-upon time frame. **[Amended 9-12-2020ATM by Art. 19]**

- B. The Board of Health, except in cases of imminent danger or public health risk, may forward a copy of the grievance to the Agricultural Commission, which shall review and facilitate the resolution of the grievance, and report its recommendations to the Board of Health within an agreed-upon time frame.
- C. Farmers seeking assistance, guidance, facilitation, or suggestions concerning farming issues may also approach the Agricultural Commission, which shall review and facilitate whatever processes the Agricultural Commission determines with respect to guidance or suggestions. Issues of grievance require the Agricultural Commission to notify appropriate Town authorities, depending on the nature of the grievance.

**§ 7-44. Further functions of Commission.**

- A. The Commission, once appointed, shall develop a work plan and bylaws to guide its activities. Such activities include, but are not limited to, the following: determine Commission's meeting schedule; promote agricultural-based enterprises; establish a notification bylaw that the Town of Boxford is supportive of farming, dedicated to the preservation of open space and ardent in preserving its rural charm, to be voted on at Town Meeting; pursue appropriate initiatives to create a sustainable agricultural community; work for the preservation of prime agricultural lands; serve as facilitators for encouraging the pursuit of agriculture in the Town of Boxford; advocate and/or negotiate farming issues; work with all Town commissions and boards to achieve its goals.
- B. The Agricultural Commission will utilize the Town of Boxford website to provide the citizens of Boxford the meeting schedules, resources, agricultural news, promotion of local agricultural products, upcoming agricultural events, and other information pertaining to farming activities in the Town of Boxford and the Commonwealth of Massachusetts.
- C. The appointed Agricultural Commission reserves the right to recommend further members of the Agricultural Commission with the intent to be representative of the diversity and scale of agriculture within the Town of Boxford.

**§ 7-45. Preservation of open space and rural charm. [Added 5-9-2006 ATM, Art. 28]**

The Agricultural Commission Disclosure Notification caused to be published in the Town of Boxford website, annual report, or Town census:

"It is the policy of this community to conserve, protect and encourage the maintenance and improvement of agricultural land promotion of sustainable agriculture inclusive of the production of food, and other agricultural products, and also for its natural and ecological value. This disclosure notification is to inform buyers or occupants that the property they are about to acquire or occupy lies within a Town where farming activities may occur. Such farming activities may include, but are not limited to, activities that cause noise, dust and odors. Buyers or occupants are also informed that the location of property within the Town may be impacted by recreational and commercial agricultural operations, including the ability to access water services for such property under certain circumstances."

"Buyers or occupants should also note that the Town of Boxford owns extensive parcels of land that may be used for recreational and agricultural purpose. In addition, an extensive trail network on public and private lands exists and connects to most of these Town owned parcels."

"The Town of Boxford is supportive of farming, dedicated to the preservation of open space, and ardent in preserving its rural charm for future generations."



BOXFORD CODE

**Chapter 11**

**DEPARTMENTS**

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

ARTICLE I

**Police Department**

**[Adopted 5-20-1980 ATM, Art. 40, as Secs. 4-1-1 through 4-1-4 of the 1980 Bylaws]**

**§ 11-1. Establishment; Chief of Police; compensation. [Amended 9-12-2020ATM by Art. 19]**

A Police Department shall be established under the direction of the Select Board. The Board shall appoint a Chief of Police and such other police officers as it deems necessary, and it shall fix their compensation within the limits of an annual aggregate appropriation made for such purpose.

**§ 11-2. Regulations. [Amended 9-12-2020ATM by Art. 19]**

The Select Board may make suitable regulations governing the Police Department and the officers thereof.

**§ 11-3. Control of Department property by Chief of Police.**

The Chief of Police shall be in immediate control of all Town property used by the Department.

**§ 11-4. Authority of Chief of Police over police officers.**

The Chief of Police shall have authority over the police officers of the Department.

ARTICLE II

**Fire Department**

**[Adopted 5-20-1980 ATM, Art. 40, as Sec. 4-2-1 of the 1980 Bylaws]**

**§ 11-5. Establishment. [Amended 9-12-2020ATM by Art. 19]**

A Fire Department shall be established under the direction of the Select Board, as prescribed by general law.

**§ 11-5.1. Mutual aid. [Added 5-8-2007 ATM, Art. 24]**

The Fire Department is authorized to go to aid another city, town, fire district or area under federal jurisdiction in this commonwealth or in any adjoining state in extinguishing fires therein, or rendering any other emergency aid or performing any detail as ordered by the Chief of the Fire Department, and while in the performance of their duties in extending such aid the members of Town Fire Department shall have the same immunities and privileges as if performing the same within the Town of Boxford.



ARTICLE III

**Department of Public Works**

**[Adopted 5-20-1980 ATM, Art. 40, as Sec. 4-3-1 of the 1980 Bylaws]**

**§ 11-6. Select Board to act as Department; Superintendent. [Amended 9-12-2020ATM by Art. 19]**

The Select Board shall act as the Department of Public Works, and it shall appoint a Superintendent of Public Works for such term of office as it deems proper.

## ARTICLE IV

**Department of Municipal Finance  
[Adopted 5-9-2000 ATM, Art. D30]****§ 11-7. Creation.**

There shall be a consolidated Department of Municipal Finance as provided for under MGL c. 43C, § 11, and as provided for in the following sections of this bylaw.

**§ 11-8. Authority.**

This Department shall include the following statutory, bylaw, or otherwise authorized presently existing entities as follows: Town Accountant, Treasurer/Collector of Taxes, and Assessors. Additionally, the Director of Municipal Finance, acting in an ex officio capacity, shall coordinate and assist the following financial committees: Finance Committee, Capital Budget Committee, and Commissioners of Trust Funds.

**§ 11-9. Conflict.**

When in conflict, this bylaw shall prevail over other articles, the bylaws, or statutes as provided for in MGL c. 43C.

**§ 11-10. Appointment of Director; term. [Amended 9-12-2020ATM by Art. 19]**

There shall be a Director of Municipal Finance who shall be appointed by and responsible to the Select Board Members. The term of office for said position shall not be less than three years, nor more than five years, subject to removal as provided for in this bylaw.

**§ 11-11. Appointment authority. [Amended 10-26-2004 STM, Art. 5; 9-12-2020ATM by Art. 19]**

The Director of Municipal Finance shall appoint the Town Accountant and the Treasurer/Collector of Taxes, subject to approval by the Select Board Members, and shall appoint the Director of Assessment, subject to the approval of the Board of Assessors. In performing duties where the approval of the Board of Assessors is statutorily required, the Director of Municipal Finance may direct the Director of Assessment, but the Board of Assessors will make any final decision. The Town Accountant, Treasurer/Collector of Taxes, and Director of Assessment shall hire and/or appoint his/her own staff, subject to approval by the Director of Municipal Finance.

**§ 11-12. Term of office of officers appointed by Director.**

All officers appointed by the Director of Municipal Finance may be appointed for a term of office up to three years.

**§ 11-13. Additional positions.**

The person holding the position of Director of Municipal Finance may also be appointed to hold other financial positions identified in this bylaw, except that no one person shall hold both the Town Accountant and Treasurer position at the same time.

**§ 11-14. Removal of Director [Amended 9-12-2020ATM by Art. 19]**

The Director of Municipal Finance may be removed from office by the Select Board as provided for in the

town's Personnel Bylaw<sup>8</sup> or in any personal service employment agreement entered into by the Director and the Select Board.

**§ 11-15. Functions of Department.**

The functions of the Department of Municipal Finance shall include the following:

- A. Coordination of all financial services and activities.
- B. Maintenance of all account records and other financial statements, either directly or via the responsible department head.
- C. Payment of all obligations, either directly or via the responsible department head.
- D. Receipt of all funds due, either directly or via the responsible department head.
- E. Personnel administration, either directly or via the responsible department head.
- F. Oversight of the municipal information systems of the various Town departments.
- G. Oversight of grant proposals and responsibility for compliance with the terms of grants received.
- H. Assistance to all Town departments and offices in any manner related to financial affairs.
- I. Monitor the expenditure of all funds, including periodic reporting to the appropriate agencies on the status of accounts.
- J. Supervision of all purchases of goods, materials, and maintenance of inventory control.
- K. Any other duties as may be assigned from time to time by the Select Board. **[Amended 9-12-2020ATM by Art. 19]**

**§ 11-16. Budget responsibilities of Director. [Amended 9-12-2020ATM by Art. 19]**

The Director of Municipal Finance shall be responsible for the functions of the Department of Municipal Finance. He/she shall be specifically responsible for the annual budgeting process, beginning with the forecast of municipal revenues and the formulation of guidelines for submission of budget requests, through the consideration of budgets via support of the Finance Committee and the Select Board, up to the timely issuance of the resulting tax bills.

**§ 11-17. Continuation of term.**

Any persons holding any office or position in the services of the Town upon acceptance of this optional form of administration under MGL c. 43C, § 11, and who is employed in an office or agency which is affected by or reconstituted by the creation of this Department of Municipal Finance, shall be allowed to continue in the employ of the Town without reduction in compensation or impairment of any civil service, collective bargaining agreement, retirement, pension, seniority, vacation, sick leave, or other rights or benefits to which then entitled.

**§ 11-18. Effective date.**

This bylaw shall take effect July 1, 2000, subject to the approval of the Attorney General and approval at

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8. Editor's Note: See Ch. 23, Personnel.

the Annual Town Election held May 16, 2000.

**§ 11-19. Severability.**

If any section of this bylaw shall to any extent be held invalid, illegal or unenforceable, the validity, legality, and enforceability of the remaining sections shall not be deemed affected thereby.



BOXFORD CODE

**Chapter 19**

**OFFICERS AND EMPLOYEES**

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

**GENERAL REFERENCES**

**Personnel — See Ch. 23.**

**Records and reports — See Ch. 28.**

ARTICLE I

**Town Accountant**

**[Adopted 5-20-1980 ATM, Art. 40, as Sec. 3-1-1 of the 1980 Bylaws]**

**§ 19-1. Appointment; term. [Amended 5-9-2000 ATM, Art. D31; 9-12-2020ATM by Art. 19]**

A Town Accountant shall be appointed by the Director of Municipal Finance, subject to approval of the Select Board Members, for up to a three-year term of office.

## ARTICLE II

**Director of Assessment****[Adopted 5-20-1980 ATM, Art. 40, as Sec. 3-2-1 of the 1980 Bylaws]****§ 19-2. Appointment; term. [Amended 5-9-2000 ATM, Art. D32; 10-26-2004 STM, Art. 5]**

The Director of Municipal Finance, subject to the approval of the Board of Assessors, may appoint a Director of Assessment as he deems necessary, and he may remove him. The Director of Assessment shall perform such duties as the Director of Municipal Finance and the Board may require and shall receive compensation only for duties performed. Every Director of Assessment shall hold office for one year unless sooner removed. If the Director of Municipal Finance, subject to the approval of the Board, fails to appoint any successor to any such Director of Assessment during the month preceding the expiration of his term, he shall continue to serve during the following year unless sooner removed.



## ARTICLE III

## Town Clerk

**[Adopted 5-20-1980 ATM, Art. 40, as Secs. 2-6-1 through 2-6-5 of the 1980 Bylaws]**

**§ 19-3. Custody of Town Seal.**

The Town Clerk shall have custody of the Town Seal.

**§ 19-4. Affixing of Seal. [Amended 9-12-2020ATM by Art. 19]**

All conveyances under Seal which may hereafter be executed by the town, pursuant to a vote of the Town or otherwise, shall be affixed with such Seal and subscribed by a majority of the Select Board.

**§ 19-5. Book of deeds and conveyances. [Amended 9-12-2020ATM by Art. 19]**

The Clerk shall keep a true copy, in a book maintained only for such purpose, of all deeds and conveyances executed by the Select Board.

**§ 19-6. Recording of conveyances of interest in land.**

The Clerk shall ensure that every conveyance to the Town of any interest in land is properly recorded in the Registry of Deeds.

**§ 19-7. Schedule of fees. [Added 5-11-1982 ATM, Art. 7; amended 5-12-1993 ATM, Art. 27; 5-22-1996 ATM, Art. 61]**

The following shall be the schedule of fees to be charged by the Town Clerk in accordance with MGL c. 262, § 34, as amended.

- |      |  |
|------|--|
| (1)  | For filing and indexing assignment for the benefit of creditors: \$5.  |
| (11) | For entering amendment of a record of the birth or an illegitimate child subsequently legitimized: \$5.  |
| (12) | For correcting errors in a record of birth: \$5.   |
| (13) | For furnishing certificate of birth: \$10. <b>[Amended 5-13-2003 ATM, Art. 19]</b>   |
| (14) | For entering delayed record of birth: \$5.   |
| (20) | For filing certificate of a person conducting business under any title other than his real name: \$60. <b>[Amended 5-13-2003 ATM, Art. 19]</b> |

- (21) For filing by a person conducting business under any title other than his real name, of statement of change of his residence, or of his discontinuance, retirement or withdrawal from, or of a change of location of such business: \$20.
- (22) For furnishing certified copy of certificate of person conducting business under any title other than his real name or a statement by such person of his discontinuance, retirement or withdrawal from such business: \$10.
- (29) For correcting errors in a record of death: \$5.
- (30) For furnishing a certificate of death: \$10. **[Amended 5-13-2003 ATM, Art. 19]**
- (42) For entering notice of intention of marriage and issuing certificates thereof: \$30. **[Amended 5-13-2003 ATM, Art. 19]**
- (43) For entering certificate of marriage filed by persons married out of the commonwealth: \$5.
- (44) For issuing certificate of marriage: \$10. **[Amended 5-13-2003 ATM, Art. 19]**
- (45) For correcting errors in a record of marriage: \$5.
- (54) For recording power of attorney: \$5.
- (62) For recording order granting locations of poles, piers, abutments or conduits, alterations or transfers thereof, and increase in number of wires and cables or attachments under the provisions of Sec. 22 or Chapter 166: \$50 flat rate and \$5 additional fee for each street or way included in such order. **[Amended 5-13-2003 ATM, Art. 19]**

- (66) For examining records or papers relating to birth, marriage or deaths upon the application of any person, the actual expense thereof, but not less than: \$5.
- (67) For copying any manuscript or record pertaining to birth, marriage or death: \$5.
- (75) For filing a copy of written instrument or declaration of trust by the trustees of an association or trust, or any amendment thereof as provided by MGL c. 182, § 2: \$10.
- (79) Recording any other documents: \$5; for each additional page: \$2.
- (82) Issuing burial permit: \$30. **[Amended 5-13-2003 ATM, Art. 19]**
- (84) Issuing voters registration certificate: \$5.<sup>9</sup>
- (88) For UCC searches by mail: \$30. **[Amended 5-13-2003 ATM, Art. 19]**
- (90) Issuing accessory apartment registration: \$20. **[Amended 5-13-2003 ATM, Art. 19]**
- (92) Issuing raffle and bazaar permits: \$25.

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9. Editor's Note: Former entry (86), For all UCC filing, which immediately followed this entry, was repealed 5-13-2003 ATM, Art. 19.

ARTICLE IV

**Wire Inspector**

**[Adopted 5-20-1980 ATM, Art. 40, as Secs. 3-11-1 through 3-11-3 of the 1980 Bylaws]**

**§ 19-8. Appointment; term. [Amended 9-12-2020ATM by Art. 19]**

A Wire Inspector shall be appointed by the Select Board for such term of office as it shall deem proper.

**§ 19-9. Duties.**

The Inspector shall perform his duties under the direction of the Board, as prescribed by general law. He shall collect fees from applicants for permits in accordance with a schedule to be approved by the Board.

**§ 19-10. Salary. [Amended 9-12-2020ATM by Art. 19]**

The Inspector shall receive such salary as determined by the Select Board.

**§ 19-11. Control of daily activities. [Added 5-9-1990 ATM, Art. 32]**

The daily activities of the Wire Inspector shall be under the management control of the Inspector of Buildings.

ARTICLE V

**Gas Inspector**

**[Adopted 5-20-1980 ATM, Art. 40, as Secs. 3-10-1 through 3-10-4 of the 1980 Bylaws]**

**§ 19-12. Appointment. [Amended 5-12-1981 ATM, Art. 28]**

A Gas Inspector shall be appointed in accordance with the provisions of MGL, c. 142, § 11, as amended.

**§ 19-13. Duties.**

The Inspector shall perform his duties under the direction of the Board, as prescribed by general law. He shall collect fees from applicants for permits in accordance with a schedule to be approved by the Board.

**§ 19-14. Salary. [Amended 9-12-2020ATM by Art. 19]**

The Inspector shall receive such salary as determined by the Select Board.

**§ 19-15. Turning on of gas meters.**

No gas meter shall be turned on nor any gas used within the Town without permission of the Inspector, nor unless a certificate of approval is posted on the premises, properly signed and dated by the Inspector.

**§ 19-16. Control of daily activities. [Added 5-9-1990 ATM, Art. 31]**

The daily activities of the Gas Inspector shall be under the management control of the Inspector of Buildings.

ARTICLE VI  
**Treasurer/Collector of Taxes**  
**[Adopted 5-9-2000 ATM, Art. D33]**

**§ 19-17. Appointment; term. [Amended 9-12-2020ATM by Art. 19]**

A Treasurer/Collector of Taxes shall be appointed by the Director of Municipal Finance, subject to approval by the Select Board Members, for up to a three-year term of office.

**§ 19-17.1. Custody of certain documents.**

The Treasurer/Collector of Taxes shall have custody of all receipted bills and receipts, and of notes, bonds and coupons which have been paid.

ARTICLE VII  
**Inspector of Plumbing**  
**[Adopted 5-9-1990 ATM, Art. 33]**

**§ 19-18. Appointment.**

An Inspector of Plumbing shall be appointed in accordance with the provisions of MGL, c. 142, § 11, as amended.

**§ 19-19. Control of daily activities.**

The daily activities of the Inspector of Plumbing shall be under the management control of the Inspector of Buildings.

ARTICLE VIII  
**General Requirements of Town Officers**  
**[Adopted 5-12-1992 ATM, Art. 7]**

**§ 19-20. Turning over of fees.**

All officers of the Town shall turn over all fees collected by them by virtue of their office to the Town treasury, with the exception of the fees collected by the Deputy Collector of Taxes, as defined in MGL c. 60, §§ 15.10 and 15.11, and with the exception of the fees collected by the Constables of the town, as defined in MGL c. 262, § 8, who shall be allowed to retain certain fees collected as payment for serving in the position. Adoption of this section shall not reflect on the integrity of persons who previously served in Town offices where said fees were collected.

**§ 19-21. Minimum office hours for Town Hall and Community Center. [Amended 9-12-2020ATM by Art. 19]**

All offices at the Town Hall and Community Center, under the jurisdiction of the Select Board, shall maintain minimum office hours as may be established by the Select Board.



ARTICLE IX

**Moderator**

**[Adopted 5-22-1997 ATM, Art. 44]**

**§ 19-22. Election; term. [Amended 5-8-2007 ATM, Art. 23]**

A Moderator shall be elected from the Town for a term of office of three years.

**§ 19-23. Counting of votes.**

In matters requiring a two-thirds vote by statute, the Moderator may dispense with a count if the results of the vote were obviously more than a two-thirds majority. If seven or more voters request an actual count, it must be done.

ARTICLE X  
**Constables**  
[Adopted 5-11-2010 ATM, Art. 19]

**§ 19-24. Election; terms.**

Two constables, one for each parish in Town, shall be elected from the Town at large for a three-year term of office.

ARTICLE XI  
**Tree Warden**  
[Adopted 5-8-2012 ATM, Art. 16]

**§ 19-25. Appointment.**

A Tree Warden shall be appointed in accordance with MGL c. 41, § 106, as amended.



**Chapter 23****PERSONNEL**

**[HISTORY: Adopted by the Town Meeting of the Town of Boxford 5-13-1998 ATM, Art. 37. Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Officers and employees — See Ch. 19.**

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**§ 23-1. Authorization.**

Pursuant to the authority contained in MGL c. 41, §§ 108A and 108C, as amended, the Board may, as necessary, establish plans which may be amended from time to time by vote of the town at a Town Meeting.

- A. Classifying positions in the service of the town other than those under the exclusive authority of a department or administrative authority other than this Board;
- B. Recommending appropriate compensation plans;
- C. Providing for the administration of said classification and compensation plans; and
- D. Advising the Select Board, Finance Committee and all departments and administrative authorities employing or responsible for town employees not covered by the classification plan on all matters pertaining to compensation, personnel policies and administration, by making recommendations to said departments and administrative authorities. **[Amended 9-12-2020ATM by Art. 19]**

**§ 23-2. Definitions.**

As used in this bylaw, the following words and phrases shall have the following meanings unless a different construction is clearly required by the context or by the laws of the commonwealth.

**ADMINISTRATIVE AUTHORITY** — The elected or appointed official, board, commission or similar entity having jurisdiction over a function or activity.

**BOARD** — The Personnel Board as described in § 23-3.

**CLASS** — A position or group of positions essentially similar in respect to duties and responsibilities to the extent that a common scale of compensation can be applied with equity.

**CLASSIFICATION PLAN** — A tabulation of classes as described in § 23-4 of this bylaw, plus class specifications which are on file with the Board and which are hereby incorporated by reference.

**COMPENSATION** — Salary, wages, benefit programs, fringe benefits and certain working conditions.

**COMPENSATION PLAN** — Regulations and procedures relating to employee compensation as described in § 23-5 of this bylaw.

**CONTINUOUS EMPLOYMENT** — Employment uninterrupted except for required military service, authorized vacation, sick leave, bereavement leave, personal days, court leave or other authorized leave or absence.

DEPARTMENT — Any department, board, committee, commission or other agency of the town subject to this bylaw.

DEPARTMENT HEAD — The officer, board or other body having immediate supervision and control of a department, in the instance of a department serving under the supervision and control of the Select Board Members, the officer, board or other body immediately responsible to the Select Board for administration of the department. **[Amended 9-12-2020ATM by Art. 19]**

EMPLOYEE — Any person retained in the service of the town on a full-time or part-time basis and receiving salary or wages.

FULL-TIME EMPLOYEE — An employee retained for full-time employment.

FULL-TIME EMPLOYMENT — Employment for not less than 20 hours per week for 52 weeks per annum, minus legal holidays and authorized leave or absence, including but not limited to military service leave, vacation, sick leave, bereavement leave, personal days and court leave.

HOLIDAY — The Lord's day and all days on which legal holidays are observed, provided that the phrase "holiday" shall not include the Lord's day for purpose of holiday pay.

OVERTIME — In accordance with the Fair Labor Standards Act as it pertains to municipal employees.

PART-TIME EMPLOYEE — An employee retained for part-time employment.

PART-TIME EMPLOYMENT — Employment for a lesser period of time than that which constitutes full-time employment.

PROBATIONARY EMPLOYEE — A regular employee within the first 90 days of her/his first year of employment.

REGULAR EMPLOYEE — An employee retained on a continuing basis in a regular position.

REGULAR POSITION — Any position in the town services which has required or is likely to require the services of an employee for a period of more than six uninterrupted calendar months.

TEMPORARY EMPLOYEE — An employee retained in a temporary position.

TEMPORARY POSITION — Any position in the town which is not permanent, but which requires or is likely to require the services of an employee for a period not exceeding six calendar months.

TOWN — The Town of Boxford, Massachusetts.

### **§ 23-3. Personnel Board.**

- A. Membership. There shall be a Personnel Board consisting of three members appointed by the Select Board. Terms of members shall begin and end coincident with the start of a fiscal year. **[Amended 9-12-2020ATM by Art. 19]**
- B. Qualifications. Members shall be residents of the town. In making appointments to the Board, the Select Board shall give preference to persons who will best represent the interest of both the employees and the taxpayers of the town and to persons who are knowledgeable and experienced in the fields of personnel administration and labor relations. No elected official, town employee or appointees to any other town board, committee, commission or other agency of the town shall be appointed to the Board. A member taking a position in such an entity must resign as a member of this Board. **[Amended 9-12-2020ATM by Art. 19]**
- C. Term. Each member of the Board shall serve for a term of three years; provided, however, that of the members initially appointed, one shall serve for a term of one year, one for a term of two years and

one for a term of three years. Subsequent appointments shall be made by the Select Board to be effective at the start of each fiscal year; provided, however, that if a member shall resign or otherwise vacate the office at a time other than the commencement of a fiscal year a successor will be appointed at that time to complete the unexpired term. **[Amended 9-12-2020ATM by Art. 19]**

- D. Organization. At its first meeting after the adoption of this bylaw and annually thereafter, the Board shall organize by electing a Chairperson and a Vice Chairperson, both of whom shall be members of the Board. The Board shall meet with such frequency required to administer this bylaw, except it shall meet not less than six times annually.
- E. Proceedings. Two members of the Board shall constitute a quorum for the transaction of business. A majority vote of the members present shall determine the action of the Board on all matters upon which it is authorized or required to pass under this bylaw. The Board shall keep a record of its proceedings. The Board may employ assistance and incur expenses as it deems necessary, subject to the appropriation of funds therefor.
- F. Duties. The duties of the Personnel Board shall be as follows:
  - (1) Administer the provisions of this bylaw, except for such duties as may be specifically assigned by statute exclusively to other departments or administrative authorities, and decide all questions relating to the interpretation and application of this bylaw.
  - (2) Administer the classification plan and compensation plan and establish policies, procedures and regulations consistent with these plans.
  - (3) Maintain evaluation records of all town employees (other than those employed by the School Department) and copies of all union and nonunion contracts. Such records shall be kept in the office of the Town Accountant.
  - (4) Maintain and periodically review job descriptions, the classification plan and compensation plan and recommend such amendments to this bylaw as it deems necessary or advisable to maintain a fair and equitable personnel program.
  - (5) Advise the Select Board, Finance Committee and all departments and administrative authorities employing or responsible for town employees on all matters pertaining to compensation and personnel policies and administration by making recommendations to said departments and administrative authorities. **[Amended 9-12-2020ATM by Art. 19]**
  - (6) Perform the functions assigned to Personnel Relations Review Boards under the provision of MGL c. 40, § 21B, unless an employee or class of employees specifically delegates said function elsewhere by written contract.
  - (7) Authorize the initiation, any change or termination in the status or compensation of all town employees subject to the Board's authority.
  - (8) Hire and supervise a personnel specialist to be responsible for gathering and analyzing information necessary to assist the Board in fulfilling its duties.

#### **§ 23-4. Classification plan.**

- A. All positions in the service of the town except those excluded in § 23-1A and D are hereby classified by titles. The classification plan shall be public information, maintained by the Board and, by reference, made a part hereof.

- B. The Board shall maintain written job descriptions or specifications of the classes in the classification plan, each consisting of a statement describing the essential nature of the work and characteristics that distinguish the class from other classes. The description for any class shall be construed solely as a means of identification and not as prescribing what the duties or responsibilities of any position shall be, or as modifying, or in any way affecting the power of any administrative authority, as otherwise existing, to appoint, to assign duties to or to direct and control the work of any employee under the jurisdiction of such authority.
- C. Whenever a new position is established, or the duties of an existing position are so changed that in effect a new position is created, upon presentation by the appropriate department head of substantiating data satisfactory to the Board, the Board shall allocate such new or changed position to its appropriate class as hereinafter provided.
- D. The title of each class, as established by the classification plan shall be the official title of every position allocated to the class and the official title of each incumbent of a position so allocated, and shall be used to the exclusion of all others on payrolls, budget estimates and other official records and reports pertaining to the position.

#### **§ 23-5. Compensation plan.**

The provisions of this section shall apply to employees included in the classification plan:

- A. New appointees.
  - (1) New employees shall be paid the entry level rate for the grade unless the department head applies for and receives prior written approval of the Board to do otherwise.
  - (2) Each new employee shall serve a probationary period of 90 calendar days. Unsatisfactory performance within this period shall be cause for termination.
- B. Promotions.
  - (1) When an employee is promoted to a position in a higher class, the compensation shall normally be increased to the minimum rate for the higher classification. In the case of overlapping ranges, the promoted employee's rate shall be increased to a step immediately above the employee's previous rate unless the department head applies for and receives prior written approval of the Board to do otherwise.
  - (2) If an employee is transferred to a position in a class having a higher salary range than the class from which the employee was transferred, such change shall be deemed a promotion.
- C. Demotions. When an employee is demoted to a lower class due to unsatisfactory job performance, the employee's rate of pay shall be lowered to fit within the approved range for the lower position. The precise rate will be determined by the Board.
- D. Reallocation downward. When an employee is reallocated by the town administration to a class with a lower rate of pay for reasons other than unsatisfactory job performance, there shall be no reduction in the employee's rate of pay. The employee's rate of pay will not be increased until approved increases in the new class exceed the employee's former rate unless the department head applies for and receives prior written approval of the Board to do otherwise.
- E. Reinstated employees. A reinstated employee shall receive a rate of pay within the approved range for the position. The precise rate will be determined by the Board.



- F. Overtime. Overtime pay shall be paid in accordance with the Fair Labor Standards Act as it applies to municipal employees.
- G. Salary adjustments.
- (1) All employees shall have their performance reviewed annually by their department head or other supervisor for the purpose of determining which employees shall receive salary increases. Many factors may enter into any recommendation, but major emphasis shall be placed upon quality of performance rendered to the town by the employee.
  - (2) Failure to submit an evaluation of an employee's performance will preclude a salary increase for that employee in the subsequent fiscal year unless the department head shall apply for a receive written approval of the Board to do otherwise. In such an instance the adjusted rate and its effective date will be determined by the Board.
  - (3) The results of the evaluation shall be submitted to the Board no later than 60 days prior to the Annual Town Meeting. Recommended wage adjustments shall be submitted to the Finance Committee no later than 45 days prior to the Annual Town Meeting. In no case shall the compensation of any employee be raised above the maximum for the employee's class.
- H. Longevity payment.
- (1) Employees who have completed 10 years or more of continuous employment will be eligible for an additional payment in accordance with the following schedule:

<b>Length of Service</b>	<b>Payment</b>
Completed 10 but fewer than 15 years	2.5% of base wages received in the previous fiscal year
Completed 15 years	5.0% of base wages received in the previous fiscal year

- (2) The longevity payment is in the form of a lump sum. It is calculated and paid after each fiscal year in which the employee becomes or remains eligible has ended. The payment is derived from base wages attributable to the employee's normally scheduled hours per week. It does not recognize time beyond that normally scheduled, overtime, leaves (other than vacations and holidays) or other absences.

#### **§ 23-6. Employee benefits. [Amended 10-22-2002 STM]**

- A. Any full-time employee is eligible to receive benefits. Benefits listed in § 23-6B through I below are based on a forty-hour workweek. Benefit hours will be prorated based on the ratio of hours the full-time employee is normally scheduled to be worked per week compared to 40.
- B. Vacation leave.
- (1) All eligible employees successfully completing their probationary period shall have the right to accrue vacation from their date of hire. Vacation pay shall be based upon hours normally scheduled to be worked. Vacation leave accrued within a twelve-month period following employment, regardless of when the fiscal year falls, should be taken within that twelve-month period. With the immediate supervisor's permission, up to 40 vacation hours may be carried over into the next twelve-month period.

- (2) New employees will be eligible to use vacation time after 26 consecutive scheduled worked weeks, including authorized leave.
  - (3) Eligible employees with less than five years of continuous employment shall be entitled to 80 hours of vacation each year.
  - (4) Eligible employees who have completed five but fewer than 10 years of continuous employment shall be entitled to 120 hours of vacation each year.
  - (5) Eligible employees who have completed 10 but fewer than 25 years of continuous employment shall be entitled to 160 hours of vacation each year.
  - (6) Eligible employees who have completed 25 years of continuous employment shall be entitled to 200 hours of vacation each year.
  - (7) Vacation leave may be taken at such time as the employee wishes, with the approval of the employee's immediate supervisor. Approval shall not be arbitrarily denied but may take into account production commitments, public safety concerns, availability of replacement personnel and similar considerations. Compensation for vacation periods is derived from base wages attributable to the employee's normally scheduled hours per week. Working for more than one department throughout an employee's career shall not be grounds for denial of this benefit.
- C. Holidays. Eligible employees shall be entitled to the following holidays and shall receive their normal per diem compensation if scheduled to work on New Year's Day, Martin Luther King Day, President's Day, Patriots' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day and Christmas Day. If a holiday is observed on a day an eligible employee is not normally scheduled to work, that eligible employee shall be entitled to a one-day "compensatory holiday" with time off at a subsequent date approved in advance by the member's supervisor. The compensatory holiday shall be taken as a full day, not in increments and must be taken prior to the close of the fiscal year. **[Amended 10-23-2007STM, Art. 19]**
- D. Sick leave. Eligible employees shall be granted paid sick leave at their regular hourly rate on the basis of two hours earned for each regularly scheduled 40 hours worked (approximately one allowed day for each 20 days of work). No employee may accrue more than 800 sick hours at any time during the course of employment. Sick leave shall not be paid to any employee who has not worked at least 60 calendar days following her/his probationary period. Paid sick leave shall not be granted unless the employee shall have notified his supervisor of the illness nor, in the case of more than three consecutive days of absence, unless a doctor's certificate of inability to work shall have been furnished to the department head if requested. **[Amended 10-23-2007STM, Art. 19]**
- After 25 years of consecutive service to the Town, the Town agrees to pay a lump sum payment amounting to 50% of the up to 100 days of sick leave accrued and unused at the time of retirement. The Town shall be given a one-year written advance notice of the intent to retire. **[Added 10-23-2007STM, Art. 19]**
- E. Health insurance. Health insurance is available to eligible employees at their option. It is as provided by MGL c. 32B, as amended and accepted by the town.
- F. Retirement plan. Retirement benefits are provided to eligible employees as provided by Chapter 66,

Acts of 1946, of the General Laws.

- G. Life insurance. Life insurance shall be offered to all eligible employees on an equally shared premium basis.
- H. An eligible employee who has completed the probationary period shall be allowed a maternity leave of absence as provided by MGL c. 149, § 105D, as amended.
- I. During each fiscal year, each full-time employees and each management employees shall be eligible for personal leave in an amount equal to four times the number of hours in his/her regularly scheduled work day. No time may be carried over into a subsequent fiscal year. **[Amended 10-23-2007STM, Art. 19; 5-13-2008ATM, Art. 4]**
- J. All eligible employees shall be entitled to up to four days leave at the normal per diem rate due to a death in the immediate family. The immediate family includes a spouse, parent, child, siblings, legally adopted children, grandparents, grandchild, parent of spouse, or person living in the employee's household at the time of death. Upon the death of an aunt, uncle, niece, or nephew, an employee is entitled to leave without loss of pay for a maximum of one day. Satisfactory evidence of death must be made to the employee's supervisor if requested. The length of the leave shall take into account the closeness of the relationship and travel arrangements necessary to attend either the funeral or memorial service. **[Amended 10-23-2007STM, Art. 19]**

#### **§ 23-7. Grievance procedure.**

- A. A "grievance" shall be defined to mean any dispute between an employee and her/his appointing authority which arises out of an exercise of administrative discretion by said appointing authority with respect to the employee's condition of employment.
- B. In accordance with § 23-3F, the Board shall constitute the Personnel Review Board of the town and as such have the powers and duties and shall perform the functions assigned to personnel relations review boards under the provisions of MGL c. 40, § 21B. The Board in performing its duties as the Personnel Review Board shall be subject to the limitations imposed by said § 21B and the bylaws of the town.
- C. Grievances shall be settled as follows:
  - (1) Step 1: The employee shall take up his/her grievance orally with his/her immediate supervisor who shall reach a decision and communicate it orally to the employee within three working days.
  - (2) Step 2: If the grievance has not been settled as in Step 1, the grievance shall be presented in writing by the employee to the employee's supervisor within five working days. The employee's supervisor shall attempt to resolve the grievance and shall give a decision to the employee in writing within five working days of receipt of the written complaint.
  - (3) Step 3: If the grievance has not been settled as in Step 2, it shall be presented in writing by the employee to the department head within five working days after receipt of the supervisor's written decision. The department head shall attempt to resolve the grievance and shall give a decision to the employee in writing within five working days of receipt of the written complaint.
  - (4) Step 4: If the grievance has not been settled as in Step 3, it shall be presented in writing by the employee to the Board within five working days after the receipt of the department head's written decision. The Board shall attempt to resolve the grievance by a meeting with the

employee, the employee's supervisor and the department head within 10 working days after receipt of the written complaint. The Board shall give a decision to the employee and the department head in writing within 10 working days after the meeting. The decision of the Board shall be final and binding.

**§ 23-8. Amendments to plans.**

- A. The classification plan and/or compensation plan and/or other provisions of this bylaw may be amended by vote of the town at either a regular or Special Town Meeting in the same manner as other bylaws of the town may be amended. However, no amendment shall be considered or voted on by Town Meeting unless the amendment has first been considered by the Board and the Finance Committee.
- B. The Board, of its own motion, may propose an amendment to the plans or other provisions of this bylaw on its findings resulting from its investigation as provided in § 23-3.
- C. The Board shall report its recommendations on any proposed amendment to the Finance Committee and shall make its recommendations with regard to any amendment at the Town Meeting at which time such amendment is considered.

## RECORDS AND REPORTS

### Chapter 28

## RECORDS AND REPORTS

**[HISTORY: Adopted by the Town Meeting of the Town of Boxford 5-20-1980 ATM, Art. 40, as Article Six of the 1980 Bylaws. Amendments noted where applicable.]**

### GENERAL REFERENCES

Town Meetings — See Ch. 36.

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#### **§ 28-1. Records and accounts.**

All boards, standing committees and officers of the town shall cause records of their doings and accounts to be kept in suitable books.

#### **§ 28-2. Annual reports.**

- A. Contracts for printing Annual Town Reports shall be made by the Select Board, and all annual reports intended to be bound up with the Annual Town Reports shall be sent to the Board not later than February 15. **[Amended 9-12-2020ATM by Art. 19]**
- B. No illustrations shall be hereafter introduced in the reports of town officers, boards or committees unless expressly authorized by the Board.
- C. The annual report of the Select Board shall, unless such information is contained in other reports to be published in the Annual Town Report, provide information on: **[Amended 9-12-2020ATM by Art. 19]**
  - (1) Town and county ways laid out, constructed, altered, ordered laid out, accepted and remaining to be constructed.
  - (2) Damages assessed and paid, claims outstanding and all claims in suit against the town, with all circumstances relating thereto.
  - (3) Details of repairs made to public buildings.
- D. The annual report of the Treasurer shall state the purposes for which the town's debt was increased in the preceding year, cite the votes by which the money was borrowed and render a classified statement of all receipts and expenditures of the town in such detail as to give a full, fair exhibit of the objects and methods of all expenditures.
- E. The Board of Assessors shall append to its annual report a table of the valuation of the town, real, personal and total; the rate of taxation; and the amount of money raised. The complete recapitulation sheet used in fixing the tax rate shall be printed as part of the Annual Report.
- F. The Town Clerk shall make a full index of the reports and shall also prepare a table of vital statistics for publication in the annual report.

**Chapter 32****SELECT BOARD**

**[<sup>10</sup>HISTORY: Adopted by the Town Meeting of the Town of Boxford 5-20-1980 ATM, Art. 40 as Secs. 2-1-1 through 2-1-8 of the 1980 Bylaws. Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Commissions, committees and boards — See Ch. 7.**

**Officers and employees — See Ch. 19.**

**Departments — See Ch. 11.**

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**§ 32-1. Election of members. [Amended 5-11-1999 ATM. Art. 55; 9-12-2020ATM by Art. 19]**

A Select Board of five members shall be elected from the town at large for three-year overlapping terms of office. The Board shall exercise general supervision over all matters affecting the interest or welfare of the town. The Select Board shall have all the powers and duties of a board of selectmen under the General Laws and any special laws applicable to the Town of Boxford as well as such other powers and duties as are provided in these bylaws.

**§ 32-2. Claims and suits.**

The Board may settle any claims or suits against the town which in its opinion cannot be defended successfully, acting upon advice of counsel when the amount to be paid exceeds \$1,000. The Board may retain counsel in suits against the town whenever deemed necessary.

**§ 32-3. Appearance before boards to protect town interests.**

The Board may appear personally or by counsel before any committee of the Legislature, or board or commission, to protect the interests of the town, but it is not authorized under this bylaw to commit the town to any course of action.

**§ 32-4. Appointment of committees.**

The Board shall be authorized to appoint the following committees:

- A. Boxford Water Resources and Drainage Committee.<sup>11</sup>
- B. Three members at large of the Capital Budgeting Committee.<sup>12</sup>
- C. Council on Aging.<sup>13</sup>
- D. Finance Committee.<sup>14</sup>

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**10. Editor's Note: The title of this chapter was changed from "Selectmen, Board of" to "Select Board" 9-12-2020ATM by Art. 19.**

**11. Editor's Note: See Ch. 7, Art. IX, Water Resources and Drainage Committee.**

**12. Editor's Note: See Ch. 7, Art. II, Capital Budgeting Committee.**

**13. Editor's Note: See Ch. 7, Art. X, Council on Aging.**

**14. Editor's Note: See Ch. 7, Art. I, Finance Committee.**

- E. Recreation Committee.<sup>15</sup>
- F. Recycling Committee.
- G. Zoning Board of Appeals.<sup>16</sup>
- H. Conservation Commission.<sup>17</sup>
- I. Historic District Commission.<sup>18</sup>
- J. Registrars of Voters.
- K. Election officers.
- L. Town Forest Committee.

#### **§ 32-5. Other appointments.**

The Board shall be authorized to appoint the Chief of the Fire Department, the Chief of the Police Department, and such other police officers as it deems necessary, an Executive Secretary, a Director of Civil Defense, and Inspector of Buildings, and Director of Communications, a Wire Inspector, a Gas Inspector, a Town Counsel, a Town Accountant, an Animal Control Officer, a Forest Warden, a Tree Warden, a Moth Superintendent, an Inspector of Animals, and a Superintendent of Public Works.<sup>19</sup>

#### **§ 32-6. Authority to set certain fees.**

The Board shall be authorized to set inspection fees for building inspections, road inspections, gas and wire inspections, installation or alteration of oil burners and fuel storage tanks, and Tree Warden services. Any person or firm requiring the services of the Tree Warden shall pay the town directly.

#### **§ 32-7. Authority to act on other committees and boards.**

The Board shall be authorized to act on other committees as specified, act as a Board of Public Works, serve as Veterans Agent, without salary, and appoint one of its members to another office or position under its control.

#### **§ 32-8. Disposal of property. [Amended 5-9-1990 ATM, Art. 29; 5-22-1997 ATM, Art. 57; 9-12-2020ATM by Art. 19]**

The Select Board shall be authorized to dispose of personal property owned by the town pursuant to MGL c. 30B.

#### **§ 32-9. Sale of property at public auction. [Amended 5-9-1990 ATM, Art. 30; 9-12-2020ATM by Art. 19]**

The Board shall be authorized to sell by public sale any property the town may acquire or has acquired by foreclosure of tax titles. Said parcels of land shall be sold at public auction, notice of which has been

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15. Editor's Note: See Ch. 7, Art. III, Recreation Committee.

16. Editor's Note: See Ch. 196, Zoning, Art. X, Board of Appeals.

17. Editor's Note: See Ch. 7, Art. VIII, Conservation Commission.

18. Editor's Note: See Ch. 7, Art. XII, Historic Districts Commission.

19. Editor's Note: See Ch. 11, Departments, and Ch. 19, Officers and Employees.

published in a newspaper of local circulation at least seven days in advance thereof, provided that the Select Board Members may, in respect to any parcel, reject any bid which is less than the accumulated taxes and costs thereon and; provided, further, that the Select Board Members may sell at private sale any parcel for which two auction sales, held within a period of 60 days, fail to bring bids high enough to cover the taxes and costs thereon, provided that the failure to send or post a notice as herein stated, or any insufficiency in the notice sent or posted, shall not invalidate the title to any property sold hereunder.

**§ 32-10. Contracts. [Added 5-22-1997 ATM, Art. 46; 9-12-2020ATM by Art. 19]**

The Select Board and the procurement officer or officers designated pursuant to MGL c. 30B are authorized to enter into any contract for the exercise of the town's corporate powers, on such terms and conditions as are deemed appropriate. Notwithstanding the foregoing, no person shall contract for any purposes, on any terms or under any conditions inconsistent with any applicable provision of any general or special law.



**Chapter 36****TOWN MEETING AND ELECTIONS**

**[HISTORY: Adopted by the Town Meeting of the Town of Boxford 5-20-1980 ATM, Art. 40, as Article One of the 1980 Bylaws. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Records and reports — See Ch. 28.

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**§ 36-1. Annual and Special Town Meeting dates; defeated articles.**

- A. The date of the Annual Town Meeting shall be the second Tuesday in May, and the date of the Annual Town Election shall be the following Tuesday. A Special Town Meeting shall be held at the discretion of the Select Board on the fourth Tuesday in October on an annual basis. **[Amended 5-15-1985 ATM, Art. 33; 5-10-1995 ATM, Art. 28; 10-26-2010 STM, Art. 6; 10-22-2011 STM, Art. 10; 9-12-2020ATM by Art. 19]**
- B. The substance of any article, other than collective bargaining agreements, defeated at a Town Meeting shall not again be placed on the warrant until the next Annual Town Meeting except and unless in compliance with MGL c. 39, § 10, as amended. **[Amended 5-11-1988 ATM, Art. 30]**

**§ 36-2. Warrant information. [Amended 5-24-1994 ATM, Art. 45; 9-12-2020ATM by Art. 19]**

Publications containing the articles of the warrant and the budget for the Annual Town Meeting shall indicate the sponsor of each article and the recommendation of the Finance Committee. All warrant articles are to be submitted to the Select Board 30 days prior to the Annual Town Meeting.

**§ 36-3. Quorum.**

The quorum necessary for the transaction of business at any Town Meeting shall be 50 voters.

**§ 36-4. Posting of warrants.**

All warrants for the calling of elections or Annual Town Meetings shall be posted at least seven days in advance thereof on the two public meeting houses in town.

**§ 36-5. Polling hours. [Amended 5-17-1989 ATM, Art. 34]**

The polls for the Annual Town Election shall be open at 7:00 a.m. and remain open at least 13 hours.

**§ 36-6. Nonvoters addressing Town Meeting. [Added 12-1-1981 STM, Art. 10]**

Any nonvoter wishing to address the Town Meeting body may do so only after a two-thirds vote allowing him/her to do so.

**§ 36-7. Unexpended and unencumbered appropriation balances. [Added 10-28-2008 STM, Art. 18;**

**9-12-2020ATM by Art. 19]**

Any unexpended and unencumbered balance of an appropriation made for a specific purpose, except proceeds from bonds and notes, appropriations made for the purpose of meeting future liabilities and appropriations made to special purpose stabilization funds, shall revert to surplus revenue three years after the date the appropriation becomes available, unless a date is otherwise specified in the original appropriation vote; provided, however, that appropriations from specific funds, such as enterprise funds or the Community Preservation Fund, shall revert to such funds, respectively. Notwithstanding the provisions of the previous sentence, however, specific appropriations may (1) revert earlier to surplus revenue, enterprise fund, or the Community Preservation Fund, respectively, upon receipt of a statement from the department, board, or officer authorized to expend the same, subject to confirmation by the Town Accountant, that the specific purpose has been accomplished and that no liabilities remain; (2) be transferred to any other use in accordance with the provisions of MGL c. 44, § 33B; or (3) be retained beyond the three-year period, for such period or periods as the Select Board may deem appropriate on the Board's own initiative or upon written request of the department, board, or officer authorized to expend the same.

**Part II: General Legislation**

**Chapter 45****ALARM SYSTEMS**

**[HISTORY: Adopted by the Town Meeting of the Town of Boxford 5-12-1982 ATM, Arts. 27 and 28; amended in its entirety 10-29-1997 STM, Art. 24. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Fine schedule — See Ch. 1.

Underground storage tank monitoring system alarms — See Ch. 176.

Smoke alarm inspections — See Ch. 91.

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**§ 45-1. Permit required.**

No alarm system or equipment shall be terminated at the Town Communications Center without first obtaining an alarm application permit signed by the Director of Communications, Police Chief or Fire Chief if applicable.

**§ 45-2. Types of equipment allowed.**

The only types of equipment which will be allowed to terminate at the Town Communications Center will be digital dialer and leased line systems, unless otherwise deemed by the Director of Communications to be compatible with the town's emergency alarm monitoring console. Telephone dialing systems which include voice or prerecorded taped messages are not compatible with the town's system and shall therefore not be allowed to connect to the town's system, nor shall they be allowed to call in on any of the Communications Center phone lines.

**§ 45-3. Applicability.**

These equipment specifications apply to all applications for alarm systems made to the Communications Center after May 9, 1979, and to existing systems if subsequently they should abuse the right to access by excessive false alarms or system malfunctions.

**§ 45-4. Fines for false alarms.<sup>20</sup>**

The owners or lessees of a dwelling or business shall be assessed a penalty fine of \$50 for each false alarm other than those caused by faulty telephone service, electrical storms or the town's main monitoring console. New systems will be allowed a two-month grace period, during which a penalty fine will not be assessed. All said penalty fines shall be paid to the Town of Boxford upon receipt of notification from the Communications Department.

**§ 45-5. Automatic shutoff device.**

Any home or business installing or presently using an alarm system with an inside or outside audible bell, siren or horn, must have an automatic shutoff device which will deactivate the audible alarm 20 minutes after the system is activated. Any longer period of time would be considered to be creating a nuisance in the

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**20. Editor's Note: See Ch. 1, General Provisions.**

§ 45-5

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neighborhood. All existing installations shall be in compliance with this bylaw on or before May 12, 1983. Noncompliance with this bylaw shall cause a penalty fine of \$50 to be assessed to the owner or lessee of the dwelling or business, for false alarms pursuant to those outlined under § 45-4, on all alarm systems in town, whether or not they are terminated at the town's alarm monitoring console.

**§ 45-6. Backup power source.**

Any home or business installing or presently using alarm systems of any type terminating at the town's alarm monitoring console or not, shall have a backup power source to maintain their system during power failure for a time of at least 12 hours. All existing systems shall be in compliance with this bylaw on or before May 12, 1983.

ALCOHOLIC BEVERAGES

**Chapter 48**

ALCOHOLIC BEVERAGES

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

GENERAL REFERENCES

Noncriminal disposition — See Ch. 1.

ARTICLE I

**Public Consumption**

**[Adopted 5-12-1981 ATM, Art. 27]**

**§ 48-1. Drinking in public prohibited.**

No person(s) shall drink any alcoholic beverages as defined in MGL c. 138, § 1, while on, in or upon any public way or upon any way to which the public has a right of access or license, park or playground, school grounds or private land or place without the consent of the legal owner or person in control thereof. Any person(s) found drinking any alcoholic beverages in such public places shall be arrested and prosecuted according to law.

**§ 48-2. Seizure of alcoholic beverages.**

All alcoholic beverages being used in violation of this bylaw shall be seized and safely held for trial before the Court, at which time they shall be returned to the person(s) entitled to lawful possession, unless otherwise ordered by the Court.

**§ 48-3. Violations and penalties.**

Whoever violates this bylaw shall be subject to a fine of \$100 for each offense.

## ARTICLE II

**Consumption on Certain Premises  
[Adopted 10-22-1996 ATM, Art. 12]****§ 48-4. Consumption on premises operating with common victualer's license; exception.**

No patron, customer or other person shall bring onto the premises for consumption and consume any alcoholic beverage, wine, beer or malt beverages on any premises operating with a common victualer's license within a B-1 Retail Business District (as defined in the Boxford Zoning Bylaw<sup>21</sup>). This section shall not prevent any person duly licensed pursuant to MGL c.138, § 12, or other legal authority from bringing alcoholic beverages, wine, beer or malt liquors onto the duly licensed premises for consumption thereon.

**§ 48-5. Violations and penalties.**

Whoever shall violate this bylaw shall be fined \$50 for the first offense and \$100 for subsequent offense. Each separate container containing such alcoholic beverages, wine, beer or malt beverages shall constitute a separate violation.

**§ 48-6. Enforcing officials.**

The enforcing officials shall be the town's licensing authority or agents and the law enforcement officials of the town.

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21. Editor's Note: See Ch. 196, Zoning.





ANIMALS

**Chapter 52**

ANIMALS

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

GENERAL REFERENCES

Stables — See Ch. 159.

Stable licensing — See Ch. 203.

Horse-driven vehicles — See Ch. 182.

## ARTICLE I

**General Regulations****[Adopted 5-20-1980 ATM, Art. 40, as Secs. 8-4-1 through 8-4-5 of the 1980 Bylaws]****§ 52-1. Running at large.**

No owner or keeper of a hound shall permit it to run without chain or leash at any time between one-half hour after sunset and one-half hour before sunrise on property not owned or occupied by said owner or keeper.

**§ 52-2. Licenses for use of dogs for trailing. [Amended 9-12-2020ATM by Art. 19]**

The Select Board may issue licenses to use dogs at any time of day or night, in trailing and securing any animal which has been molesting crops, poultry or livestock.

**§ 52-3. Animals in heat.**

If the Animal Control Officer determines that a female animal in heat, even when confined, is attracting other animals, thus causing a disturbance or damage to neighboring property or public areas, he may require the owner or keeper to keep said animal, while in heat, in a kennel or to remove it from the area so that the nuisance is abated.

**§ 52-4. Restraining of dogs. [Amended 9-12-2020ATM by Art. 19]**

The Animal Control Officer is authorized to require owners or keepers of dogs to restrain their dogs from running at large in schools, school playgrounds, parks or public recreational areas. He may also require owners or keepers of dogs to restrain their dogs from running at large when he determines that any such dog is an annoyance, is dangerous or is known to cause damage in a neighborhood. Within 10 days after any determination, an owner or keeper of such dog may appeal in writing to the Select Board.

**§ 52-5. Violations and penalties. [Amended 5-22-1997 ATM, Art. 53]**

Notwithstanding the schedule of fines set forth in MGL c. 140, § 173A, the following schedule shall apply to the failure of any owner or keeper of dogs to comply with an order of the Animal Control Officer:

- A. First offense within a calendar year shall be a warning.
- B. Second offense within a calendar year shall be \$25.
- C. Third or subsequent offense within a calendar year shall be \$50.

ARTICLE II  
**Licensing of Dogs**  
**[Adopted 5-12-1981 ATM, Art. 31]**

**§ 52-6. License required. [Amended 5-12-1993 ATM, Art. 28]**

Any owner or keeper of a dog six months of age or older in the Town of Boxford shall cause that dog to be licensed as required by MGL c. 140 within the stipulated time.

**§ 52-7. Proof of rabies vaccination.**

A prerequisite of application for the license shall be the accompanying submission of proof of vaccination of the dog for rabies within the preceding period as required by the laws of the commonwealth by a person qualified to administer such vaccination, which vaccine shall have been approved by the Department of Public Health of the commonwealth.

**§ 52-8. Fee. [Amended 5-12-1993 ATM, Art. 28; 5-13-2003 ATM, Art. 20]**

The fee for such license shall be in the amount required by MGL c. 140, § 139, as amended. Should any owner or keeper of a dog fail to license that dog before January 31, that owner or keeper shall pay a late fee of \$25 before obtaining said license, excepting a dog brought into the Town as provided in MGL c. 140, § 138, this late fee shall be applicable from the 31st day after arrival of such dog.

**§ 52-9. Kennel license late fee. [Amended 5-12-1993 ATM, Art. 28; 5-13-2003 ATM, Art. 20]**

Any person maintaining a kennel in the Town of Boxford, who fails to license as prescribed by this bylaw and the laws of the commonwealth, before January 31, shall pay a late fee of \$40.

**§ 52-10. Disposition of fees.**

Such fees as collected by the Animal Control Officer or Town Clerk shall be accounted for and paid over to the Town Treasurer to be incorporated into the general fund.

**§ 52-11. Penalty for failure to vaccinate against rabies. [Added 5-22-1997 ATM, Art. 52; amended 5-14-2013 ATM, Art. 31]**

The failure of an owner or keeper of a dog six months of age or older to have said animal vaccinated against rabies by a licensed veterinarian using a vaccine approved by the Massachusetts Department of Public Health shall be subject to a noncriminal fine of not more than \$100, pursuant to § 1-4 of the General Bylaws of the town.

**§ 52-12. Penalty for failure to license. [Added 10-29-1997 STM, Art. 16; amended 5-14-2013 ATM, Art. 31]**

Notwithstanding the schedule of fines set forth in MGL, c. 140, § 141, or any other provision of law to the contrary, any owner of a dog who fails to license that dog pursuant to the requirements of MGL c. 140, § 137, or who violates the provisions of §§ 137A or 137B regarding the requirements of kennel licensing and sales of dogs from kennels, or § 138 regarding a change in ownership of a licensed dog or the bringing into the Town a dog licensed in some other state may at the election of the enforcing person be subject to a noncriminal fine of \$50, pursuant to § 1-4 of the General Bylaws of the town.

## ARTICLE III

## Fees

**[Adopted 11-17-1987 STM, Art. 5]****§ 52-13. Registering and licensing of dogs in office of Town Clerk.**

Notwithstanding the provisions of MGL c. 140, § 137, or any other provision of law to the contrary, the registering, numbering, describing and licensing of dogs, if kept in the Town of Boxford, shall be conducted in the office of the Town Clerk.

**§ 52-14. Annual dog licensing fees. [Amended 5-12-1993 ATM, Art. 28; 5-22-1996 ATM, Art. 62]**

Notwithstanding the provisions of MGL c. 140, § 139, of said or any other provision of law to the contrary, the annual fees to be charged by the Town of Boxford for the issuance of licenses for dogs shall be:

- A. All spayed and neutered dogs: \$20; all intact dogs: \$25. **[Amended 5-13-2003 ATM, Art. 20; 5-14-2013 ATM, Art. 31]**
- B. Kennels (5 or more dogs): \$125.

**§ 52-15. Compensation for livestock killed by dogs.**

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

**§ 52-16. Disposition of fees, fines and penalties.**

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

ARTICLE IV

**Dogs Running at Large**

**[Adopted 5-11-1988 ATM, Art. 34]**

**§ 52-17. Certain dogs restrained from running at large.**

Dogs which are either not owned by a Town resident but kept in the Town and not licensed by the Town or owned or kept by a Town resident but not licensed by the Town shall be restrained from running at large.

ARTICLE V

**Impoundment Fees**

**[Adopted 5-11-1988 ATM, Art. 35]**

**§ 52-18. Animal Control Officer fee allowances. [Amended 5-13-2003 ATM, Art. 20]**

The Animal Control Officer shall be allowed \$5 for each dog within the Town found to be in violation of these bylaws and shall be allowed boarding fees, consistent with the rates of the impounding kennel for each day or portion thereof for the care of such dog. These fees shall be paid by the owner or keeper of the dog, if known, otherwise by the Town Treasurer. The Animal Control Officer shall be paid \$10 by the owner or keeper of each dog for processing its release. This sum shall be paid over to the Town Treasurer.

ARTICLE VI

**Horses and Dogs in Harness**  
**[Adopted 5-11-1988 ATM, Art. 38]**

**§ 52-19. Frightening animals working in harness.<sup>22</sup>**

No person shall by any noise, gesture, words or other means, frighten a horse or dog working in harness in any public way in the town.

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**22. Editor's Note: See the fine schedule in Ch. 1, General Provisions.**

ARTICLE VII

**Loose or Truant Livestock**

**[Adopted 5-12-1993 ATM, Art. 33]**

**§ 52-20. Loose animal response calls.**

Loose or truant domestic livestock, exclusive of dogs and cats, including but not limited to horses, ponies, cattle, sheep, goats, pigs, llamas and so on shall be limited to two loose animal response calls by Animal Control and/or Police Department personnel in any six-month period for each dwelling, stable or livestock business location occurrence.

**§ 52-21. Violations and penalties.**

The owner of the dwelling, stable or livestock business shall be assessed a penalty of \$25 for the third animal call in the calendar year, which constitutes the first violation; \$50 for each subsequent violation in the calendar year; such penalty to be paid to the Town of Boxford, and enforced through a noncriminal disposition, pursuant to MGL, c. 40, § 21(d), as amended.



ARTICLE VIII  
**Nuisance Dogs**  
[Adopted 5-24-1994 ATM, Art. 42]

**§ 52-22. Annoying, dangerous and nuisance dogs.**

The owner or keeper of a dog shall be prohibited from allowing a dog to be annoying, dangerous or a nuisance.

**§ 52-23. Term defined.**

For the purposes of this bylaw, "annoying, dangerous or a nuisance" includes the following: molesting passersby or passing vehicles (including bicycles), attacking persons or domestic animals, trespassing on school grounds or other public property, damaging public or private property, barking, whining or howling in an excessive continuous or untimely fashion, or being on the property of an owner who does not wish the dog on his or her property.

**§ 52-24. Violations and penalties.**

- A. Violations of this section of the bylaws shall be noncriminal in nature and violators shall be subject to the following fines:
- (1) First offense: warning only.
  - (2) Second offense: \$25.
  - (3) Third and subsequent offense: \$50.
- B. All fines and fees due and payable shall be remitted to the Town before the dog can be returned to its owner.

**§ 52-25. Enforcing official**

The enforcing official of this bylaw shall be the Animal Control Officer of the town.



## BOARDING AND ROOMING HOUSES

### Chapter 58

## BOARDING AND ROOMING HOUSES

**[HISTORY: Adopted by the Town Meeting of the Town of Boxford 5-14-1986 ATM, Art. 29. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Noncriminal disposition — See Ch. 1.

Accessory apartments in residence districts — See Ch. 196.

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#### **§ 58-1. Registration required.**

All boarding or rooming houses or accessory apartments shall be registered annually by the owner during the month of January with the Town Clerk, including a list of occupants, as required by MGL c. 51, § 4.

#### **§ 58-2. Registration fee. [Amended 5-14-1996 ATM, Art. 61]**

The registration fee shall be \$15.

#### **§ 58-3. Violations and penalties. [Amended 5-22-1991 ATM, Art. 40]**

Failure to comply with the provisions of this bylaw shall be punishable by a fine of not more than \$200. Each three-month period or fraction thereof of such violation shall be considered a separate offense, following notice of such violation.<sup>23</sup>

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23. Editor's Note: See Ch. 1, General Provisions, for noncriminal disposition fine.

BOXFORD CODE

**Chapter 61**

**BOATS**

**[HISTORY: Adopted by the Town Meeting of the Town of Boxford 5-20-1980 ATM, Art. 40, as Sec. 8-1-1 of the 1980 Bylaws. Amendments noted where applicable.]**

GENERAL REFERENCES

Noncriminal disposition — See Ch. 1

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**§ 61-1. Operation of certain boats on great ponds restricted.**

No person shall operate a boat equipped with more than a ten horsepower motor on great ponds in Boxford according to MGL c. 131, § 45, as amended.

BUILDINGS, NUMBERING OF

**Chapter 65**

**BUILDINGS, NUMBERING OF**

**[HISTORY: Adopted by the Town Meeting of the Town of Boxford 5-9-1984 ATM, Art. 32. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Assignment of house numbers — See Ch. 300, § 300-9.

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**§ 65-1. Display of official numbers; violations and penalties.**

- A. No residents shall display any house number other than that officially assigned by the Inspector of Buildings, subject to a fine of \$50.
- B. Each one-month period or fraction thereof of such violation shall be considered a separate offense, following notice of violation. **[Amended 5-22-1991 ATM, Art. 40]**

**§ 65-2. Visibility of numbers. [Added 5-11-1988 ATM, Art. 36; amended 5-22-1991 ATM, Art. 40]**

All dwellings, public buildings and businesses shall be properly identified by number (assigned by the Inspector of Buildings) in order to be reasonably visible to persons or vehicles approaching from either direction, in the following manner: each building shall have its proper and legible street number affixed in the front entrance. If the number is not visible from the street, the property shall also display the proper legible number on an object affixed in the ground at the end of the driveway. Each one-month period or fraction thereof of such violation shall be considered a separate offense, following notice of violation.

**§ 65-3. Identification of new buildings; fine.**

- A. All new buildings shall be properly identified with specifications listed in this subsection and in § 65-1 before an occupancy permit is issued. All property owners shall be in compliance with this bylaw on or before September 1, 1988.
- B. All property owners shall be subject to a fine of \$50 for each thirty-period of noncompliance. **[Added 5-11-1988 ATM, Art. 36]**

BOXFORD CODE

**Chapter 77**

**DRAINAGE**

**[HISTORY: Adopted by the Town Meeting of the Town of Boxford 5-20-1980 ATM, Art. 40, as Sec. 10-2-4 of the 1980 Bylaws. Amendments noted where applicable.]**

**§ 77-1. Permission to alter grades required. [Amended 9-12-2020ATM by Art. 19]**

There shall be no digging, filling or alteration of grades or drainage on any town property on or adjacent to public ways or over which the town has a right-of-way except by permission of the Select Board or its authorized agent.

## DRIVEWAYS

### Chapter 80

## DRIVEWAYS

**[HISTORY: Adopted by the Town Meeting of the Town of Boxford 5-20-1980 ATM, Art. 40, as Sec. 10-2-5 of the 1980 Bylaws. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Markers for common driveways — See Ch. 300, § 300-22.

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#### **§ 80-1. Change of grade.**

No person shall grade or change the grade on a driveway at the intersection of a public way so as to obstruct the removal of snow, the drainage of water or otherwise cause hazardous road conditions.

#### **§ 80-2. New construction.**

Wherever new construction or alteration is done on a lot fronting upon a public way, no occupancy permit shall be issued until the Superintendent of Public Works finds that the grading and drainage of the intersecting driveway or driveways are adequate and do not obstruct removal of snow or drainage of water or otherwise cause hazardous conditions.

BOXFORD CODE

**Chapter 91**

**FIRE PREVENTION**

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

**GENERAL REFERENCES**

Alarm system — See Ch. 45.

Underground storage tanks — See Ch. 176.



ARTICLE I  
**Smoke-Detection Systems Inspections**  
**[Adopted 5-11-1982 ATM, Art. 8]**

**§ 91-1. Issuance of permits; fee.**

The Fire Chief shall issue permits for smoke-detection and smoke alarm system inspections and shall charge a fee of \$10.

ARTICLE II  
**Open Burning**  
[Adopted 10-28-2008 STM, Art. 17]

**§ 91-2. (Reserved)**

**§ 91-3. Permit issuance; prohibited acts; restrictions.**

Open burning of brush, cane, driftwood and forestry debris by homeowners on their property may be permitted by the Fire Chief or his/her designee during open burning season, which shall be from January 15 to May 1 of each year. Open burning permits may be issued at the sole discretion of the Fire Chief or his/her designee and may be suspended or revoked due to adverse weather conditions or failure of the permit holder to comply with the terms of this bylaw or any rules or regulations issued by the Fire Chief. Burning of stumps, construction materials, logs, large branches (greater than four inches in diameter), tires and trash are strictly prohibited. Open burning permits must be obtained in advance of any open burning and shall be valid for the open burning season. The holder of an open burning permit shall notify the Boxford Communications Department each day the homeowner intends to conduct an open burn. Open burning may only be conducted between 10:00 a.m. and 4:00 p.m., on the land closest to the source of material to be burned, must be 75 feet from any building, with a water supply such as a pressurized, functioning garden hose in close proximity, and must be attended by an adult until completely extinguished.

**§ 91-4. Violations and penalties.**

Failure to obtain a permit, extinguish the fire by the designated time, or comply with the terms of this bylaw or any open burning regulations may result in the assessment of a fine of \$100 for each occurrence as permitted by Town Bylaws, or any other remedy as appropriate pursuant to MGL c. 48, § 13.



BOXFORD CODE

**Chapter 102**

**HUNTING AND FIREARMS**

**[HISTORY: Adopted by the Town Meeting of the Town of Boxford 5-20-1980 ATM, Art. 40, as Secs. 8-2-1 through 8-2-3 of the 1980 Bylaws. Amendments noted where applicable.]**

GENERAL REFERENCES

Noncriminal disposition — Ch. 1.

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**§ 102-1. Discharge prohibited in certain areas; exception.**

No person shall fire or discharge any gun, fowling piece or firearm within 200 feet of any street in town or on any private grounds, except with the consent of the owner; provided, however, that this bylaw not apply to the use of such weapons at any military exercise or in the lawful defense of the person, family or property of any citizen.

**§ 102-2. Discharge on park or school property; landowner's hunting permit. [Amended 5-11-1988 ATM, Art. 33]**

- A. No person shall fire or discharge any handgun, rifle, shotgun or any other device or weapon within limits of any park, playground, school or other town property except with the consent of the Select Board. **[Amended 9-12-2020ATM by Art. 19]**
- B. No person shall hunt with, fire or discharge any such weapon on any private property except with the written consent of the owner or legal occupant thereof. Such consent shall be renewed annually with a copy sent to the Police Department which shall issue a Boxford landowner's hunting permit. Persons hunting without a Boxford landowner's hunting permit shall be fined up to \$150 per occurrence. Land owners or legal occupants discharging weapons on their own land or public safety officers in performance of their duty are exempt from the provisions of this bylaw.

**§ 102-3. Exceptions.**

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

## JUNK DEALERS

### Chapter 105

## JUNK DEALERS

**[HISTORY: Adopted by the Town Meeting of the Town of Boxford 5-20-1980 ATM, Art. 40, as Secs. 9-1-3 and 9-1-4 of the 1980 Bylaws. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Noncriminal disposition — See Ch. 1.

Junkyards — See Ch. 196, § 196-19.

Inoperative vehicles — See Ch. 185.

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#### **§ 105-1. Authority of Select Board. [Amended 9-12-2020ATM by Art. 19]**

The Select Board may license suitable persons to be dealers in and keepers of shops for the purchase, sale or barter of junk, old metals or secondhand metals. The Board may also license suitable persons as junk collectors to collect, by purchase or otherwise, junk, old metals and secondhand articles from place to place in town. It may also provide that such collectors display badges on their persons or vehicles, or both, when engaged in collecting, transporting or dealing in junk, old metals or secondhand articles, and it may prescribe the design thereof. It may also provide that such shops and all articles or merchandise therein, any place, vehicle or receptacle used for collection or keeping of such articles may be examined at any time by any authorized persons.

#### **§ 105-2. Sign required.**

Every keeper of a shop for the purchase, sale or barter of junk, old metals or secondhand articles shall place, in a suitable and conspicuous site in his shop, a sign having his name and occupation legibly inscribed thereon.

BOXFORD CODE

**Chapter 109**

**LICENSING**

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

**GENERAL REFERENCES**

**Dog licensing — See Ch. 52, Art. II.**

**Hunting and firearms — See Ch. 102.**

## ARTICLE I

**Delinquent Taxpayers****[Adopted 5-22-1997 ATM, Art. 47]****§ 109-1. List of persons neglecting or refusing to pay taxes, assessments or municipal charges.**

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 furnish to each department, board, commission or division (hereinafter referred to as the "licensing authority") that issues licenses or permits, including renewals and transfers, a list of any person, corporation or business enterprise (hereinafter referred to as the "party") that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve-month period, 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.

**§ 109-2. Denial, refusal or suspension of license; hearing.**

- A. The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers, of any party whose name appears on said list furnished to the licensing authority from the Tax Collector or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the Tax Collector; provided, however that written notice is given to the party and the Tax Collector, as required by applicable provisions of law and the party is given a hearing, to be held not earlier than 14 days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party.
- B. The Tax Collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension.
- C. 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.
- D. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the licensing authority receives a certificate issued by the Tax Collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the municipality as of the date of issuance of said certificate.
- E. 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 given notice and a hearing as required by applicable provisions of law.

**§ 109-3. Waiver of denial, suspension or revocation. [Amended 9-12-2020ATM by Art. 19]**

The Select Board may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate

family, as defined in MGL c. 268A, § 1, in the business or activity conducted in or on said property.

**§ 109-4. Exceptions.**

This bylaw shall not apply to the following licenses and permits as referenced in the Massachusetts General Laws:

- A. Open burning: MGL c. 48, § 13.
- B. Bicycles permits: MGL c. 85, § 11A.
- C. Sales of articles for charitable purposes: MGL c. 101, § 33.
- D. Children work permits: MGL c. 149, § 69.
- E. Clubs, associations dispensing food or beverage licenses: MGL c. 140, § 21E.
- F. Dog licenses: MGL c. 140, § 137.
- G. Fishing, hunting, trapping licenses: MGL c. 101, § 12.
- H. Marriage licenses: MGL c. 207, § 28.
- I. Theatrical events, public exhibition permits: MGL c. 140, § 181.





BOXFORD CODE

**Chapter 112**

**LITTERING**

**[HISTORY: Adopted by the Town Meeting of the Town of Boxford 5-20-1980 ATM, Art. 40, as Sec. 10-2-1 of the 1980 Bylaws. Amendments noted where applicable.]**

GENERAL REFERENCES

Noncriminal disposition — See Ch. 1.

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**§ 112-1. Distribution of papers and advertising matter.**

No person shall deposit papers, circulars or advertising matter of any kind in the public ways of town, nor distribute the same through the town in such a manner as to create a disturbance or litter.

MARIJUANA OR TETRAHYDROCANNABINOL

**Chapter 117**

**MARIJUANA OR TETRAHYDROCANNABINOL**

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

## ARTICLE I

**Public Consumption****[Adopted 5-14-2013 ATM, Art. 30]****§ 117-1. Public consumption prohibited.**

No person shall smoke, ingest, or otherwise consume marijuana or tetrahydrocannabinol (as defined in MGL c. 94C, § 1, as amended) while in or upon any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, schoolhouse, school grounds, cemetery, parking lot, or any area owned by or under control of the Town, or in or upon any bus or other passenger conveyance operated by a common carrier within the Town, or in any place accessible to the public within the Town.

**§ 117-2. Violations and penalties.**

Violation of § 117-1 is punishable by a fine of up to \$300, enforceable through criminal indictment or complaint under MGL c. 40, § 21. Any penalty imposed under this bylaw shall be in addition to any civil penalty imposed under MGL c. 94C, § 32L.

ARTICLE II  
**Marijuana Establishments**  
[Adopted 5-8-2018 ATM by Art. 14<sup>24</sup>]

**§ 117-3. Marijuana establishments prohibited.**

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

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24. Editor's Note: This bylaw was adopted subsequent to a moratorium on recreational marijuana establishments imposed 5-9-2017 ATM by Art. 22.



NOISE

**Chapter 121**

NOISE

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

GENERAL REFERENCES

Alarm systems — See Ch. 45.

Peace and good order — See Ch. 129.

Nuisance dogs — See Ch. 52, Art. VIII.

Motor-driven vehicles — See Ch. 188.

ARTICLE I

**Use of Brakes**

**[Adopted 5-11-2004 ATM, Art. 35]**

**§ 121-1. Excessive noise from compression brakes prohibited.**

Except in the case of an emergency, it is unlawful for the driver of any vehicle to use or operate, or cause to be used or operated within the Town limits of the Town of Boxford, any compression brake, engine brake, dynamic brake or mechanical exhaust device designed to assist in the deceleration or braking of any motor vehicle, if such device or devices result in excessive, loud, or otherwise unusual noise. Violation would be subject to a fine of \$200.





BOXFORD CODE

**Chapter 125**

**PARKING**

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

GENERAL REFERENCES

Off-street parking areas — See Ch. 196, § 196-26.

ARTICLE I

**Overnight Parking**

**[Adopted 5-20-1980 ATM, Art. 40, as Sec. 10-2-3 of the 1980 Bylaws]**

**§ 125-1. Parking prohibited certain months.**

No overnight parking shall be permitted on the streets of Boxford from December 1 to April 1.



PEACE AND GOOD ORDER

**Chapter 129**

**PEACE AND GOOD ORDER**

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

**GENERAL REFERENCES**

**Noncriminal disposition — See Ch. 1**

**Signs — See Ch. 196, § 196-27.**

ARTICLE I

**Public Property**

**[Adopted 5-20-1980 ATM, Art. 40, as Secs. 10-1-1 and 10-1-2 of the 1980 Bylaws]**

**§ 129-1. Defacing public property.**

No person shall willfully deface or injure any public playground, planting space, flower bed, grass, border, guidepost, guideboard, official sign, post or signaling device for the direction of traffic, lamppost or any building, fence or monument, or other thing situated, erected or made for the use or ornament of the town.

**§ 129-2. Permission required to post signs and advertisements. [Amended 9-12-2020ATM by Art. 19]**

No person, unless required by law to do so, shall make any marks, letters or figures of any kind, place any sign, advertisement or placard upon or against any wall, fence, post, ledge, stone, building or structure in or upon any public way in town, without the permission of the owner thereof, nor upon any sidewalk or upon any property of the town without the permission of the Select Board.



BOXFORD CODE

**Chapter 132**

**PEDDLING AND SOLICITING**

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

**GENERAL REFERENCES**

**Noncriminal disposition — See Ch. 132.**



ARTICLE I

**Solicitors**

**[Adopted 5-20-1980 ATM, Art. 40, as Secs. 9-1-1 and 9-1-2 of the 1980 Bylaws]**

**§ 132-1. Permit required.**

No person shall solicit to sell or distribute merchandise on a house-to-house basis in town without first obtaining a permit from the Boxford Police Department.

**§ 132-2. Personal identification required.**

Door-to-door solicitors shall have in their possession and show, upon request, official personal identification, such as a driver's license, draft registration card, social security card or equivalent or suitable identification issued by the Boxford Police Department.

ARTICLE II

**Peddlers**

**[Adopted 5-20-1980 ATM, Art. 40, as Secs. 9-2-1 and 9-2-2 of the 1980 Bylaws]**

**§ 132-3. Crying of wares.**

No person hawking, peddling or carrying or exposing any article for sale shall cry his wares to the disturbance of the peace and comfort of the inhabitants of the town. No hawker or peddler shall carry or convey such articles in any manner that will tend to injure or disturb the public health or comfort.

**§ 132-4. Special license for operation on town-owned property. [Added 8-10-1994 STM, Art. 11; amended 9-12-2020ATM by Art. 19]**

The Select Board may, at its discretion, issue a license for a period of up to one year to a town-operated or nonprofit organization to conduct an enterprise or activity on town-owned property.



BOXFORD CODE

**Chapter 145**

**SEWAGE DISPOSAL**

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

**GENERAL REFERENCES**

**Percolation testing dates — See Ch. 201, Art. III.**

ARTICLE I

**Percolation Tests**

**[Adopted 5-20-1980 ATM, Art. 40, as Sec. 7-1-1 of the 1980 Bylaws]**

**§ 145-1. Payment of fee by applicant for sewage disposal permits.**

When in the course of its duties the Board of Health deems it necessary to conduct percolation tests in connection with sewage disposal permits, the applicants shall pay the required fee.



SMOKING

**Chapter 150**

**SMOKING**

**[HISTORY: Adopted by the Town Meeting of the Town of Boxford 5-24-1994 ATM, Art. 44; amended 12-14-1994 STM, Art. 6. Subsequent amendments noted where applicable.]**

GENERAL REFERENCES

School Committee — See Ch. 7, Art. IV.

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**§ 150-1. Smoking and use of tobacco products prohibited in all Town buildings and schools and on school property. [Amended 5-14-2013 ATM, Art. 29]**

Smoking and use of tobacco products shall be prohibited in all Town buildings and schools and on all school property.

**§ 150-2. Terms defined. [Amended 5-14-2013 ATM, Art. 29]**

Smoking shall be defined as smoking or possessing a lighted or otherwise activated cigarette, cigar, pipe, electronic cigarette, or other smoking article.

Tobacco products shall be defined as products or materials which allow the stimulating components of tobacco to be absorbed through the digestive tract, including but not limited to chewing tobacco or tobacco powder; and products or materials which allow the stimulating components of tobacco to be absorbed through the mucous membrane, including but not limited to snuff.

Electronic cigarette shall be defined as a cigarette-shaped device containing a nicotine-based liquid that is vaporized and inhaled, used to simulate the experience of smoking tobacco.

**§ 150-3. Violations and penalties.**

A. Violators of this section shall be subject to the following fines: **[Amended 5-14-2002 ATM, Art. 17]**

- (1) First offense: \$25.
- (2) Second offense: \$50.
- (3) Third and subsequent offenses: \$100.

B. Said fines shall be paid to the Town of Boxford.

**§ 150-4. Enforcing officials.**

The enforcing officials shall be those persons designated by the School Committee in control of the applicable school and the law enforcement officials of the town.

BOXFORD CODE

**Chapter 156**

**SOLID WASTE**

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

GENERAL REFERENCES

Noncriminal disposition — See Ch. 1.

Appointment of Recycling Committee — See Ch. 32.

Recycling operations by Board of Health — See Ch. 7, Art. VI.

Solid waste — See Ch. 204.



ARTICLE I  
**Sanitary Landfill**  
**[Adopted 6-18-1991 STM, Art. 4]**

**§ 156-1. Recycling areas hours.**

The recycling area of the Boxford Sanitary Landfill shall be open for Boxford residents only, according to posted hours for the deposit of recyclables as defined by the State Department of Environmental Protection and the Boxford Board of Health rules and regulation.

**§ 156-2. Responsibility for daily operation.**

The Department of Public Works shall be responsible, in conformity with the rules and regulations of the State Department of Environmental Protection and the Boxford Board of Health, for the daily operation of the sanitary landfill.

**§ 156-3. Use of recycling area by Boxford residents only.**

The recycling area at the Boxford Sanitary Landfill shall be for the exclusive use of Boxford residents.

**§ 156-4. Commercial trash haulers.**

Only commercial trash haulers, contracted by the town, may use the Boxford Sanitary Landfill to dispose of trash collected from residents of Boxford.



STABLES

**Chapter 159**

STABLES

**[HISTORY: Adopted by the Town Meeting of the Town of Boxford 5-22-1997 ATM, Art. 56. Amendments noted where applicable.]**

GENERAL REFERENCES

Stable licensing — See Ch. 203.

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**§ 159-1. Fee.**

A licensing fee of \$10 shall be assessed for each stable, said fee to be paid once per seven-year period.

**Chapter 160****STORMWATER MANAGEMENT**

**[HISTORY: Adopted by the Town Meeting of the Town of Boxford 5-9-2006 ATM, Art. 31. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Conservation Commission — See Ch. 7, Art. VIII.

Earth removal and earth filling projects — See Ch. 205.

Water Resources and Drainage Committee — See Ch. 7, Art. IX

Stormwater management regulations — See Ch. 295.

Wetlands protection — See Ch. 192.

Subdivision of land — See Ch. 300.

Zoning — See Ch. 196.

Wetlands protection regulations — See Ch. 375.

Subsurface sanitary systems — See Ch. 201.

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**§ 160-1. Determinations.**

It is hereby determined that:

- A. Construction site stormwater runoff and post-construction stormwater discharges may permanently alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, which in turn may increase flooding, stream channel erosion, non-point source pollution, and sediment transport and deposition, and decrease groundwater recharge;
- B. Construction site stormwater runoff and post-construction stormwater discharges, as well as illicit discharges, can adversely affect public safety, public and private property, surface water, groundwater resources, drinking water supplies, recreation, aquatic habitats, fish and other aquatic life, property values and other uses of land and water; **[Amended 5-14-2019 ATM, Art. 22]**
- C. It is in the public interest to regulate construction site stormwater runoff and post-construction stormwater discharges in order to minimize the impacts identified above.

**§ 160-2. Purposes; objectives.**

- A. The purpose of this bylaw is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of construction site stormwater runoff and post-construction stormwater discharges, as well as illicit discharges. This bylaw seeks to meet these purposes through the following objectives: **[Amended 5-14-2019 ATM, Art. 22]**
  - (1) Establish decision-making processes surrounding construction site activities that protect the integrity of the watershed and preserve the health of water resources;
  - (2) Require that construction site activities maintain the post-construction runoff characteristics as equal to or less than the pre-construction runoff characteristics;
  - (3) Establish minimum construction site and post-construction stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;

- (4) Encourage the use of nonstructural stormwater management practices or "low-impact development practices";
  - (5) 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;
  - (6) Establish provisions to ensure there is an adequate funding mechanism, including surety, for the proper review, inspection and long-term maintenance of stormwater facilities implemented as part of this bylaw; and,
  - (7) Establish administrative procedures and fees for the submission, review, approval or disapproval of stormwater management plans and for the inspection of approved active projects and long-term follow-up.
  - (8) Establish a prohibition on illicit discharges and a mechanism and authority to remove any illicit discharges that may be discovered.
- B. Nothing in this bylaw is intended to replace the requirements of the Town of Boxford Wetlands Protection Bylaw or any other bylaw that may be adopted by the Town of Boxford, or any state or federal requirement, law, regulation, or policy. Any activity subject to the provisions of this bylaw must comply with any other applicable Town, state or federal requirement.

### **§ 160-3. Definitions.**

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

**ABUTTER** — Means the owner of any property any portion of which lies within 250 feet radially from any lot line of the subject property including owners of land directly opposite on any public or private street or way including any in another municipality or across a body of water. In the case of property that has frontage on a pond, abutters shall include all those properties with frontage on the pond or pond association if in existence.[Added 10-23-2007STM, Art. 17; amended 10-22-2011 STM, Art. 12]

**ALTERATION** — Any activity which will measurably change the ability of a ground surface area to absorb water or will change existing surface drainage patterns. Examples include but are not limited to earthmoving, paving, and modification of existing vegetation.

**CONSTRUCTION SITE** — Any site where activity is proposed or occurs that involves the alteration of an area of one acre (43,560 square feet) or more during or post-construction, or that will alter less than one acre of land but is part of a larger, common plan of development or sale that will ultimately disturb one acre or more of land. A project with a "limit of disturbance" shown on a plan encompassing an acre or more is a construction site.

**HOTSPOT** — Land uses or activities, without regard to square footage, that have the potential for high stormwater runoff pollutant loadings, including but not limited to auto fueling facilities, fleet storage yards, municipal and commercial parking lots, road salt storage areas and designated snow disposal areas, long-term staging areas for construction or landscaping operations, and commercial outdoor maintenance, storage or loading areas.

**ILLICIT DISCHARGE** — Means any discharge to an MS4 that is not composed entirely of stormwater, except discharges pursuant to an NPDES permit, discharges resulting from fire-fighting activities, and discharges allowed pursuant to Section 1.4. of the Massachusetts MS4 General Permit effective July 1, 2018.[Added 5-14-2019 ATM, Art. 22]

**MAJORITY VOTE** — Means a vote by a majority of the Commission for all actions taken under § 160-5 of the Stormwater Management Bylaw (Administration) and issuance of enforcement orders, and a vote by a majority of a quorum of the Commission for all other matters under the bylaw or under these Regulations.**[Added 10-23-2007STM, Art. 17]**

**MASSACHUSETTS STORMWATER MANAGEMENT STANDARDS** — The Standards 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 GL c. 131 § 40 and Massachusetts Clean Waters Act GL c. 21, §§ 23-56, to prevent or reduce pollutants from reaching water bodies and control the quantity of runoff from a site.**[Amended 9-12-2020 ATM, Art. 13]**

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)** — Municipal separate storm sewer system means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that are: (i) owned or operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under Section 208 of the Federal Clean Water Act that discharges to waters of the United States; (ii) designed or used for collecting or conveying stormwater; (iii) which is not a combined sewer; and (iv) which is not part of a publicly owned treatment works (POTW) as defined at 40 CFR 122.2.**[Added 10-23-2007STM, Art. 17]**

**NPDES PHASE II REGULATED AREA** — The area within Boxford identified by the U.S. Environmental Protection Agency as "Designated MS4 Area" under the National Pollutant Discharge Elimination System (NPDES) Phase II Stormwater Program.

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

#### **§ 160-4. Authority.**

This bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34, and as authorized by the residents of the Town of Boxford at Town Meeting, dated May 9, 2006.

#### **§ 160-5. Administration. [Amended 10-23-2007STM, Art 17]**

- A. The Conservation Commission shall administer, implement and enforce this bylaw. Any powers granted to or duties imposed upon the Conservation Commission may be delegated in writing by the Conservation Commission to its employees or agents.
- B. The Conservation Commission may adopt, and periodically amend, rules and regulations relating to the terms, conditions, definitions, enforcement, fees (including application, inspection, and/or consultant fees), application requirements, permit amendment requirements, procedures and administration of this Stormwater Management Bylaw by majority vote of the Conservation Commission, 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. Failure by the Conservation Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court shall not

act to suspend or invalidate the effect of this bylaw.

- C. No work proposed in any Stormwater Management Permit shall be undertaken until the permit issued by the Commission with respect to such work has been recorded in the Registry of Deeds or, if the land affected is registered land, in the registry section of the Land Court for the district wherein the land lies and until the holder of the permit certifies in writing to the Commission that the permit has been recorded.
- D. The Conservation Commission may take any of the following actions as a result of an application for a Stormwater Management Permit: Approval, Approval with Conditions, Disapproval, or Disapproval without Prejudice.
- E. A permit shall expire three years from the date of issuance. At the Commission's discretion, any permit may be renewed twice for an additional one-year period, provided that a request for a renewal is received in writing by the Commission at least 30 days prior to expiration. Notwithstanding the above, a permit may contain requirements which shall be enforceable for a stated number of years, indefinitely or until permanent protection is in place, and shall apply to all owners of the land.

#### **§ 160-6. Statement of jurisdiction.<sup>25</sup>**

- A. No person shall perform any activity that alters a construction site or hotspot except as authorized by the Conservation Commission in a Stormwater Management Permit or as otherwise provided in this bylaw.
- B. The following exemptions apply to the alteration of a construction site or hotspot:
  - (1) Alteration, regardless of square footage, all of which is located outside of the NPDES Phase II Regulated Area and which does not drain to the Boxford municipal separate storm sewer system within the NPDES Phase II regulated area;
  - (2) Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04;<sup>26</sup>
  - (3) Emergency activities necessary to protect public health or safety, so long as all necessary emergency permits or emergency certifications have been or will be obtained; and,
  - (4) Any work or projects for which all necessary approvals and permits have been issued before the effective date of this bylaw.

#### **§ 160-7. Enforcement.**

- A. Any person who violates any provision of this bylaw, regulation, order or permit issued thereunder, 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 violation.
- B. As an alternative to criminal prosecution or civil action, the Conservation Commission or its agent may issue citations under the noncriminal disposition procedures set forth in MGL c. 40, § 21D, as set forth in Chapter 1 of the General Bylaws of the Town of Boxford. The penalty for the first violation shall be \$100, the penalty for the second violation shall be \$200, and the penalty for the

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25. Editor's Note: The title of this section was amended 10-23-2007 STM, Art. 17.

26. Editor's Note: Former Subsection B(3), regarding stormwater discharges, which immediately followed this subsection, was repealed 9-12-2020 ATM, Art. 13. Former Subsections B(4) and (5) were redesignated as Subsection B(3) and (4).

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third and subsequent violations shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate violation.

**§ 160-8. Severability.**

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



STREETS AND SIDEWALKS

**Chapter 162**

STREETS AND SIDEWALKS

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

GENERAL REFERENCES

Noncriminal disposition — See Ch. 1.

Driveways — See Ch. 80.

ARTICLE I

**Snow and Ice on Streets**

**[Adopted 5-20-1980 ATM, Art. 40, as Sec. 10-2-6 of the 1980 Bylaws]**

**§ 162-1. Obstruction of public ways prohibited.**

No person not employed by the Department of Public Works shall lay, throw, place or push any snow or ice into or across any street within the town in a manner which may obstruct the public way or constitute a safety hazard.

ARTICLE II

**Repairs to Private Ways**

**[Adopted 5-20-1980 ATM, Art. 40, as Sec. 10-2-7 of the 1980 Bylaws]**

**§ 162-2. Authority to make repairs to certain private ways.**

The Department of Public Works may make repairs to private ways that have been open to the public for six years or more.

**§ 162-3. Public expense.**

Such repairs shall be made at public expense, provided that any such way shall continue to be open to the public; the work is required by public necessity; it excludes construction or reconstruction of such way; work on drainage includes only the clearing of obstructions in existing drains; and the town is released and held harmless by all abutting owners on account of any damage whatever caused by or incident to such repairs.



## STRETCH ENERGY CODE

### Chapter 164

## STRETCH ENERGY CODE

**[HISTORY: Adopted by the Town Meeting of the Town of Boxford 5-8-2018 ATM, Art. 16.**

**Amendments noted where applicable.]**

#### **§ 164-1. Adoption.**

The Town of Boxford has adopted the provisions of 780 CMR 115.AA as may be amended from time to time, in place of the provisions set forth under 780 CMR 13.00, 34.00, 61.00 and 93.00.

#### **§ 164-2. Definitions.**

INTERNATIONAL ENERGY CONSERVATION CODE (IECC) — The International Energy Conservation Code (IECC) is a building energy code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency, and is updated on a three-year cycle. The baseline energy conservation requirements of the Massachusetts State Building Code are the IECC with Massachusetts amendments, as approved by the Board of Building Regulations and Standards.

STRETCH ENERGY CODE — Codified by the Board of Building Regulation and Standards as 780 CMR Appendix 115.AA of the Massachusetts Building Code, the Stretch Energy Code is an appendix to the Massachusetts Building Code, based on further amendments to the International Energy Code (IECC) to improve the energy efficiency of buildings built to this code.

#### **§ 164-3. Purpose.**

The purpose of the Stretch Energy Code shall be to provide the Town with a more energy efficient alternative to the base energy code otherwise set forth under the State Building Code.

#### **§ 164-4. Applicability.**

This code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 115.AA, as applicable.

#### **§ 164-5. Stretch Energy Code.**

The Stretch Energy Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115 AA, including any future editions, amendments or modifications, is herein incorporated by reference into the Town of Boxford General bylaws. The Stretch Code is enforceable by the building inspector.

#### **§ 164-6. Effective date.**

The Stretch Energy Code was adopted by the May 8, 2018, Annual Town Meeting, with a concurrency start date of July 1, 2018, and a sole effective date of January 1, 2019.

**Chapter 176****UNDERGROUND STORAGE TANKS**

**[HISTORY: Adopted by the Town Meeting of the Town of Boxford 5-12-1987 ATM, Art. 39. Amendments noted where applicable.]**

**§ 176-1. Authority.**

This bylaw is adopted by the Town of Boxford under its home rule powers, its police powers to protect the public health, safety and welfare and under powers authorized by MGL c. 40, § 21, and MGL c. 148, § 9. This bylaw supersedes, except where specifically incorporated, Board of Fire Prevention Regulations 527 CMR 5.00 and 9.00.

**§ 176-2. Policy and purposes.**

- A. The best use of all groundwater in Boxford is for public and private water supply, and of most surface water for food production, bathing and recreation. Therefore, it is hereby declared to be the policy of the Town of Boxford to maintain its water resources as near to their natural condition of purity as reasonably possible for the safeguarding of the public health and, to that end, to require the use of all available practical methods of preventing and controlling water pollution from toxic and hazardous materials.
- B. The purposes of this bylaw are, through regulations of the design, construction, installation, testing and maintenance of underground hazardous material storage facilities, to protect public health from the contamination of public and private water supplies due to leakage from such facilities, to protect the public safety from the dangers of fire and explosion associated with such leakage and to protect the general welfare by preserving limited water supplies for present and future use.

**§ 176-3. Definitions.**

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

**ABANDONED** — Being out of service for a continuous period in excess of six months, in the case of a storage facility for which a license from the local licensing authority is required under the provisions of MGL c. 148, § 13, as amended, and for a period in excess of 12 months, in the case of any other storage facility.

**BOARD OF FIRE PREVENTION REGULATIONS** — Those regulations contained in Massachusetts Regulation 527 CMR 5.00, Construction and Maintenance of Buildings or Other Structures Used as Garages, Service Stations and the related storage keeping and use of gasoline or other motor fuel, and Massachusetts Regulation 527 CMR 9.00, Tanks and Containers, as amended.

**CATHODIC PROTECTION** — A system which inhibits the corrosion of a tank or components either through the sacrificial anode or the impressed current method of creating a corrosion-inhibiting electrical current.

**COMPONENTS** — Piping, pumps and other related storage, conveyancing and dispensing elements which, together with one or more tanks and any cathodic protection or monitoring system, constitute a storage facility.

**ENGINEER** — A Massachusetts registered professional engineer.

**EFFECTIVE DATE** — The date on which the bylaw is approved by a Town Meeting, provided that the

bylaw thereafter becomes effective under the provisions of MGL c. 40, § 32, as amended.

**EXISTING FACILITY** — A facility whose construction, installation or operation began prior to the effective date of this bylaw.

**FIRE CHIEF** — The Chief of the Fire Department in the Town of Boxford.

**HAZARDOUS MATERIAL** — Any liquid substance which, because of its quantity, concentration or its chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any other substance or substances, constitutes a present or potential threat to human health, safety, welfare or to the environment, when improperly stored, treated, transported, disposed of, used or otherwise managed, including but not limited to any liquid petroleum product of any kind and any combination or mixture that includes any liquid petroleum product of any kind. For a list of materials constituting hazardous wastes, see Massachusetts Regulation 310 CMR 30.

**LEAKAGE or LEAK** — Any uncontrolled movement, measurable by a final or precision test, equal or better in precision than that described in the current edition of Pamphlet No. 329 of the NFPA (National Fire Protection Association), which can accurately detect a leak of 0.05 gallons per hour or less, change and tank end deflection, of hazardous material out of a tank or its components; or any uncontrolled movement of water into a tank or its components.

**MARSHAL** — The State Fire Marshal.

**MONITORING SYSTEM** — A full-time approved system installed for the purpose of early detection of leaks, such as observation wells, visual or audible alarms or their equivalent. The minimum standard for an in-tank monitoring system in Boxford shall consist of a system which provides continuous monitoring of any liquid loss from or entry into the interstitial space of the double-containment tank at a rate of 0.05 or less gallons per hour or equivalent leakage over a longer period of time not to exceed 1.2 gallons in a twenty-four-hour period. All monitoring systems shall be equipped with an alarm powered by a circuit separate from the monitoring system power. Standby power to the monitoring system to enable operation for at least 48 hours of continuous operation shall be provided.

**NONCORROSIVE SOIL** — Soil that, when tested by a qualified soil test professional, is shown to have a resistivity greater than 10,000 ohm-cm, and that does not exhibit corrosive characteristics in a soil-chemistry analysis.

**OBSERVATION WELL** — A dug or drilled cased well which can be used for detecting the presence of hazardous material, which is drilled to a depth intercepting and extending a minimum of 25 feet into the water table, and which is installed and maintained in an approved manner.

**OPERATOR** — The lessee of a storage facility or the person or persons responsible for the daily operation of a storage facility.

**OUT OF SERVICE** — Not in use in that no filling or withdrawal is occurring.

**OWNER** — The person or persons or government entity having legal ownership of a storage facility.

**PERSON** — Any agency or political subdivision of the Federal Government or the Commonwealth of Massachusetts; any state, public or private corporation or authority, individual, trust, firm, joint-stock company, partnership, association or other entity; and any officer, employee or agent of said person, and any group of said persons.

**PRODUCT LINE LEAK DETECTOR** — A device designed to detect product or pressure losses in a pressurized product line of a remote pumping system.

**PSI** — Pounds per square inch gauge.

**QUALIFIED PERSONS** — A person licensed by the Commonwealth of Massachusetts or a representative certified by the manufacturer of the product being installed or tested and meeting the current requirements for underground storage facilities installation and testing in the Town of Boxford.

**QUALIFIED STATISTICIAN** — A person qualified in statistical analysis by an appropriate state or federal agency or professional society, who presents such proof of qualifications to the Fire Chief on demand and who meets the current requirements of the Town of Boxford for statistical analysis of underground storage facility inventory records.

**REMOTE PUMPING SYSTEM** — A pressurized product line system in which hazardous materials are supplied to a point away from the underground storage tank by means of a pumping unit.

**REPLACEMENT AND SUBSTANTIAL MODIFICATION** — The construction of any additions to an existing storage facility or any restoration, refurbishing or renovation which significantly impairs or affects the physical integrity of the storage facility or its monitoring system.

**SECONDARY CONTAINMENT OR EQUIVALENT PROTECTION** — Techniques that shall include double-walled tanks or any system which shall equal or surpass the protection provided by double-walled tanks.

**STORAGE FACILITY** — One or more tanks at a particular site, together with all of its or their components, used or designed to be used for the underground storage of hazardous material, including any cathodic protection or monitoring system used or designed to be used for inhabiting or detecting leaks of hazardous materials from any element of the facility.

**TANK** — Any structure any part of which is used, or designed to be used, for the underground storage of any hazardous material.

**UL-LISTED** — Included in a current list or report of approved equipment, materials or methods published by Underwriters' Laboratories, Inc.

**UNDERGROUND STORAGE** — Where 10% or more of the tank volume and piping is below the ground surface but shall not include storage in a freestanding container within a building.

**WATER SUPPLY** — Any existing or potential source of potable water, including both groundwater and surface water.

**WETLAND** — As defined in MGL c. 131, § 40.

#### **§ 176-4. Permits.**

- A. Either the original or a photographic copy of all permits granted under the provisions of this bylaw shall be conspicuously posted on the premises.
- B. New and replacement storage facilities.
  - (1) Subsequent to the effective date of this bylaw, no new or replacement storage facility shall be installed unless the owner shall have first obtained a permit from the Fire Chief. This permit shall be in addition to any license or permit required by MGL c. 148, as amended, or by any regulations issued thereunder. The fee for this permit, payable to the Town of Boxford, shall be \$10.
  - (2) Replacement.
    - (a) Subsequent to the effective date of this bylaw, replacement of an existing underground storage tank (UST) prior to said effective date shall not be denied, provided that:



- [1] Said replacement tank meets and complies with all stipulations of this bylaw.
  - [2] Said replacement tank is the same or smaller in total capacity than the original tank, or one tank may replace multiple tanks, provided that the original total capacity of the facility is not exceeded.
- (b) Should the replacement tank be of larger volume than the original tank, or differ significantly in its location, as determined by the Fire Chief, then it shall be considered as a new tank installation subject to all regulations under this bylaw for new tank installments.
- (3) The application for a permit shall be on a form obtained from the Fire Department and shall include the following information and any other information that the Fire Department may require:
- (a) Name, address and telephone numbers (day and night) of the owner.
  - (b) Name, address and telephone numbers (day and night) of the operator.
  - (c) The number of tanks in the proposed facility and the capacity of and the specific hazardous material to be stored in each proposed tank.
  - (d) The proposed type of construction and material for each tank and its piping, together with the tank's UL serial number or any other approval number, if any, and a description of provisions made for cathodic protection, electrical isolation and early detection of leaks through a monitoring system.
  - (e) The depth below ground level of the lowest and highest points of each proposed tank, the groundwater level at the location of each proposed tank, if available, and any known soil corrosiveness at the location of each proposed tank.
  - (f) A statement that the materials of each tank and its piping are guaranteed by their manufacturers to be compatible with the specific hazardous material that the applicant proposes to store in such tank.
- (4) The applicant shall furnish a certificate, signed by an engineer, that the proposed facility meets all the design and construction requirements of this bylaw.
- (5) The applicant shall also furnish a plot plan of the site and the area surrounding it, showing the location of each proposed tank and its components and of any building on the site, and showing the approximate location of any public or private well and of any body of surface water within 500 feet of the proposed storage facility or within 100 feet of any wetland area.
- (6) The permit together with all other support materials stipulated in Subsection B(4) and (5) of this section shall be submitted concurrently to the Fire Chief, the Boxford Board of Health and the Conservation Commission. The Board of Health and Conservation Commission shall review the permit application for compliance to all stipulations of this bylaw and, if compliance is or is not met, shall so inform the Fire Chief in writing within 30 days of permit application submission. Failure of the Board of Health and Conservation Commission to act on the permit application within 30 days of its submission shall constitute automatic approval of the permit by the Board of Health and the Conservation Commission. Failure of the Fire Chief to act upon the permit application within 45 days of application shall constitute automatic approval of the application.

- (7) Appeal. Any person aggrieved by the decision of the Fire Chief may submit a written petition, within 15 days of said decision, to the Select Board for a hearing. Hearings shall be scheduled within 30 days of petition submission. Past this appeal, the aggrieved party may appeal to any court of competent jurisdiction, as provided by the laws of the Commonwealth of Massachusetts. **[Amended 9-12-2020ATM by Art. 19]**

C. Existing storage facilities.

- (1) The owner of every storage facility that has been installed prior to the effective date of this bylaw shall apply to the Fire Chief, within six months of the effective date of this bylaw, for a permit to maintain the storage facility. Application shall be made on a form obtained from the Fire Chief and shall include, to the extent available to the owner, the following information, which shall also be made available to the Board of Health:
  - (a) Name, address and telephone numbers (day and night) of the owner.
  - (b) Name, address and telephone numbers (day and night) of the operator.
  - (c) The number of tanks in the facility and the capacity of and the specific hazardous material stored in each tank.
  - (d) The type of construction and material for each tank and its piping, together with a description of any provisions made for cathodic protection, electrical isolation and early detection of leaks through a monitoring system.
  - (e) The depth below ground level of the lowest and highest points of each tank.
  - (f) The date of installation of each tank.
  - (g) A description of any previous leaks, including approximate dates, causes, estimated amounts, any cleanup measures taken and any measures taken to prevent future leaks.
- (2) The owner shall also furnish evidence of the date of installation. Such evidence may include but is not limited to a copy of any license issued by the local licensing authority or of any permit issued by the Fire Chief or Fire Department. If no substantial evidence of date of installation is supplied, the tank shall be presumed to have been installed 25 years prior to the effective date of this bylaw.
- (3) The applicant shall also furnish a plot plan of the site and of the area surrounding it, showing the approximate location of each tank and its components and of any building on the site, and showing the location of any public or private well and of any body of surface water within 500 feet of the storage facility, or within 100 feet of any wetland area.
- (4) All existing underground storage facilities shall be removed after reaching 30 years of age. In those cases where the age of a storage facility is unknown, it shall be considered to be 25 years of age on the effective date of this bylaw.

D. Modifications to existing tank.

- (1) Modification of an existing underground storage tank shall mean any change in the specific hazardous material to be stored in any tank at a storage facility or the installation of any addition to, or change in, a storage facility that alters its on-site storage capacity, alters its physical configuration or alters its capacity to inhibit or detect leaks through the use of cathodic protection or a monitoring system or any similar device.

- (2) There shall be no modification of any storage facility unless the owner has submitted a plan drawn up by a certified engineer to the Fire Chief, and has approval of the plans in writing from the Fire Chief. The Fire Chief shall keep a copy of its approval with the records for that storage facility.
- (3) Any application for approval under Subsection D(2) shall be in writing and shall clearly describe the type of construction and material of any replacement tank or component or the modification that is proposed, and shall conform to all requirements stated in Subsection B of this section.
- (4) No storage facility consisting of steel tanks or piping unprotected by cathodic protection shall be modified by the addition or replacement of a component which may cause catalytic corrosion.
- (5) Any application to add cathodic protection to an existing storage facility using one or more steel tanks shall be accompanied by a design plan prepared by an engineer licensed by the National Association of Corrosion Engineers, the plan to include provisions for a test box to allow measurement of electrical potential and current flow.
- (6) If the Fire Chief determines that the proposed modification constitutes a danger to public safety, or constitutes a leak hazard, then the Fire Chief may deny the application or approve it subject to conditions that the Fire Chief determines are necessary to protect the public safety.
- (7) No modification shall be made except by a contractor who has either been licensed by state authorities for work on underground storage facilities or has been certified by the manufacturer or a storage equipment association as qualified for that purpose, and who holds a valid underground storage facility installers permit from the Town of Boxford, as stipulated in § 176-7B.
- (8) Appeal. Any person aggrieved by the decision of the Fire Chief may follow the appeal process described in § 176-4B(7) of this bylaw.

E. Renewal of permits and changes of ownership.

- (1) The owner of any new, replacement or existing storage facility for which a permit has been issued under this bylaw must apply to the Fire Chief for a renewal of the permit at five-year intervals from the date on which the original permit was granted. The fee for renewal of such permit, payable to the Town of Boxford, shall be \$10. The application for renewal must include any changes in the information required under Subsections C and D. No application for renewal may be denied except for violation of this bylaw and in accordance with the procedural requirements of § 176-14.
- (2) The owner of any storage facility shall within two working days notify the Fire Chief of any change in the names, addresses or telephone numbers of the owner or the operator. In the case of any transfer of ownership, the new owner shall be responsible for notification.

F. Delivery of hazardous materials to underground storage facilities.

- (1) All suppliers of hazardous materials to underground storage facilities in Boxford shall hold a valid UST materials delivery permit issued by the Town of Boxford. The fee for said permit shall be \$10. All permits shall be renewed annually.
- (2) Each underground storage tank shall have attached at its fill opening a metal tag containing the

current permit number and supplied by the Fire Chief. No hazardous material shall be supplied to any underground storage tank lacking this permit tag six months subsequent to the effective date of this bylaw. Such prohibited delivery shall result in suspension of the delivery permit defined in Subsection F(1) of this section.

**§ 176-5. Design and construction. (Note: This parallels 527CMR starting at 9.06.)**

- A. All new and replacement tanks shall be designed and constructed to minimize the risk of corrosion and leakage, and the owner shall provide written proof that the materials are guaranteed by the tank manufacturer to be compatible with the hazardous materials designated by the owner in the appropriate permit applications required under § 176-4. Only the following tank construction systems shall be approved:
  - (1) UL-listed double-walled steel tanks with cathodic protection or bonded fiberglass coating, and with electrical isolation and with provision for continuous monitoring of the interstitial space for leakage of hazardous material or water.
  - (2) Any other state-of-the-art type of tank construction providing better protection against leakage than the above-mentioned tank in Subsection A(1) and approved by the Fire Chief.
- B. All new and replacement tanks must be equipped with a metallic or nonmetallic striker plate, at least 12 inches by 12 inches in area, at least 1/4 inch thick, and attached to the bottom of the tank, under each opening.
- C. Each storage tank shall be provided with a filler pipe, a draft pipe and a vent pipe, and may have a gauge pipe. If a gauge pipe terminates within a building, the opening to same shall be protected. Approved filler and vent pipe specifications shall follow the provisions of 527 CMR 9.09(2), (3), (4), (5) and (7), inclusive. Vapor recovery systems shall not be allowed.
- D. All new and replacement piping, product and distribution lines and fittings and valves of a storage facility shall:
  - (1) Be protected against corrosion by use of noncorrodible materials, such as fiberglass reinforced plastic (FRP), or by use of cathodic protection, and the owner shall provide written proof that the materials are guaranteed by the piping manufacturer to be compatible with the hazardous materials designated by the owner in the permit application required under § 176-4.
  - (2) Be equipped with double-walled pipe, or the lines shall be enclosed in a noncorrosive, liquidtight conduit.
  - (3) Be designed, constructed and installed to terminate within liquidtight access ports or manholes to permit tightness testing or replacement without the need for extensive excavation or for disturbing elements of the storage facility other than the elements that are to be tested or replaced.
- E. Cast-iron valves or fittings shall not be used in any pipe connection to the tank.
- F. No flammable material shall be delivered to any storage tank by means of a pump or under pressure unless such storage tank is designed to withstand the additional stress to which it may be subject or unless the vent pipe for such tank is of sufficient size to relieve the tank of any undue pressure.
- G. All new and replacement facilities with submersible pumping systems shall be equipped with a line leak detector for each delivery line; and if any such facility is used to store automotive fuel, it shall

also be equipped with an emergency shutoff valve under each dispenser. The shutoff valves and leak detectors shall be tested by a licensed person upon installation and at least annually thereafter. No suction pumping system shall be equipped with any check valve in the piping except at the tank end, and any such check valve shall be so installed that it may be tested or replaced without disturbing other elements of the storage facility.

- H. Every new and replacement tank shall be equipped with an overfill-prevention system. If a tank is filled by gravity flow, it must be equipped with a float vent valve or other device that provides equal or better protection from overfilling. If the tank is filled under pressure, it must be equipped with a combined audible and visual high level alarm. Any such system shall be tested by a qualified person upon installation and at least annually thereafter.
- I. Product lines shall be installed according to the provisions of 527 CMR 9.11(2), (3), (4) and (5), inclusive.

**§ 176-6. Location of tank. (Note: This parallels 527CMR 9.14.)**

- A. All underground storage tanks shall be located a minimum of 10 feet from any building or property line and a minimum of 100 feet from any private well, watercourse, wetland or other known water source; and a minimum of 400 feet from any public water supply.
- B. The requirements in Subsection A of this section shall not apply to UST facilities existing before the effective date of this bylaw and which meet the design criteria set forth in § 176-5 or 176-4B of this bylaw. Every reasonable effort shall be made to locate replacement facilities within the stipulations of Subsection A of this section.

**§ 176-7. Underground storage facility installation.**

- A. No new or replacement tank or component shall be installed without prior permit application and approval as stipulated in § 176-4 of this bylaw.
- B. No new or replacement tank or component shall be installed except by a contractor holding an underground storage facility installer's permit from the Town of Boxford. To obtain an installer's permit, applicants shall present documented proof to the Fire Chief that they have either been licensed by state authorities for work on underground storage facilities or have been certified by the manufacturer or a storage equipment association as qualified for that purpose. Failure of the Fire Chief to act upon the permit application within 45 days of application shall constitute automatic approval of the application. Any person aggrieved by the decision of the Fire Chief may appeal as provided in § 176-4B(7) of this bylaw. Permits shall be issued only for equipment installation for which such proof is provided. Installers shall not install any equipment other than that stated on the permit. Permits shall be renewed annually for a fee of \$10 per permit.
- C. No new or replacement tank or component shall be installed, unless the owner has given immediate written notice of its installation date to the Fire Chief; and no new or replacement tank or component shall be buried or concealed until it has been inspected for damage and external defects by the Fire Chief or his designee, tested for tightness under Subsection F of this section and approved by the Fire Chief or the Chief's designee.
- D. The installation of a new or replacement tank or component, including anchoring of the tank, shall be carried out in accordance with the manufacturer's recommendations, accepted engineering practices and the provisions of 527 CMR 9.15(3), as amended, provided that the backfill material for fiberglass reinforced plastic (FRP) tanks shall be pea gravel or crushed stone and that the backfill material under

all other tanks shall be either pea gravel or clean, noncorrosive sand, free of cinders, stones and other foreign material, the material under the tank to be compacted and contoured to the shape of the tank before the tank is installed, the balance to be thoroughly compacted. All tanks shall be anchored to the extent that no movement shall occur should the tank be empty and completely immersed under water.

- E. Any damage to the exterior of a tank or its coating shall be repaired before the tank is covered. The Fire Chief shall make note of any damage in the records for that tank.
- F. All new and replacement piping systems shall be installed in accordance with recognized engineering practices. All joints shall be liquid- and airtight. All product and vent lines shall slope downward toward the tank.
- G. Every new or replacement tank and its piping shall be tested, separately, at the owner's expense, prior to being buried. The tank shall be tested by air pressure at not less than three and not more than five pounds per square inch. The piping shall be tested hydrostatically to 150% of the maximum anticipated pressure of the system or tested pneumatically to 100% of the maximum anticipated pressure of the system, but not less than 50 pounds per square inch at the highest point of the system. After pressurization, all joints and connections shall be immediately coated with a soap solution to determine any leakage. After the tank and piping have been fully buried, any paving installed and the tank filled with the hazardous material to be stored therein, the tank and its piping shall be again tested, separately, at the owner's expense, by any final or precision test, not involving air pressure, that can accurately detect a leak of 0.05 gallons per hour or less, after adjustment for relevant variables, such as temperature change and tank end deflections, and that is approved by the State Fire Marshal. The owner shall furnish the Fire Chief with a certified copy of the results of all testing required by this subsection, which the Fire Chief shall keep with the records for the storage facility.

**§ 176-8. Leak-detection (monitoring) equipment. (Note: This parallels 527CMR 9.16.)**

- A. All new and replacement tanks shall have in place an approved interstitial space monitoring system as stipulated in § 176-5A.
- B. All new and replacement pumping systems shall be equipped with a line leak detector as stipulated in § 176-5G.
- C. Every monitoring system shall be installed by a qualified person, certified by the manufacturer and holding a Boxford underground storage facility installer's permit as stipulated in § 176-7B. The automatic audible or visual alarm shall be tested by the qualified person upon installation and at least annually thereafter. Monthly inspections of the system to assure proper function shall be carried out and recorded by the operator. The Fire Chief may require unscheduled inspections and tests on demand.

**§ 176-9. Inventory control. (Note: This parallels 527CMR 9.17.)**

- A. The provisions of this section shall apply to all tanks used for the storage of automotive fuel and to all tanks used for the storage of waste oil or other waste petroleum products.
- B. The requirements in Subsections A, C and D of this section shall not apply to underground storage facilities conforming to §§ 176-5 and 176-8 of this bylaw.
- C. The operator of every new and existing storage facility designated in Subsection A shall prepare, reconcile and maintain daily inventory control records for each tank and for each combination of

interconnected tanks with a common level of product (hereinafter, a "combination") for the purposes of prevention and early detection of leaks. The preparation, reconciliation and maintenance of such records shall be done in accordance with the provisions of 527 CMR 5.05(3), as amended, with the following additions and modifications:

- (1) At the close of each calendar month, the operator shall determine, for that month and for each tank or combination, the number of days in which amount of product was dispensed and the number of days in which a loss of product was recorded. These records shall include the inspection details on leak-detection systems, and, if applicable, data resulting from observation well or other sample analysis.
- (2) An abnormal loss of product shall mean a loss not explainable by spillage, temperature variations or other causes, as provided in 527 CMR 5.05(3)(d).
- (3) In the event of any abnormal loss of product, the following steps shall be taken:
  - (a) The operator shall, within 24 hours, notify the owner and the Fire Chief;
  - (b) The owner shall, within three working days, have the steps taken, for that tank or combination and its components, that are outlined in § 176-10A, or
  - (c) The owner shall, within three working days, submit the daily inventory records of that tank or combination, for that month, for leak-detection statistical analysis by a qualified statistician, and the person performing such analysis shall promptly submit certified copies of the results to the Fire Chief and to the owner; and if the Fire Chief, on the basis of such results, determines that there is a probability of a leak in that tank or combination, or in its components, the Fire Chief shall so notify the owner, and the owner shall, within three working days, have the steps taken that are outlined in § 176-10A with respect to that tank or combination and its components.
- (4) An abnormal gain of water shall be a gain in the water level inside any tank of more than one inch in a twenty-four-hour period during which no product has been added.
- (5) In the event of any abnormal gain of water, the owner shall, at the owner's expense, have the water removed from the tank and disposed of in a manner approved by the Department of Environmental Quality Engineering (DEQE) and have the water level checked 24 hours later, during which time no product shall be added. If there is again an abnormal gain of water, the owner shall promptly have the steps taken that are outlined in § 176-10A.
- (6) Apart from abnormal gains of water, the owner of any tank in which water has accumulated to a depth of three inches or more shall, at the owner's expense, have the water removed and disposed of in a manner approved by DEQE.
- (7) For every storage facility covered by the inventory control requirements of this section, the owner shall, at least annually and at the owner's expense, submit the daily inventory records of the most recent calendar month for a leak-detection statistical analysis by a qualified statistician. The person performing such an analysis shall promptly submit certified copies of the results of that analysis to the owner and to the Fire Chief. The Fire Chief shall keep the report with the records of that facility. If the Fire Chief determines, on the basis of that analysis, that there is a probability of a leak from any tank or its components in that facility, the owner shall, within three working days, take the steps outlined in § 176-10A with respect to that tank and its components or, in the case of a combination, with respect to each tank and its components.

- (8) The Fire Chief and state public safety officials shall have access to all inventory records required by this section.
- D. The operator of a storage facility shall record, at least monthly, the negative voltage of every cathodic protection system equipped with a test box that is part of that facility. In addition, the owner shall have every cathodic protection system inspected and tested by a qualified person at least annually. If any such system does not have adequate negative voltage, or is otherwise defective, the owner shall have the system repaired promptly and in not more than 30 days by a qualified person and shall report such repair to the Fire Chief in writing. For purposes of this subsection, the term "adequate negative voltage" shall mean a negative voltage of at least 0.85 volts, if a copper-copper sulfate reference electrode is used and of at least 1.95 volts if a zinc reference electrode is used. Reference electrodes shall be installed in accordance with the manufacturer's directions.

**§ 176-10. Testing for tightness of underground tanks. (Note: This parallels 527CMR 9.18.)**

- A. Suspected leaks.
- (1) If the probability of a leak is indicated by inventory control procedures under § 176-9 or by a monitoring system or by a line leak detector or by the malfunctioning of a suction pump or by the presence of hazardous material or hazardous material fumes in the surrounding area, as verified by the Fire Chief or his Deputy, the owner shall, within three working days, have the following steps taken, at the owner's expense:
- (a) Have the readily accessible physical facilities on the premises carefully inspected for evidence of leakage.
  - (b) If the inspection stipulated in Subsection A(1)(a) of this section does not confirm a leak, and if the piping can be tested without the need for excavation, have the piping tested in accordance with the provision of Subsection J of this section.
  - (c) If that testing stipulation in Subsection A(1)(b) of this section fails to confirm a leak or if the piping cannot be tested without excavation, have the tank tested in accordance with the provisions of Subsections H, I and J of this section.
  - (d) If that testing stipulated in Subsection A(1)(c) of this section fails to confirm a leak, excavate and have the piping tested in accordance with the provisions of Subsections H, I and J of this section.
- (2) If the inspections and testing outlined above fail to confirm a leak, and if there is continuing evidence of a probable leak, the Fire Chief may order the owner and operator to take the steps outlined in § 176-11. In the case of a combination of interconnected tanks, each tank and its components shall be tested separately.
- B. If any of the testing specified in Subsection A discloses a leak, the operator and owner shall comply immediately with the requirements of § 176-11, and the Fire Chief may direct the owner, at the owner's expense, to have all other tanks on the premises and their components tested in the same manner.
- C. The owner of every existing storage facility shall have each tank and its piping tested, at the owner's expense, during the 10th, 13th, 15th, 17th and 19th years after installation and annually thereafter.
- D. If the owner of any existing storage facility, pursuant to the provisions of § 176-4D, provides cathodic protection and electrical isolation for each tank in the facility, then the owner shall have his tank and



its piping tested, at the owner's expense, during the 15th and 20th years following the date of facility installation and at two-year intervals thereafter.

- E. The requirements in Subsections C and D of this section shall not apply to underground storage facilities conforming to § 176-5 and 176-8 of this bylaw.
- F. With respect to any tank to which the inventory control requirements of § 176-9 are applicable, the Fire Chief shall require the owner to have it and its piping tested promptly, at the owner's expense, whenever the operator fails to maintain the daily inventory records properly or fails to perform the required monthly calculations of abnormal loss, or whenever the owner fails to comply with the annual leak-detection statistical analysis requirement under § 176-9C(7).
- G. The Fire Chief may require the owner of any existing tank to have it and its piping tested, at the owner's expense, in any case in which the owner has failed to make timely application for a permit as required under § 176-4.
- H. Except for testing performed on a tank and its piping prior to their being covered, a tank shall be tested by any final or precision test, not involving air pressure, that can accurately detect a leak of 0.05 gallons per hour or less, after adjustment for relevant variables, such as temperature change and tank end deflection, and that is approved by the Fire Chief. Piping shall be tested hydrostatically to 150% of the maximum anticipated pressure of the system.
- I. All tests shall be administered by qualified persons approved by the Fire Chief, and any such person shall notify the Fire Chief prior to administering a test.
- J. The qualified person performing any test under this section shall promptly supply the owner and the Fire Chief with certified copies of all test results for a tank and its piping. The Fire Chief shall keep these results with the records of that storage facility.

**§ 176-11. Response to leaks. (Note: This parallels 527CMR 9.19.)**

- A. In the event of a leak, whether determined by testing or otherwise, the following steps shall be taken:
  - (1) The operator shall immediately notify the owner, the Fire Chief and the Office of Incident Response of the Department of Environmental Quality Engineering (OIR-DEQE).
  - (2) The owner shall promptly verify that the Fire Chief and OIR-DEQE have been notified and shall notify the Board of Health.
  - (3) If testing has confirmed that the source of the leak is the piping for a particular tank, the operator shall take that tank out of service immediately.
  - (4) If testing has confirmed that the source of the leak is a particular tank, the operator shall within 24 hours cause that tank to be emptied of all its contents.
  - (5) If testing has failed to determine the source of the leak within a storage facility, the operator shall within 24 hours cause the entire storage facility to be emptied of its contents.
- B. Until the arrival of a representative of OIR-DEQE, the Fire Chief shall take charge of all emergency procedures and shall verify that all steps required under Subsection A have been taken.
- C. The owner, the Fire Chief and the Board of Health shall cooperate with OIR-DEQE in all efforts to identify the source of the leak, to contain it and to restore the environment, including any groundwater or surface water that may have been contaminated by the leak, to a condition and quality acceptable

to DEQE.

- D. The Fire Chief shall determine whether any tank or its components that have been identified as the source of a leak shall be removed and replaced or may be repaired, and shall notify the owner of this decision. In making its decision, the Fire Chief shall consider all factors affecting the degree of risk to public health and safety from a subsequent leak, including but not limited to the location of the tank and the specific nature of the contents and shall be governed by the stipulations of § 176-12.

**§ 176-12. Tank repair and relining. (Note: This parallels 527 CMR 9.20.)**

- A. No underground tank which has leaked as a result of corrosion shall be relined. Such tanks shall be emptied of any contents as stipulated in § 176-11A and shall either be removed as stipulated in § 176-13 or replaced within 90 days.
- B. No underground tank system which is 20 years old or older and has leaked and which does not conform with the design criteria of § 176-5, or which has a second leak at any age, shall be repaired. Such tanks shall be emptied and removed or replaced as stipulated in Subsection A of this section.
- C. Minimum liner conditions.
- (1) Repair by relining of an underground tank shall be governed by the following minimum liner conditions:
- (a) The steel tank must have a minimum design shell thickness of 0.18 inch (seven gauge).
- (b) The tank must have no open seam or split.
- (c) The tank must have less than 10 holes after reaming with none larger than 1/2 inch in diameter and no more than 2 within a one-foot radius.
- (d) The tank must meet all the standards of the lining manufacturer for structural soundness.
- (2) Adherence to the above conditions shall be determined after the interior surface of the tank has been peened by a hammer.
- D. If the Fire Chief permits the repair of any leaking tank, he shall require that the tank and its piping be tested, at the owner's expense and in accordance with the provisions of § 176-10H, I and J, prior to being restored to service, at two-year intervals for 10 years and annually thereafter.
- E. Any repair of a tank or replacement or repair of components shall be performed by qualified technicians holding a valid Boxford underground storage facility installer's permit as stipulated in § 176-7B, following the manufacturer's directions and, in the case of relining of a steel tank, following the recommendations of American Petroleum Institute Publication #1631, First Edition, 1983, or any subsequent edition as it may appear.
- F. If the Fire Chief determines that a tank and its components shall be removed, the owner shall first obtain a permit from the Fire Chief, pursuant to MGL c. 148, § 38A, as amended. Any removal shall be completed within 90 days after the Fire Chief has notified the owner of its decision.
- G. The owner shall be responsible for all costs of removing a tank; reclaiming, recovering and properly disposing of any hazardous material; and for all costs of restoring the environment, including any groundwater or surface water that has been contaminated, to a condition and quality acceptable to DEQE.

**§ 176-13. Tanks abandoned or temporarily out of service. (Note: This parallels 527 CMR 9.21.)**

- A. If the owner of a tank, which either is located under a building and cannot be removed from the ground without first removing the building or is so located that it cannot be removed from the ground without endangering the structural integrity of another tank, decides to abandon it, the owner shall promptly notify the Fire Chief of this decision and, subject to the directions of the Fire Chief, have all the hazardous material removed from the tank, by hand pump if necessary, and the tank filled with sand or other inert material prescribed by the Fire Chief.
- B. Except as provided in Subsection A, no tank may be abandoned in place. Any owner of a tank who has decided to abandon it and any owner of a tank that has in fact been out of service for a period of time constituting abandonment, as defined in § 176-3, shall immediately obtain a permit from the Fire Chief pursuant to MGL c. 148, § 38A, as amended, and subject to the directions of the Fire Chief, have any hazardous material removed from the tank, all tank openings properly secured and the tank removed from the ground. The hazardous material and tank shall be disposed of, at the owner's expense, as directed by the Fire Chief.
- C. The owner of a tank that is licensed under MGL c. 148, as amended, and that the owner has decided to take out of service for a period of less than six months shall promptly notify the Fire Chief of the decision and, subject to the directions of the Fire Chief, have all the hazardous material removed from the tank and disposed of as directed by the Fire Chief, all tank openings properly secured and the tank rendered inert. Before any such tank may be restored to service, the owner shall notify the Fire Chief and have any inert material removed and disposed of in a manner approved by DEQE. The Fire Chief may require that the owner have the tank and its piping tested, at the owner's expense, in accordance with the provisions of § 176-10I and J.
- D. Any person granted a permit by the Fire Chief to remove a tank under the provisions of MGL c. 148, as amended, or of this bylaw shall, within 72 hours from tank removal provide the Fire Chief with a receipt for delivery of said tank to the site designated on the permit.

**§ 176-14. Enforcement and variances. (Note: This parallels 527 CMR 9.23.)**

- A. Any owner or operator who violates any provision of this bylaw shall be subject to a fine of \$200 for each offense. Each day during which such violation continues shall constitute a separate offense. This bylaw may be enforced pursuant to MGL c. 40, § 21D, as amended, by a local police officer or any other officer having police powers. Upon request of the Fire Chief, the Select Board and Town Counsel shall take such legal action as may be necessary to enforce this bylaw. **[Amended 9-12-2020ATM by Art. 19]**
- B. In the event of any violation of this bylaw by the owner or operator of a storage facility, the Fire Chief, instead of or in addition to requesting enforcement under Subsection A, may revoke or suspend the owner's permit or may require more frequent testing than would otherwise be required under § 176-10; and if a permit is revoked or if a storage facility has been installed or maintained without a permit, the Fire Chief may order that the storage facility be removed from the ground. Before revoking or suspending an owner's permit or requiring removal of a storage facility from the ground, the Fire Chief shall hold a public hearing on the proposed action, shall give the owner at least 10 days' notice of the hearing by certified mail and shall make the decision in writing with a brief statement of the reasons for the decision.
- C. The Select Board may, after receiving comment from the Fire Chief and Board of Health and after a public hearing, vary the application of any provision of this bylaw, unless otherwise required by law,

when, in its opinion, the applicant has demonstrated that an equivalent degree of protection will still be provided to public and private water supplies and to the public health and public safety. Notice of the hearing shall be given by the Board, at the applicant's expense, at least 10 days prior thereto, by certified mail to all abutters to the property at which the owner's storage facility is located and by publication in a newspaper of general circulation in the town or city. The notice shall include a statement of the variance sought and the reasons therefor. Any grant or denial of a variance shall be in writing and shall contain a brief statement of the reasons for the grant or denial. **[Amended 9-12-2020ATM by Art. 19]**

- D. The granting of a variance may require the installation of one or more groundwater observation wells and other testing methods at the expense of the owner. Water samples from the observation wells may be required by the Fire Chief at any reasonable time and shall be analyzed at the expense of the owner by order of the Fire Chief.

**§ 176-15. Severability.**

Each part of this bylaw shall be construed as separate to the end that, if any part or sentence, clause or phrase thereof shall be held invalid for any reason, the remainder of that part and all other parts of this bylaw shall continue in full force.

## VEHICLES AND TRAFFIC

### Chapter 179

## VEHICLES AND TRAFFIC

**[HISTORY: Adopted by the Town Meeting of the Town of Boxford 5-20-1980 ATM, Art. 40, as Sec. 8-3-2 of the 1980 Bylaws. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Overnight parking — See Ch. 125, Art. I.

Motor-driven vehicles — See Ch. 188.

Inoperative vehicles — See Ch. 185.

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#### **§ 179-1. Complete stop at stop sign required.**

No operator of a motor vehicle shall drive his vehicle into an intersection without coming to a complete stop as required by a legally approved and established stop sign.

#### **§ 179-2. Following too closely; penalty. [Added 5-9-1990 ATM, Art. 38]**

The driver of a vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard to the condition of the highway. [Adopted pursuant to 720 CMR 9.06 (7)1.] The penalty for violation of said section shall be a misdemeanor/noncriminal fine of not more than \$35.

#### **§ 179-3. Unsafe stopping and turning movements; penalty. [Added 5-9-1990 ATM, Art. 39]**

Except as otherwise provided in 720 CMR 9.08(2)(a), the driver of any vehicle before starting, stopping, turning from a direct line or backing shall first see that such movement can be made with safety. If such movement cannot be made in safety or if it interferes unduly with the normal movement of other traffic, said driver shall wait for a more favorable opportunity to make such movement. If the operation of another vehicle should be affected by a stopping or turning movement, the driver of such other vehicle shall be given a plainly visible signal, as required by MGL c. 90, § 14B. The penalty for violation of said section shall be a misdemeanor/noncriminal fine of not more than \$35.

BOXFORD CODE

**Chapter 182**

**VEHICLES, HORSE-DRIVEN**

**[HISTORY: Adopted by the Town Meeting of the Town of Boxford 5-20-1980 ATM, Art. 40, as Secs. 10-3-1, 10-3-2 and 10-3-3 of the 1980 Bylaws. Amendments noted where applicable.]**

GENERAL REFERENCES

Noncriminal disposition — See Ch. 1.

Animals — See Ch. 52.

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**§ 182-1. Adequate control of animal required.**

No person having charge of a horse-driven vehicle of any description shall pass with the same over any public way of the town unless holding the reins of the animal or animals attached thereto, if riding, or, if not riding, unless walking by the head of the shaft or wheel animal either holding or keeping within the reach of the bridle or halter, and such person shall at all times be in such position as to be able to restrain and govern such animal or animals.

**§ 182-2. Number of vehicles permitted at a time.**

No person shall at the same time drive or take charge of more than one horse-driven vehicle in any public way of the town.

**§ 182-3. Standing on public ways.**

No person having charge of any vehicle, whether motor- or horse-driven, shall permit such vehicle to stand upon any public way or other public place after having been forbidden to do so by a police officer of the town or by notice posted on such way or place under official authority.

VEHICLES, INOPERATIVE

**Chapter 185**

VEHICLES, INOPERATIVE

**[HISTORY: Adopted by the Town Meeting of the Town of Boxford 5-20-1980 ATM, Art. 40, as Sec. 8-3-1 of the 1980 Bylaws. Amendments noted where applicable.]**

GENERAL REFERENCES

Junk dealers — See Ch. 105.

Motor-driven vehicles — See Ch. 188.

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**§ 185-1. Motor vehicles.**

Unregistered motor vehicles unfit for use, permanently, disabled, dismantled or otherwise inoperative shall not be stored, parked or placed upon any land in town unless the same shall be within a building or in an area unexposed to public view, or in an area properly approved for keeping of the same by licensed junk dealers.

**§ 185-2. Violations and penalties. [Amended 5-22-1991 ATM, Art. 40]**

Each one-month period or fraction thereof of such violation shall be considered a separate offense, following notice of such violation.

BOXFORD CODE

**Chapter 188**

**VEHICLES, MOTOR-DRIVEN**

**[HISTORY: Adopted by the Town Meeting of the Town of Boxford 5-9-1990 ATM, Art. 40.**

**Amendments noted where applicable.]**

**§ 188-1. Operation on private property.**

No person shall operate a motor bike, trail bike, motorcycle, ski mobile or any other similar motor-driven vehicle on or upon any private property in the Town of Boxford without written permission of the owner or legal occupant thereof.

**§ 188-2. Operation on traveled public way. [Amended 9-12-2020ATM by Art. 19]**

No person shall operate a motor bike, trail bike, motorcycle, ski mobile or any other similar motor-driven vehicle on or upon any property of the Town of Boxford other than a traveled public way without written permission of the Select Board or the Chief of Police.

**§ 188-3. Violations and penalties.**

Any person in violation of the above shall be punished by a fine of not more than \$100 for each offense.



**Chapter 192****WETLANDS PROTECTION**

**[HISTORY: Adopted by the Town Meeting of the Town of Boxford 5-13-1986 ATM, Art. 33. Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Zoning — See Ch. 196.**

**Subdivision of land — See Ch. 300.**

**Earth removal and earth filling projects — See Ch. 205.**

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**§ 192-1. Purpose. [Amended 5-11-1994 ATM, Art. 34; 5-10-1995 ATM, Art. 41; 5-22-1997 ATM, Art. 41]**

- A. The purpose of this bylaw is to protect the wetlands, water resources and adjoining land areas in the Town of Boxford by controlling activities deemed by its Conservation Commission (hereinafter "Commission") likely to have a significant or cumulative effect upon resource area values, including but not limited to the following: public or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention, water quality, water pollution control, fisheries, wildlife habitat, rare species habitat including rare plant species, agriculture, recreation values deemed important to the community and riverfront area values (collectively, the "resource area values protected by this bylaw").
- B. This bylaw is intended to utilize the Home Rule authority of this municipality to protect additional resource areas, for additional values, with additional standards and procedures stricter than those of the Wetlands Protection Act, (MGL c. 131, § 40) and regulations thereunder, 310 CMR 10.00, as they may be amended.

**§ 192-2. Jurisdiction. [Amended 5-11-1994 ATM, Art. 36; 5-10-1995 ATM, Art. 41; 5-22-1996 ATM, Art. 57; 5-22-1997 ATM, Art. 41; 5-13-1998 ATM, Art. 59]**

Except as permitted by the Commission or as provided by this bylaw, no person shall commence to remove, fill, dredge, build upon, degrade, discharge into or otherwise alter the following resource areas: any freshwater wetlands; marshes; wet meadows; bogs; swamps; lakes; ponds; rivers; streams; creeks; banks; beaches; vernal pools; large isolated wetlands; lands within 100 feet of any of the aforesaid resource areas; lands under water bodies; lands subject to flooding or inundation by groundwater or surface waters; land within 100 feet of said land subject to flooding or inundation; riverfront area as stated in the Wetlands Protection Act Regulations 310 CMR 10.58(2), as they may be amended; (collectively the "resource areas protected by this bylaw"). Said resource areas shall be protected whether or not they border surface waters.

**§ 192-3. Exceptions.**

- A. The permit and application required by this bylaw shall not be required for maintaining, repairing or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph or other telecommunication services, provided that the structure or facility is not substantially changed or enlarged, provided that written notice has been given to the Commission prior to commencement of

work and provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission.

- B. The permit and application required by this bylaw shall not apply to emergency projects necessary for the protection of the health or safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the commonwealth or political subdivision thereof, provided that advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement, provided that the Commission or its agent certifies the work as an emergency project, provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency and provided that within 21 days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided in the bylaw. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures. **[Amended 5-13-1998 ATM, Art. 59]**
- C. The application and permit required by this bylaw shall not be required for forestry activities when said activities have received approval by the Massachusetts Department of Environmental Management via an approved forest cutting plan under the authority of the Massachusetts Forest Cutting Practices Act (MGL c. 132, §§ 40 - 46) and only when said forest cutting plan complies in all respects with the Massachusetts Forest Cutting Practices Regulations (304 CMR 11.00), as they may be from time to time amended. **[Added 5-13-1998 ATM, Art. 59]**
- D. The application and permit required by this bylaw shall not be required for agricultural activities that comply in all respects with the definitions and requirements in Wetlands Protection Act Regulations 310 CMR 10.04 Agriculture (a) Land in agricultural use; and one or more of the following: 310 CMR 10.04 Agriculture (b) Normal maintenance of land in agricultural use 1 through 12; or 310 CMR 10.04 Agriculture (c) Normal improvement of land in agricultural use, as they may be from time to time amended. **[Added 5-13-1998 ATM, Art. 59]**
- E. Other than stated in this section, the exceptions provided in the Wetlands Protection Act (MGL c. 131, § 40) and Regulations (310 CMR 10.00), as they may be amended, shall not apply under this bylaw. **[Amended 5-22-1997 ATM, Art. 41]**

**§ 192-4. Application for permits and requests for determination of applicability.**

- A. Written application shall be filed with the Commission to perform activities affecting resource areas protected by this bylaw. The application, formally known as the "notice of intent" or "request for determination of applicability," shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the resource areas protected by this bylaw. No activities shall commence without receiving and complying with a permit, formally known as an "order of conditions" or "conditions imposed on a negative determination of applicability," issued pursuant to this bylaw. **[Amended 5-22-1997 ATM, Art. 41]**
- B. The Commission in an appropriate case may accept as the permit application and plans under this bylaw the notice of intent and plans filed under the Wetlands Protection Act (MGL c. 131, § 40) and Regulations (310 CMR 10.00), as they may be amended. **[Amended 5-22-1997 ATM, Art. 41]**
- C. At the time of a permit application (notice of intent), request for determination of applicability, application for an amendment to the order of conditions, application for certificate of compliance, application for partial certificate of compliance or request for extension permit, the applicant shall

pay a filing fee specified in the regulations of the Commission.<sup>27</sup> The fee is in addition to that required, if any, by the Wetlands Protection Act (MGL c. 131, § 40) and Regulations (310 CMR 10.00), as they may be amended. **[Added 5-22-1997 ATM, Art. 41; amended 5-13-1998 ATM, Art. 59]**

- D. Any person desiring to know whether or not proposed activity or an area is subject to this bylaw may, in writing, request a determination from the Commission. Such a request for determination of applicability shall contain data and plans as the Commission specifies, unless said request is only for an informal opinion as stipulated in § 192-5 of this bylaw. **[Added 5-22-1997 ATM, Art. 41]**
- E. In an appropriate case, a person may request in writing that the Commission review a minor activity proposed within a wetland resource area or buffer zone for a determination of negligible impact. The Commission shall review the request at a public meeting within 21 days from receipt of the request. In order to approve the request, the Commission must find that the proposed activity will have negligible or no impact on the wetland resource area or buffer zone. A request for a determination of negligible impact is decided upon at the sole discretion of the Commission, can be denied for good cause, including failure to submit information requested by the Commission, and can only be approved by a two-thirds majority vote of the Commission members present. A letter shall be sent informing the applicant of the Commission's decision within 21 days of the decision. **[Added 5-13-1998 ATM, Art. 59]**
- F. In accordance with the provisions of MGL c. 44, § 53G, the Commission is authorized to promulgate regulations to require an applicant or other person subject to the Commission's jurisdiction to pay reasonable fees for employment of outside consultants deemed necessary by the Commission to implement the authority conferred upon the Commission under Section 8C of Chapter 40 and Section 40 of Chapter 131 of the Massachusetts General Laws, and Section 310 of the Code of Massachusetts Regulations, and the Town's local Wetlands Bylaw, and to deposit such fees into a special account for expenditure by the Commission to cover such consulting fees without further appropriation and to return unused fees to the applicant. **[Added 5-8-2007 ATM, Art. 12<sup>28</sup>]**

#### **§ 192-5. Public notices and hearings.**

- A. Any person filing a permit application (notice of intent), request for determination of applicability or request for amendment to order of conditions with the Commission at the same time shall give written notice thereof by certified mail (return receipt requested), first class mail, if evidenced by certificates of mailing, or hand delivery to all abutters at their mailing addresses shown on the most recent applicable tax list of the Assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 250 feet of the property line of the applicant, including any in another municipality or across a body of water. In case of property that has frontage on a pond, abutters will include all those properties with frontage on the pond or pond association if in existence. **[Amended 5-22-1997 ATM, Art. 41; 5-13-2008 ATM, Art. 18; 5-12-2009 ATM, Art. 15]**
- B. The notice to abutters shall enclose a copy of the application or request, with plans, or shall state where copies may be examined and obtained by abutters. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. When a person requesting a determination is other than the owner, the request, the notice of the hearing and

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27. Editor's Note: The regulations are on file in the office of the Town Clerk.

28. Editor's Note: This article also repealed former Subsections F, G and H, which set forth provisions on payment of costs and expenses for expert consultation deemed necessary by the Commission.

the determination itself shall be sent by the Commission to the owner as well as to the person making the request. **[Amended 5-22-1997 ATM, Art. 41]**

- C. The notice to abutters shall include at a minimum a sketch or map of the location and a description of proposed work. **[Amended 5-23-1997 ATM, Art. 41]**
- D. Waiver.
  - (1) The Commission may waive the above procedure, as it applies to requests for determinations under the following circumstances:
    - (a) A decision by the Commission that a notice of intent is required.
    - (b) The applicant desires only an informal opinion from the Commission, in which case a letter of such opinion shall substitute for a determination.
  - (2) The Commission shall conduct a public hearing or meeting on any application or request for determination of applicability, with written notice given at the expense of the applicant at least five business days prior to the hearing or meeting in a newspaper of general circulation in the municipality, chosen at the discretion of the Commission. **[Amended 5-13-1998 ATM, Art. 59]**
- E. The Commission shall commence the public hearing within 21 days from receipt of a completed permit application or request for determination of applicability unless an extension is authorized in writing by the applicant. **[Amended 5-22-1997 ATM, Art. 41]**
- F. The Chairman of the Commission may appoint a committee comprised of members of the Commission to conduct preliminary investigations with regard to applications and requests for determination submitted to the Commission or to the aforesaid committee. This committee may conduct such preliminary investigations, without notice or public hearing, but shall report all material findings obtained relative thereto to the Commission at the next public meeting or hearing regarding such application or request.
- G. The Commission shall issue its permit or determination in writing within 21 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant. **[Amended 5-22-1997 ATM, Art. 41]**
- H. The Commission in an appropriate case may combine its hearing under this bylaw with the hearing conducted under the Wetlands Protection Act (MGL c. 131, § 40) and Regulations (310 CMR 10.00), as they may be amended. **[Amended 5-22-1997 ATM, Art. 41]**
- I. The Commission shall have authority to continue the hearing to a date certain announced at the hearing, for reasons stated at the hearing, which may include receipt of additional information offered by the applicant or others, information and plans required of the applicant, deemed necessary by the Commission in its discretion, or comments and recommendations of other boards and officials. In the event the applicant objects to a continuance or postponement, the hearing shall be closed and the Commission shall take action on such information as is available. Any such continuance or postponement shall require approval by a majority of the Commission.
- J. A quorum is defined as a majority of the members then in office. **[Added 5-11-1994 ATM, Art. 35]**

#### **§ 192-6. Permits, determinations and conditions.**

- A. If the Commission, after a public hearing, determines that the activities which are the subject of the application are likely to have a significant or cumulative effect upon the resource area values protected by this bylaw, the Commission, within 21 days of the close of the hearing, shall issue or deny a permit for the activities requested. If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions. **[Amended 5-10-1995 ATM, Art. 41]**
- B. The Commission is empowered to deny a permit for failure to meet the requirements of this bylaw; for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specifications, performance standards and other requirements in the regulations of the Commission; for failure to avoid or present unacceptable significant or cumulative effects upon the resource area values protected by this bylaw; and where no conditions are adequate to protect those values. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial as presented at the public hearing. **[Amended 5-13-1998 ATM, Art. 59]**
- C. A permit shall expire three years from the date of issuance. Notwithstanding the above, the Commission in its discretion may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. Any permit may be renewed twice for an additional one-year period, provided that a request for a renewal is received in writing by the Commission prior to expiration. Notwithstanding the above, a permit may contain requirements which shall be enforceable for a stated number of years, indefinitely or until permanent protection is in place, and shall apply to all owners of the land. **[Amended 5-13-1998 ATM, Art. 59]**
- D. For good cause, the Commission may revoke or modify a permit issued under this bylaw after public notice and public hearing, and notice to the holder of the permit.
- E. The Commission in an appropriate case may combine the permit or determination (other action on an application) issued under this bylaw with the order of conditions or determination of applicability issued under the Wetlands Protection Act (MGL c. 131, § 40) and Regulations (310 CMR 10.00), as they may be amended. **[Amended 5-10-1995 ATM, Art. 41; 5-22-1997 ATM, Art. 41]**
- F. No work proposed in any permit application shall be undertaken until the permit issued by the Commission with respect to such work has been recorded in the Registry of Deeds or, if the land affected is registered land, in the registry section of the Land Court for the district wherein the land lies and until the holder of the permit certifies in writing to the Commission that the permit has been recorded. **[Amended 5-22-1996 ATM, Art. 57]**
- G. All actions taken by the Commission pursuant to this section shall require the approval of a majority of the Commission.

**§ 192-7. Regulations. [Amended 5-13-1998 ATM, Art. 59]**

- A. After public notice and public hearing, the Commission shall promulgate rules and regulations to effectuate the purposes of this bylaw effective when voted and filed with the Town Clerk. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw. At a minimum, these regulations shall determine key terms in this bylaw not inconsistent with the bylaw. These regulations shall also determine procedures governing the amount and filing of fees.<sup>29</sup>

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29. Editor's Note: The regulations are on file in the office of the Town Clerk.

- B. In addition, these regulation shall list minimum setback distances for activities in Buffer Zones and other Resource Areas based on the environmental sensitivity of those Resource Areas. The Conservation Commission may require greater than the minimum setback distances for activities within areas of jurisdiction based on the type of work proposed and/or features specific to the site, in order to protect the Resource Area values. **[Added 5-9-2000 ATM, Art. G57]**

#### **§ 192-8. Definitions.**

- A. The following definitions shall apply in the interpretation and implementation of this bylaw:

**ABUTTER** — The owner of any property any portion of which lies within 250 feet radially from any lot line of the subject property including owners of land directly opposite on any public or private street or way including any in another municipality or across a body of water. In the case of property that has frontage on a pond, abutters shall include all those properties with frontage on the pond or pond association if in existence. **[Added 5-22-1997 ATM, Art. 41; amended 5-12-2009 ATM, Art. 15]**

**ALTER** — Include, without limitation, the following activities when undertaken to, upon, within or affecting resource areas protected by this bylaw:

- (1) Removal, excavation or dredging of soil, sand, gravel or aggregate materials of any kind.
- (2) Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns or flood retention characteristics.
- (3) Drainage or other disturbance 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 (including docks and piers) in water. **[Amended 5-22-1997 ATM, Art. 41]**
- (8) Destruction of plant life, including the cutting of trees.
- (9) Changing water temperature, biochemical oxygen demand or other physical, biological or chemical characteristics of water. **[Added 5-10-1995 ATM, Art. 41]**
- (10) Any activities, changes or work which may cause or tend to contribute to pollution of any body of water or groundwater.
- (11) Incremental activities which have or may have a cumulative adverse impact on the resource areas protected by this bylaw. **[Added 5-22-1996 ATM, Art. 57]**
- (12) Application of pesticides or herbicides. **[Added 5-22-1996 ATM, Art. 57]**

**BANK** — Includes the land area which normally abuts and confines a water body, the lower boundary being the mean annual low flow level and the upper boundary being the first observable break in the slope or the mean annual flood level, whichever is higher. **[Added 5-10-1995 ATM, Art. 41]**

**BEACH** — A naturally or man-made unvegetated bank which normally abuts and confines a water body. **[Added 5-22-1997 ATM, Art. 41]**

**BOGS** — Areas where standing or slowly running water is near or at the surface during a normal growing season and where a vegetational community has a significant portion of the ground or water surface covered with Sphagnum moss (*Sphagnum*) and where the vegetational community is made up of a significant portion of one or more of, but not limited to nor necessarily including all, of the following plants or groups of plants: aster (*Aster nemoralis*), azaleas (*Rhododendron canadense* and *R. viscosum*), black spruce (*Picea mariana*), bog cotton (*Eriophorum*), cranberry (*Vaccinium macrocarpon*), high-bush blueberry (*Vaccinium corymbosum*), larch (*Larix laricina*), laurels (*Kalmia angustifolia* and *K. polifolia*), leatherleaf (*Chamaedaphne calyculata*), orchids (*Arethusa*, *Calopogon*, *Pogonia*), pitcher plants (*Sarracenia purpurea*), sedges (*Cyperaceae*), sundews (*Droseraceae*), sweet gale (*Myrica gale*) and white cedar (*Chamaecyparis thyoides*).**[Added 5-22-1997 ATM, Art. 41]**

**BORDERING VEGETATED WETLANDS** — Freshwater wetlands which border on creeks, streams, rivers, ponds and lakes. Bordering vegetated wetlands are areas where the soils are saturated and/or inundated such that they support a predominance (50% or greater) of wetland indicator plants.**[Added 5-22-1997 ATM, Art. 41]**

**BORDERING LAND SUBJECT TO FLOODING** — An area with low, flat topography adjacent to and inundated by floodwaters rising from creeks, streams, rivers, ponds or lakes. The boundary of bordering land subject to flooding is the one-hundred-year floodplain. It extends from the outer edge of a bank or bordering vegetated wetland.**[Added 5-22-1997 ATM, Art. 41]**

**BUFFER ZONE** — That area of land extending 100 feet horizontally outward from the boundary of the following resource areas: freshwater wetlands, marshes, wet meadows, bogs, swamps, lakes, ponds, rivers, streams, creeks, banks, beaches, vernal pools, large isolated wetlands, lands under water bodies, lands subject to flooding or inundation by groundwater or surface water.**[Added 5-22-1997 ATM, Art. 41]**

**CREEK** — The same as a stream.**[Added 5-22-1997 ATM, Art. 41]**

**DREDGE** — To deepen, widen or excavate, either temporarily or permanently.**[Added 5-22-1997 ATM, Art. 41]**

**FRESHWATER WETLANDS** — Wet meadows, marshes, swamps and bogs.**[Added 5-22-1997 ATM, Art. 41]**

**ISOLATED LAND SUBJECT TO FLOODING** — Any isolated depression without an inlet or outlet which at least once a year confines standing water to a volume of at least 1/4 acre-foot of water with an average depth of at least six inches. The boundary is the perimeter of the largest observed or recorded volume of water confined in the basin.**[Added 5-22-1997 ATM, Art. 41]**

**LAKE** — Any open body of fresh water with a surface area of 10 acres or more, and shall include great ponds.**[Added 5-22-1997 ATM, Art. 41]**

**LARGE ISOLATED WETLANDS** — Isolated wetlands 5,000 square feet or larger.**[Added 5-22-1997 ATM, Art. 41]**

**MARSHES** — Areas where a plant community exists in standing or running water during the growing season and where a significant part of the vegetational community is composed of, but not limited to nor necessarily including, all of the following plants or groups of plants: arums (*Araceae*), bladder worts (*Utricularia*), burr reeds (*Sparganiaceae*), button bush (*Cephalanthus occidentalis*), cattails (*Typha*), duck weeds (*Lemnaceae*), eelgrass (*Vallisneria*), frog bits (*Hydrocharitaceae*), horsetails (*Equisetaceae*), hydrophilic grasses (*Gramineae*), leatherleaf (*Chamaedaphne calyculata*), pickerel weeds (*Pontederiaceae*), pipeworts (*Eriocaulon*), pond weeds (*Potamogeton*), rushes (*Juncaceae*), sedges (*Cyperaceae*), smartweeds (*Polygonum*), sweet gale (*Myrica gale*), water milfoil (*Haloragaceae*), water lilies (*Nymphaeaceae*), water starworts (*Callitrichaceae*) and water willow

(Decodon verticillatus).[Added 5-22-1997 ATM, Art. 41]

MEAN ANNUAL HIGH-WATER LINE — As defined in the Wetlands Protection Act Regulations 310 CMR 10.58(2), as they may be amended.[Added 5-22-1997 ATM, Art. 41; amended 5-13-1998 ATM, Art. 59]

PERSON — Includes any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the commonwealth or political subdivision thereof to the extent subject to town bylaws, administration agency, public or quasi-public corporation or body, this municipality and any other legal entity, its legal representatives, agents or assigns.

PONDS —

- (1) Includes any substantially open body of fresh water with a surface area observed or recorded within 10 years prior to the date of application, of at least 5,000 square feet. Ponds may be either naturally occurring or man-made by impoundment, excavation or otherwise. Ponds shall contain standing water except for periods of extended drought. For purposes of this definition, extended drought shall be defined in the Wetlands Protection Bylaw Regulations. [Added 5-22-1996 ATM, Art. 57; amended 5-22-1997 ATM, Art. 41; 5-9-2000 ATM, Art. G58]
- (2) Notwithstanding the above, the following man-made bodies of open water shall not be considered ponds: swimming pools or other impervious man-made basins, fire ponds for approved subdivisions, approved stormwater management structures, irrigation ponds for agricultural purposes, golf courses, and individual gravel pits or quarries excavated from upland areas unless such gravel pit or quarry has been inactive for five or more consecutive years. [Added 5-22-1996 ATM, Art. 57; amended 5-22-1997 ATM, Art. 41; 5-9-2000 ATM, Art. G58]

RARE SPECIES — Includes, without limitation, all vertebrate and invertebrate animal and plant species listed as endangered, threatened or of special concern by the Massachusetts Division of Fisheries and Wildlife, regardless of whether the site in which they occur has been previously identified by the Division.[Added 5-10-1995 ATM, Art. 41]

RESOURCE AREAS — Includes any freshwater wetlands, marshes, wet meadows, bogs, swamps, lakes, ponds, rivers, streams, creeks, banks, beaches, vernal pools, large isolated wetlands, land under water in each resource area, riverfront area, land subject to flooding or inundation by groundwater or surface waters and buffer zones as defined in this bylaw.[Added 5-10-1995 ATM, Art. 41; amended 5-22-1997 ATM, Art. 41]

RESOURCE AREA VALUES — Includes but is not limited to the following: public or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention, water quality, water pollution control, fisheries, wildlife habitat, rare species habitat including rare plant species, agriculture, riverfront area values and recreation values deemed important to the community.[Added 5-22-1997 ATM, Art. 41]

RIVER — A natural flowing body of water of any size that empties to any ocean, lake or other river and which flows throughout the year.[Added 5-22-1997 ATM, Art. 41]

RIVERFRONT AREA — Is defined in the Wetlands Protection Act Regulations 310 CMR 10.58 (2), as they may be amended, and as amended in the Town of Boxford Wetlands Protection Bylaw Regulations, Section 10.58. If any part of the definition of "riverfront area" in 310 CMR 10.58(2) is different from the definitions in the Boxford Wetlands Protection Bylaw and Regulations, the definitions in the bylaw and regulations shall prevail.[Added 5-22-1997 ATM, Art. 41; amended 5-13-1998 ATM, Art. 59; 5-9-2000 ATM, Art. G58]



**STREAM** — A body of running water, and the land under the water, including brooks, creeks and man-made watercourses, which moves in a definite channel in the ground due to hydraulic gradient. A portion of a stream may flow through a culvert or beneath a bridge or beneath the surface of the ground. Such a body of running water which does not flow throughout the year (i.e., which is intermittent) is a stream except for that portion upgradient of all wetland resource areas including freshwater wetlands, marshes, wet meadows, bogs, swamps, lakes, ponds, rivers, streams, creeks, banks, beaches, vernal pools, and large isolated wetlands. **[Added 5-22-1997 ATM, Art. 41; amended 5-9-2000 ATM, Art. G58]**

**SWAMPS** — Areas where groundwater is at or near the surface of the ground for a significant part of the growing season or where runoff water from surface drainage frequently collects above the soil surface, and where a significant part of the vegetational community is made up of, but not limited to nor necessarily include, all of the following plants or groups of plants: alders (*Alnus*), ashes (*Fraxinus*), azaleas (*Rhododendron canadense* and *R. viscosum*), black alder (*Ilex verticillata*), black spruce (*Picea mariana*), buttonbush (*Cephalanthus occidentalis*), American or white elm (*Ulmus americana*), white Hellebore (*Veratrum viride*), hemlock (*Tsuga canadensis*), highbush blueberry (*Vaccinium corymbosum*), larch (*Larix laricina*), cowslip (*Caltha palustris*), poison sumac (*Toxicodendron vernix*), red maple (*Acer rubrum*), skunk cabbage (*Symplocarpus foetidus*), sphagnum mosses (*Sphagnum*), spice bush (*Lindera benzoin*), black gum tupelo (*Nyssa sylvatica*), sweet pepper bush (*Clethra alnifolia*), white cedar (*Chamaecyparis thyoides*), willow (*Salicaceae*), common reed (*Phragmites communis*) and jewelweed (*Impatiens capensis*). **[Added 5-22-1997 ATM, Art. 41]**

**VERNAL POOL** — Includes a confined basin depression of any size which is free of naturally occurring fish populations and which contains evidence of breeding by obligate vernal pool species as recognized by the Massachusetts Natural Heritage and Endangered Species Program. **[Added 5-22-1996 ATM, Art. 57; amended 5-22-1997 ATM, Art. 41; 5-9-2000 ATM, Art. G58]**

**WETLAND RESOURCE AREA** — Any resource area other than the buffer zone. **[Added 5-22-1997 ATM, Art. 41]**

**WET MEADOWS** — Areas where groundwater is at the surface for the significant part of the growing season and near the surface throughout the year and where a significant part of the vegetational community is composed of various grasses, sedges and rushes, made up of, but not limited to nor necessarily including, all of the following plants or groups of plants: blue flag (*Iris*), vervain (*Verbena*), thoroughwort (*Eupatorium*), dock (*Rumex*), false loosestrife (*Ludwigia*), hydrophilic grasses (*Gramineae*), loosestrife (*Lythrum*), marsh fern (*Dryopteris thelypteris*), rushes (*Juncaceae*), sedges (*Cyperaceae*), sensitive fern (*Onoclea sensibilis*) and smartweed (*Polygonum*). **[Added 5-22-1997 ATM, Art. 41]**

- B. Except as otherwise provided in this bylaw or in regulations of the Commission, the definitions of terms in this bylaw shall be as set forth in the Wetlands Protection Act (MGL c. 131, § 40) and Regulations (310 CMR 10.00), as they may be amended. **[Added 5-22-1996 ATM, Art. 57; amended 5-22-1997 ATM, Art. 41]**

#### **§ 192-9. Security. [Amended 5-10-1995 ATM, Art. 41; 5-22-1997 ATM, Art. 41]**

As part of a permit issued under this bylaw, in addition to any security required by any other municipal or state board, agency or official, the Commission may require that the performance and observance of the conditions imposed thereunder (including conditions requiring mitigation work) be secured by the following method: by a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Commission to be released in whole or in part upon

issuance of a certificate of compliance for work performed pursuant to the permit.

**§ 192-10. Enforcement.**

- A. No person shall remove fill, dredge, build upon, degrade or otherwise alter resource areas protected by this bylaw, 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 a permit or an enforcement order pursuant to this bylaw. **[Added 5-22-1996 ATM, Art. 58]**
- B. The Commission, its agents, officers and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this bylaw and may make or cause to be made such examinations, surveys or sampling as the Commission deems necessary, subject to the constitutions and laws of the United States and the commonwealth. **[Amended 5-22-1996 ATM, Art. 58]**
- C. The Commission shall have authority to enforce this bylaw, its regulations and permits issued thereunder by violation notices, administrative orders and civil and criminal court actions.
- D. Upon request of majority of the Commission, the Select Board and the Town Counsel may take legal action for enforcement under civil law. Upon the request of majority of the Commission to the Select Board and the approval thereof, the Chief of Police shall take legal action for enforcement under criminal law. **[Amended 9-12-2020ATM by Art. 19]**
- E. Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in the enforcement of this bylaw.
- F. Any person who violates any provision of this bylaw or regulations thereunder, or any permits, enforcement order or violation notice of the Commission or of the Conservation Administrator issued thereunder, shall be punished by a fine of not more than \$300. Each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the bylaw, regulations or permit, enforcement order or violation notice violated shall constitute a separate offense. **[Amended 5-10-1995 ATM, Art. 41; amended 5-13-1998 ATM, Art. 59]**
- G. As an alternative to criminal prosecution in a specific case, the Commission may issue citations under the noncriminal disposition procedure set forth in MGL c. 40, § 21D, as set forth in Chapter 1 of the General Bylaws. **[Amended 5-22-1997 ATM, Art. 41]**
- H. The specific penalties as listed here shall apply, and in addition to police officers, who shall in all cases be considered enforcing persons for the purpose of this provision, the municipal personnel listed shall also be enforcing persons for such penalties. Each day on which any violation exists shall be deemed to be a separate offense.
  - (1) Specific penalties. **[Added 5-22-1996 ATM, Art. 58; amended 5-13-1998 ATM, Art. 59]**

		Wetlands Resource Area	Noncompliance with an Order of Conditions or Enforcement Order or Violation Notice
First offense	\$25	\$50	\$50
Second offense	\$50	\$150	\$200
Third offense (and any subsequent offense)	\$300	\$300	\$300

- (2) Municipal personnel authorized: Conservation Commission members or Administrator. **[Added 5-22-1996 ATM, Art. 58]**

**§ 192-11. Burden of proof. [Amended 5-13-1998 ATM, Art. 59]**

The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the permit application will not have adverse significant or cumulative effect upon the resource area values protected by this bylaw.

**§ 192-12. Relation to the Wetlands Protection Act. [Amended 5-10-1995 ATM, Art. 41; 5-22-1997 ATM, Art. 41]**

This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes and regulations thereunder independent of the Wetlands Protection Act (MGL c. 131, § 40) and Regulations (310 CMR 10.00) thereunder, as they may be amended.

**§ 192-13. Severability.**

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

**§ 192-14. Fee schedule.**

- A. Applicant shall bear the cost to the Commission for all reasonable advertising, mailing and other costs associated with the application or request.
- B. No fee shall be charged for informal request for determinations as defined in § 192-5 of this bylaw.
- C. The Commission may waive the filing fee, consultant fee and costs and expenses for a permit application or request for determination of applicability filed by a government agency or nonprofit organization. **[Amended 5-13-1998 ATM, Art. 59]**
- D. The fee schedule shall be as defined in the Regulations. **[Added 5-22-1997 ATM, Art. 41]**

**§ 192-15. Wetlands identification. [Amended 5-22-1997 ATM, Art. 41; 5-13-1998 ATM, Art. 59]**

Wetlands resource areas and their boundaries shall be identified and delineated as specified in this bylaw

and/or promulgating regulations. Bordering vegetated wetland shall be further delineated as specified in Wetlands Protection Act Regulations 310 CMR 10-55(2)c, as they may be amended.

**§ 192-16. Associate members of Commission. [Amended 5-22-1997 ATM, Art. 41]**

The Chairman, with the approval of a majority of the Commission, may appoint individuals for the purpose of assisting the Commission in various projects not involving applications or requests for determinations as defined in this bylaw. Such individuals shall be referred to as Associate Members, shall be nonvoting members and shall serve for a term of one year and may be reappointed as deemed appropriate by a majority of the Commission.

ZONING

**Chapter 196**

**ZONING**

**[HISTORY: Adopted by the Town Meeting by the Town of Boxford 10-1-1946 STM, Art. 9; readopted 10-26-1962 STM, Art. I. Amendments noted where applicable.]**

ARTICLE I  
**Purposes and Authority**

**§ 196-1. Purposes and authority. [Amended 5-22-1996 ATM, Art. 51]**

It shall be the purpose of this bylaw to lessen congestion in the streets; to conserve health; to conserve the integrity of the water supply; to secure safety from fire, flood, panic or other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, housing for senior citizens, water supply, drainage, sewerage, schools, parks, open space and other public requirements; to conserve the value of land and buildings including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the Town; including consideration of the recommendations of the Master Plan; and to preserve and increase amenities by restricting, prohibiting, permitting or regulating the uses of land, including wetlands and lands deemed subject to seasonal or periodic flooding, the uses of bodies of water, including water sources, and the development of the natural, scenic, historic and aesthetic qualities of the community, under the authority of MGL c. 40A, MGL c. 40C and Article 89 of the Amendments to the Constitution.

ARTICLE II  
**Establishment of Districts**

**§ 196-2. Classes of districts and Zoning Map. [Amended 5-14-1986 ATM, Art. 38; 5-22-1991 ATM, Art. 51; 5-13-2014 ATM, Art. 24]**

The Town of Boxford is hereby divided as shown on the Zoning Map August 2012, and including subsequent amendments, filed with the Town Clerk and hereby made part of this bylaw, into eight classes of districts designated as follows:

**Residence-Agricultural District**

R-A Residence-Agricultural District (§ 196-13)

**Business Districts**

B-1 Retail Business District (§ 196-14)

B-2 General and Highway Business (§ 196-15)

**Manufacturing or Industrial District**

M Manufacturing or Industrial District (§ 196-16)

**Special Districts**

O Official or Open Space District (§ 196-18)

**Special Uses**

E-H Elderly Housing District (§ 196-20)

Pond Watershed Overlay District (§ 196-21)

Wireless Communications Services District (§ 196-22)

**§ 196-3. Boundaries of districts.**

- A. Where the boundary lines are shown upon said Map within the street lines of public or private ways, the center lines of such ways shall be the boundary lines.
- B. Where the boundary lines are shown approximately on the location of property or lot lines, and the exact location of property, lot or boundary lines is not indicated by means of dimensions shown in figures, then the property or lot lines shall be the boundary lines.
- C. Boundary lines located outside of such street lines and shown approximately parallel thereto shall be regarded as parallel to such street lines, and dimensions shown in figures placed upon said Map between such boundary lines and street side lines are the distances in feet of such boundary lines from such street side lines, such distances being measured at right angles to such street lines unless otherwise indicated.
- D. In all cases which are not covered by other provisions of this section, the location of boundary lines shall be determined by the distance in feet, if given, from other lines upon said Map, by the use of identifications as shown on the Map, or by the scale of the Map.<sup>30</sup>

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30. Editor's Note: Original Section IIB, Subsection 5, which immediately followed this section and dealt with district boundary lines dividing existing lots, was deleted 5-22-1997 ATM, Art. 65.

- E. Contour lines are of indicated elevation above the datum mean sea level of the United States Geological Survey.

**§ 196-4. Historic Districts.**

Historic Districts established pursuant to the provisions of MGL c. 40C, as may be from time to time amended, shall be indicated on the Zoning Map by appropriate symbols.



ARTICLE III  
**Existing Uses Continued**

**§ 196-5. Continuation.**

The lawful existing use or uses of all buildings, improvements and premises not conforming with the requirements for the district in which they are located at the time this bylaw was adopted on October 10, 1946, or when an amendment applicable to the property was adopted, or for which a variance or exception has been permitted by the Board of Appeals, may be continued as a nonconforming use, provided that:

- A. No increase in the extent of the nonconforming use of a structure or lot may be made.
- B. Wherever a nonconforming use has been changed to a more restricted use, it shall not again be changed to a less restricted use.

**§ 196-6. Change, extension or alteration. [Amended 5-14-1986 ATM, Art. 37]**

- A. (Reserved)<sup>31</sup>
- B. Other nonconforming structures or uses may be extended, altered or changed in use on special permit from the Board of Appeals in accordance with the provisions of Article X if the Board of Appeals finds that such extension, alteration or change will not be substantially more detrimental to the neighborhood than the existing nonconforming use.
- C. Once changed to a conforming use, no structure or use shall be permitted to revert to a nonconformancy.

**§ 196-7. Restoration, reconstruction, repair. [Amended 5-11-2004 ATM, Art. 27]**

- A. Any legally nonconforming building or structure damaged by fire or other accidental or natural cause to the extent of not more than 3/4 of its value at the time of damage, as determined by the Inspector of Buildings, may be reconstructed if rebuilding is commenced within one year and completed within two years from the date of the occurrence, or else such reconstruction must comply with this bylaw. Any change or expansion in total square footage, footprint, or dimensions will require a special permit (or variance, if the proposed change or expansion does not comply with the zoning bylaws) from the Zoning Board of Appeals, upon a finding that such change or expansion will not be substantially more detrimental to the neighborhood than the existing structure.
- B. A residence in a district where residences are permitted, but on a nonconforming lot or with nonconforming yards, may be restored or repaired without change in the lot size or yards. Any change or expansion in total square footage, footprint, or dimensions will require a special permit (or variance, if the proposed change or expansion does not comply with the zoning bylaws) from the Zoning Board of Appeals, upon a finding that such change or expansion will not be substantially more detrimental to the neighborhood than the existing structure.

**§ 196-8. Abandonment.**

A nonconforming use which has been abandoned, or discontinued for a period of two years, shall not be reestablished, and any future use of the premises shall conform with this bylaw.

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31. Editor's Note: Former Subsection A, which provided that in certain circumstances the Inspector of Buildings could require a special permit, was removed at the direction of the Town.

**§ 196-9. Permits outstanding.**

Construction or operation under a building or special permit shall conform to any subsequent amendment of this bylaw unless the use or construction is commenced within a period of six months after the issuance of the permit and in cases involving construction, unless such construction is continued through completion as continuously and expeditiously as is reasonable.

ARTICLE IV  
New Construction and New Uses

**§ 196-10. Conformity with bylaw required; prohibited uses.**

Any and every new use and any and every new building, structure and premises shall be used for or occupied, and every building or structure shall be erected, constructed, established, altered, repaired, enlarged or moved exclusively and only with conformity with the requirements, character and conditions laid down for each of the several districts established by this bylaw. Any use not specifically listed herein or otherwise permitted in a district shall be deemed as prohibited.

**§ 196-11. Authority of Board of Appeals to decide on special permits and variances.**

The Board of Appeals, as provided in Article X below, is authorized to decide on special permits and variances from these requirements which will not be contrary to the general intent of this bylaw or to the public interest.

**§ 196-12. Flood hazard areas. [Added 5-22-1991 ATM, Art. 43]**

- A. No new construction or substantial improvement of an existing structure for residential, agricultural, business, manufacturing, industrial or elderly housing use shall be allowed in the designated special flood hazard areas as delineated on the Flood Insurance Rate Map as provided by the Federal Emergency Management Agency dated June 3, 1991, and as may be amended from time to time.
- B. "Substantial improvement" means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either before the improvement or repairs is started, or if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

ARTICLE V  
Use Regulations

**§ 196-13. R-A Residence-Agricultural District.**

- A. A Residence-Agricultural District is intended as a district of single-family homes and for continuance of agricultural and accessory buildings customarily incidental for residential and agricultural uses upon one lot. **[Amended 5-12-1982 ATM, Art. 32]**
- B. Permitted uses. The following shall be permitted uses in the R-A Residence-Agricultural District:
- (1) One single-family detached dwelling which shall have adequate access (which need not be used for a driveway) from the frontage to the dwelling site. Every driveway shall be located entirely within the lot that it serves and shall not serve another lot except as provided in Subsection B(11)(l) of this section. **[Amended 5-20-1980 ATM, Art. 37; 5-12-1981 ATM, Art. 32; 5-13-2014 ATM, Art. 24]**
  - (2) Gardens; growing and storing fruits, berries, vegetables, hay, fodder and ensilage; orchards, wood lots and forestry; and greenhouse, nursery and similar activities in the field of agriculture. **[Amended 5-12-1982 ATM, Art. 33]**
  - (3) Raising and keeping of farm animals and poultry for use of residents on the property and primarily not for profit, with barns, stables, chicken houses and similar buildings; on parcels of five acres or more, commercial greenhouses, the raising or keeping of horses, cattle, pigs, rabbits, fur-bearing animals or poultry for profit or other than for the use of the occupants of the residence. **[Amended 5-11-2004 ATM, Art. 28]**
  - (4) Rooming or boarding house with not over four lodgers.
  - (5) Church, parish house, religious or denominational school, not conducted for profit, and other religious uses exempted from prohibition by law.
  - (6) Public schools, museums, libraries and parks, playgrounds, conservation areas, water supply areas or land owned and operated for the public enjoyment or service by a public or semipublic agency, and other educational uses exempted from prohibition by law.
  - (7) Private golf courses, community clubs (not including miniature golf).
  - (8) Customary home or professional occupation conducted in a dwelling or building accessory thereto by a person residing on the premises, provided that:
    - (a) Such use is clearly incidental and secondary to the use of the premises for residential purposes.
    - (b) Not more than two persons other than residents of the premises are regularly employed thereon in connection with such use.
    - (c) No offensive noise, vibration, smoke, dust, fumes, odors, heat, glare or unsightliness or unsafe condition is produced. **[Amended 5-18-1988 ATM, Art. 48]**
    - (d) There is no public display of goods or wares and there are no signs except as permitted in § 196-27.
    - (e) There is no exterior storage of material or equipment (including the parking of more than

two commercial vehicles) and no other exterior indication of such use or variation from the residential character of the premises.

- (9) Accessory uses customarily incidental to any main permitted use on the same premises, and including but not limited to private garages and to activities associated with agriculture, such as barns, stables and other farm buildings.
- (10) Signs as provided in § 196-27.
- (11) Subject to the grant of a special permit by the Board of Appeals as provided in Article X below, the following:
  - (a) <sup>32</sup>Maintenance of commercial dog kennels, provided that no structure or operations are involved which are not in keeping with the residential character of the Town, all structures and operations are substantially screened from view with evergreen trees, shrubs, similar vegetation, fences or other means and no offensive noise, odors, unsightliness or unsafe condition is produced. **[Amended 5-18-1988 ATM, Art. 50]**
  - (b) Signs and displays concerning the products and goods raised or processed on the premises and not exceeding 12 square feet in total area.
  - (c) Dump operated by the Town for the exclusive use of the inhabitants of the Town subject to Board of Health regulations.<sup>33</sup>
  - (d) The taking of more than four lodgers.
  - (e) Private school, cemetery, hospital, clinic, sanitarium nursing home, camps of an educational or charitable institution.
  - (f) Use of land for a public utility.
  - (g) Community club or golf club conducted for profit.
  - (h) Garage space for more than three automobiles.
  - (i) Recreation and amusement enterprises, including rental of saddle horses or boats, sale of bait, ski-tow and similar activities.
  - (j) Earth excavation, as provided in Article VII.
  - (k) Certain accessory uses related to permitted scientific research or development, provided that the granting authority also finds that the proposed accessory use does not substantially derogate from the public good.
  - (l) A shared driveway that serves up to three lots and shall only be located on one or more of the lots being served. Every such shared driveway must be regulated by a recorded maintenance agreement running in perpetuity with the land and satisfactory to Town Counsel. The Board of Appeals shall impose such conditions, to be made part of the special permit, as are necessary to provide adequate access, including conditions that

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32. Editor's Note: Former Subsection B(11)(a), concerning farm stands, amended 5-17-1989 ATM, Art. 41, and 5-11-1999 ATM, Art. 34, which immediately preceded this subsection, was repealed 5-13-2008 ATM, Art. 20. Article 20 also provided for the redesignation of former Subsection B(11)(b) through (m) as Subsection B(11)(a) through (l), respectively. For farm stand activities, see now § 196-13E.

33. Editor's Note: See Division 2 of the Code.

assign responsibility for maintenance and snow removal. **[Added 5-12-1980 ATM, Art. 38; amended 5-18-1981 ATM, Art. 33; 5-11-2004 ATM, Art. 29]**

C. Accessory apartments in residence districts. **[Added 5-14-1986 ATM, Art. 34]**

- (1) Purpose and intent. It is the specific intent of this section to allow accessory apartments, including kitchens, within single-family properties in Residence-Agricultural Districts for the purpose of meeting the special housing needs of grandparents, parents, brothers and sisters, children and their respective spouses of families of owner-occupants of properties in the Town of Boxford, subject to the granting of a special permit by the Board of Appeals as provided in Article X. To achieve this goal and to promote the other objectives of this bylaw, specific standards are set forth below for such accessory apartment uses. **[Amended 5-9-2006 ATM, Art. 34]**
- (2) Owner occupancy required. The owner(s) of the single-family lot upon which the accessory apartment is located shall occupy at least one of the dwelling units on the premises. The special permit shall be issued to the owner of the dwelling units on the property. Should there be a change in ownership or change in residence of the owner, the special permit and the certificate of occupancy for the accessory apartment shall become null and void.
- (3) Apartment size. The gross floor area for an accessory apartment shall not exceed the lesser of:  
**[Amended 5-11-1999 ATM, Art. 33; 5-10-2005 ATM, Art. 26]**
  - (a) One thousand square feet; or
  - (b) Twenty-five percent of gross floor area of the sum total of the two dwelling units, as determined at the time of the special permit request. "Gross floor area" shall be defined as the sum of the horizontal areas of floors of a building measured from the exterior face of exterior walls. This includes courts, decks or porches when covered by a roof, or finished portions of basements and excludes garages.
- (4) Code compliance. The accessory apartment must be determined to comply with current safety, health and construction requirements before occupancy and at every change in occupancy.
- (5) Preservation of single-family characteristics. The accessory apartment shall not change the single-family characteristic of the dwelling, except for the provision of an additional access or egress.
- (6) Existing detached structures may continue to be used for the same purposes subject to special conditions imposed by the Board of Appeals.
- (7) There shall be no more than one accessory apartment for a total of two dwelling units permitted per lot.
- (8) Current apartment uses, effective date this bylaw, may be continued only as long as the present occupants of the accessory apartment remain in residence.
- (9) Under no circumstances shall the accessory apartment be detached from the main dwelling unit. **[Added 5-10-2005 ATM, Art. 26]**

D. Accessory Affordable Housing Program. **[Added 5-8-2007 ATM, Art. 13]**

- (1) Introduction. The purpose of this bylaw is to satisfy an immediate need for affordable rental property in the Town of Boxford that meets the guidelines of the Department of Housing and

Community Development's ("DHCD") Local Initiative Program for so-called "local action units," pursuant to state regulations: 760 CMR 45.03. This bylaw also provides a means of renting of accessory apartments that are no longer used for family members, as defined in § 196-13C of this Zoning Bylaw. For a proposed unit to be eligible for consideration under this Accessory Affordable Housing Program, it must be a single unit, accessory to an owner-occupied single-family dwelling, and comply with the following requirements.

- (2) Special permit. A special permit from the Board of Appeals shall be required for an accessory affordable apartment and the applicant shall show to the satisfaction of the Board of Appeals that the applicant has complied with or will comply with the requirements set forth in Subsection D(3), below.
- (3) Eligibility of accessory affordable apartments.
  - (a) The accessory affordable apartment must be part of the primary residence structure of the property owner, and the primary living area of the residence may not be rented. The accessory affordable apartment must conform to the Boxford Code § 196-13C, Accessory apartments in residence districts, Subsection C(2) through (7). All parking for the accessory apartment must be on site and off street.
  - (b) In keeping with the rural character of Boxford and the original intent of the accessory apartments, only single-bedroom accessory affordable apartments may be rented, and maximum occupancy shall be of two adults.
  - (c) The owner must demonstrate that all the documentation is on file with the Town to show that the accessory affordable apartment meets the requirements of § 196-13C(2) through (7).
  - (d) The owner(s) shall cooperate with all requirements for local action units pursuant to state regulation.
  - (e) A condition of granting a special permit by the Board of Appeals shall be the execution by the owner(s) of a written regulatory agreement and declaration of restrictive covenants, in form approved by Boxford Town Counsel, with the Town detailing the terms and conditions stated herein. Said regulatory agreement and declaration of restrictive covenants shall further provide that, for as long as the special permit remains in effect, the property shall be subject to the terms, conditions and restrictive covenants contained therein.
  - (f) Said regulatory agreement with the Town shall provide that, upon receipt by the owner(s) of a special permit from the Board of Appeals, the owner(s) shall execute and record in the Essex South District Registry of Deeds or file with the Registry District of the Land Court forthwith said regulatory agreement and declaration of covenants.
  - (g) The special permit issued under this § 196-13D and all associated liabilities shall be binding on all the executors, administrators, heirs, successors and assigns of the permittee unless and until the special permit is either revoked, lapses or is otherwise ruled invalid.
  - (h) The owner(s) shall agree that if the owner(s) receives a special permit, the accessory affordable apartment may be rented only to a person or persons 18 years of age or older selected from a list of eligible households that the local regulatory authority has generated, whose combined annual income is 80% or less than the Lawrence Metropolitan Statistical

Area median income and whose assets do not exceed the amount set forth pursuant to DHCD's Local Initiative Program Guidelines. Accessory affordable apartments permitted under this § 196-13D shall be rented on an open and fair basis.

- (i) The owner(s) further agree that the rent (including utilities and any services) shall not exceed 30% of 80% of area median income for a household of two, or such lesser amount as may be required by 760 CMR 45.03.
- (j) The owner(s) shall require the tenant to sign an agreement, in form approved by Boxford Town Counsel, outlining the income restrictions for continued tenancy and limits to the number of occupants.

E. Farm stand activities. **[Added 5-13-2008 ATM, Art. 20<sup>34</sup>]**

- (1) The purpose of this bylaw is to help protect increasingly scarce farmland in the Town, to enhance the economic viability of farming activities and related farm stand operations in the Town and to promote the public's understanding, knowledge and appreciation of the importance of local farms to the Town's rural character and environment.
- (2) The following uses are permitted, on farms having five acres or greater, pursuant to the agricultural site plan review, as described in Section E(3) below, only in conjunction with a farm stand which qualifies for protection under MGL c. 40A, § 3: **[Amended 5-13-2014 ATM, Art. 24]**
  - (a) Farm festivals during the harvest season of the subject farm;
  - (b) Agritourism activities, including but not limited to:
    - [1] Hayrides;
    - [2] Petting zoos;
    - [3] Play areas;
    - [4] Retail sale of food products and crafts, farm products, garden supplies, or other agriculture-related products (whether or not such products are produced on the farm);
  - (c) Customary food service, including seating and tables;
  - (d) Other activities accessory to and customarily performed on farms.
- (3) Agricultural site plan review for farm stand activities.
  - (a) In support of agricultural site plan review under this section, an applicant shall file with the Planning Board a plan designating:
    - [1] The areas on the subject property on which all proposed activities will take place;
    - [2] Parking facilities; and
    - [3] Anticipated pedestrian and vehicular traffic flows for all events held on the farm.
  - (b) An Assessors' Map showing the information required by Section E.3.a shall be deemed

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34. Editor's Note: This subsection was adopted as Subsection D but was relettered to Subsection E 5-13-2014 ATM, Art. 24.



adequate for this purpose. **[Amended 5-13-2014 ATM, Art. 24]**

- (c) The Planning Board may impose reasonable conditions on the time and manner of such activities to mitigate their anticipated effect upon the neighborhood adjacent to the subject property.
  - (d) Agricultural site plan approval shall be valid for five years, unless the approved activities change in intensity, in which case the property owner or applicant shall return to the Board to amend their site plan.
- (4) An appeal of an agricultural site plan review decision by the Board shall be pursuant to the provisions of MGL c. 40A, § 17.

F. Small wind energy systems. **[Added 5-12-2009 ATM, Art. 17]**

- (1) The purpose of this bylaw is to allow for a streamlined and efficient permitting process to allow for small wind energy systems.
- (2) Small wind energy systems shall be those systems no greater than 60 kilowatts of rated nameplate capacity proposed to be constructed after the effective date of this section.
- (3) Definitions.

HEIGHT — The height of a wind turbine measured from natural grade to the tip of the rotor blade at its highest point, or blade-tip height.

RATED NAMEPLATE CAPACITY — The maximum rated output of electric power production equipment. This output is typically specified by the manufacturer with a nameplate on the equipment.

SMALL WIND ENERGY SYSTEM — All equipment, machinery and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to, storage, electrical collection and supply equipment, transformers, service and access roads, and one or more wind turbines, which have a rated nameplate capacity of 60 kw or less.

WIND TURBINE — A device that converts kinetic wind energy into rotational energy that drives an electrical generator. A wind turbine typically consists of a tower, nacelle body, and a rotor with two or more blades.

- (4) General requirements.
  - (a) Special permit. No small wind energy system shall be erected, constructed, installed or modified as provided in this section without first obtaining a special permit from the Zoning Board of Appeals.
  - (b) All such wind energy systems shall be constructed and operated in a manner that minimizes any adverse visual, safety, and environmental impacts. Such permits may also impose reasonable conditions, safeguards and limitations on time and use and may require the applicant to implement all reasonable measures to mitigate unforeseen adverse impacts of the small wind energy system, should they occur.
  - (c) Compliance with laws, ordinances and regulations. The construction and operation of all such proposed small wind energy systems shall comply with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, environmental, electrical, communications and FAA aviation requirements.

- (d) Utility notification. No small wind energy system shall be installed until evidence has been given to the Building Inspector that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
- (5) General siting, design, lighting and sign standards.
  - (a) Setbacks. Wind turbines shall be set back a distance equal to the total height of the wind turbine from all inhabited structures, overhead utility lines, public road or right of way and property boundaries. The Board may reduce the minimum setback distance if written permission is granted by the owners of the property or properties which abut the property line from which the setback would be reduced.
  - (b) Appearance, color and finish. The wind generator and tower shall remain painted or finished the nonreflective color or finish that was originally applied by the manufacturer, unless approved in the special permit.
  - (c) Lighting. Wind turbines shall be lighted only if required by the Federal Aviation Administration. Lighting of other parts of the small wind energy system, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties.
  - (d) Signage and advertising. Signs and advertising shall be restricted to reasonable identification of the manufacturer or operator of the small wind energy facility and shall defer to the requirements of the Town sign regulations.<sup>35</sup>
- (6) Safety, aesthetic and environmental standards.
  - (a) Unauthorized access. Wind turbines or other structures part of a small wind energy system shall be designed to prevent unauthorized access. For instance, the tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of eight feet above the ground.
  - (b) Noise. The small wind energy system and associated equipment shall conform with the provisions of the Department of Environmental Protection's Division of Air Quality Noise Regulations (310 CMR 7.10), unless the Department and the permit granting authority agree that those provisions shall not be applicable.
  - (c) Land clearing, soil erosion and habitat impacts. Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the small wind energy system and is otherwise prescribed by applicable laws, regulations, and ordinances.
- (7) Monitoring and maintenance. The applicant shall maintain the small wind energy system in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and security measures. The applicant shall provide the Town with contact information, including emergency contact notification, to be used for all correspondence and communications regarding the wind energy system and the applicant shall ensure such contact information is accurate and updated.
- (8) Discontinuance and removal.

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35. Editor's Note: See § 196-27, Signs.

- (a) Any wind energy facility not used for a period of two years or more without written permission from the special permit granting authority, or that has reached the end of its useful life, shall be considered discontinued, and shall be removed. When an applicant intends to decommission and/or remove a wind energy facility, the applicant shall notify the Zoning Enforcement Officer and Building Inspector by certified mail of the proposed date of discontinued operations and plans for removal. The owner/operator shall physically remove the wind energy facility no more than 150 days after the date of discontinued operations. At the time of removal, the affected portion of the site shall be restored as near as possible to the state it was in before the facility was constructed, unless put to another legally authorized, active use. Decommissioning and removal shall consist of:
    - [1] Physical removal of all wind turbines, structures, equipment, security barriers and transmission lines from the site.
    - [2] Disposal of all solid and hazardous waste in accordance with local and state waste disposal regulations.
    - [3] Stabilization or revegetation of the site as necessary to minimize erosion. The Zoning Enforcement Officer may allow the owner to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
  - (b) Upon request, the applicant shall provide evidence to the Zoning Enforcement Officer demonstrating continued use of the wind energy facility. Failure to provide such evidence within 30 days of a written request from the Zoning Enforcement Officer addressed to the contact address provided and maintained by the applicant as required above shall be conclusive evidence that the wind energy facility has been discontinued.
  - (c) If the applicant fails to remove the wind energy facility in accordance with the requirements of this section, the Town shall have the right, to the extent it is otherwise duly authorized by law, to enter the property and remove the facility at the expense of the facility owner and the owner(s) of the site on which the facility is located.
- (9) Permit process, requirements and enforcement.
- (a) The building permit application shall be accompanied by deliverables, including the following:
    - [1] A plot plan showing:
      - [a] Property lines and physical dimensions of the subject property within two times the total height from the tower location;
      - [b] Location, dimensions, and types of existing major structures on the property;
      - [c] Location of the proposed wind system tower, foundations, guy anchors and associated equipment;
      - [d] The right-of-way of any public road that is contiguous with the property;
      - [e] Any overhead utility lines.
    - [2] Wind system specifications, including manufacturer and model, rotor diameter, tower height, tower type (freestanding or guyed).

- [3] Tower foundation blueprints or drawings signed by a professional engineer licensed to practice in the Commonwealth of Massachusetts.
- [4] Tower blueprint or drawing signed by a professional engineer licensed to practice in the Commonwealth of Massachusetts.
- (b) Expiration. A permit issued pursuant to this ordinance shall expire if the small wind energy system is not installed and functioning within 24 months from the date the permit is issued; or the small wind energy system is abandoned.
- (10) Violations. It is unlawful for any person to construct, install, or operate a small wind energy system that is not in compliance with this ordinance or with any condition contained in a building permit issued pursuant to this ordinance.
- (11) Penalties. Any person who fails to comply with any provision of this ordinance or a building permit issued pursuant to this ordinance shall be subject to enforcement and penalties as allowed by applicable law.
- (12) Severability. The provisions of this ordinance are severable, and the invalidity of any section, subdivision, paragraph, or other part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

#### **§ 196-14. B-1 Retail Business District.**

- A. A Retail Business District is intended for retail and local neighborhood shopping and for offices.
- B. Permitted uses. The following shall be permitted uses in the B-1 Retail Business District:
  - (1) All uses permitted in § 196-13B(2), (3), (5), (6), (9), (11)(h), and (11)(i), subject to the same restrictions and conditions as prescribed in the R-A Residence-Agricultural District, provided that no residential use will be permitted except that for an owner, employee or operator of a business or office on the premises. **[Amended 5-13-2014 ATM, Art. 24]**
  - (2) Retail store or service establishment, the principal activities of which shall be the offering within the building of goods or services at retail for use or consumption within the building or off the premises.
  - (3) Business or professional office, or bank.
  - (4) Restaurant or other place for serving food.
  - (5) Municipal, state or federal governmental buildings.
  - (6) Nonprofit civic and fraternal building.
  - (7) Parking area or garage for use of employees, customers or visitors under the condition specified in § 196-26 of Article VI for approval of site plans, etc.
  - (8) Signs or display advertising goods or services available on the lot as provided in § 196-27 of Article VI.
  - (9) Accessory buildings and uses customarily incidental to permitted uses.
  - (10) Subject to the grant of a special permit by the Board of Appeals as provided for in Article X below, the following:

- (a) Gasoline service station, provided that repairs shall be limited to minor changes and adjustments and that gasoline pumps and equipment shall be so located that vehicles to be served are entirely upon the service station lot.
- (b) Rail or bus station or terminal.
- (c) Store or service establishment, the principal activities of which shall be the offering of goods and services at retail by means of drive-in, open-air or other methods which require operations as much outside the building as within.
- (d) Craft shop, provided that no more than five persons are employed.
- (e) Commercial amusement enterprises, such as bowling, theater, clock golf, skating and similar enterprises.
- (f) Multiple dwellings of not less than four and not more than 16 dwelling units; building lots to contain at least two acres for each dwelling unit and not more than one multiple dwelling unit to be placed on any single lot.
- (g) Rest or nursing homes.

**§ 196-15. B-2 General and Highway Business District.**

- A. A General and Highway Business District is intended for buildings and uses providing goods and services to inhabitants of Boxford and neighboring towns, and to the traveling public.
- B. Permitted uses. The following shall be permitted uses in the B-2 General and Highway Business District:
  - (1) Any use permitted in B-1 Retail Business District under the conditions prescribed therein.
  - (2) Motel, hotel or inn.
  - (3) Repair shop for automobiles, appliances and other light equipment.
  - (4) Automobile salesroom.
  - (5) Retail establishment, the principal activities of which shall be the preparation, storage, transfer or distribution of goods (such as building material, automobile parts, etc.).
  - (6) Subject to the grant of a special permit by the Board of Appeals, as provided in Article X below, outdoor storage of fuel supplies and products under appropriate conditions for screening where such areas adjoin a Residence-Agricultural District.

**§ 196-16. M Manufacturing or Industrial District.**

- A. A Manufacturing or Industrial District is intended as an industrial district for manufacturing.
- B. Permitted uses. The following shall be permitted uses in the M Manufacturing or Industrial District:
  - (1) All agricultural, business and commercial uses permitted in other districts, provided that no residential use will be permitted, except that one dwelling may be maintained for a watchman or caretaker and his family employed upon the premises of an industrial concern.
  - (2) Research laboratories with incidental processing or pilot manufacture.

- (3) Office building.
- (4) Manufacturing enterprises, provided that, before any building permit may be granted, the Board of Appeals shall determine that such activities will not be offensive, injurious or noxious because of sewerage, refuse, noise, vibration, smoke, fumes, dust, odor, dangerous fire or explosion or other characteristics detrimental to a dominantly residential Town or which may tend to reduce property values in the same or adjoining districts, in accordance with the standards set forth in § 196-28 of Article VI below.
- (5) Agricultural, horticultural and floricultural uses. **[Amended 5-13-2014 ATM, Art. 24]**
- (6) Religious and educational uses exempt from regulation by law.

### § 196-17. (Reserved)<sup>36</sup>

### § 196-18. O Official or Open Space District.

- A. An Official or Open Space District consists of those areas which have already been dedicated or used for public or semipublic uses, such as parks and recreation areas, public buildings, cemeteries, schools, churches, reservoirs and open space reservations, and which are not available for residential, commercial or other private uses. The purpose of this district is to show on the Zoning Map those areas which, because of their public or semipublic uses, are not appropriate for zoning in any other districts.
- B. No building permit shall be issued for any new building or structure in the Official or Open Space District until plans showing proposed location, uses and external appearance shall have been submitted to the Select Board for review, comment and suggestions with the advise of the Planning Board, and the Select Board shall have made such comment and suggestions or allowed three weeks to elapse after such submission without action. **[Amended 9-12-2020ATM by Art. 19]**

### § 196-19. Special uses.

A building, structure and/or land and premises may be used for the following enumerated purposes only in a Manufacturing or Industrial District and then only if a special permit is granted, after referral to the Planning Board in each case, by the Board of Appeals in accordance with the provisions of Article X below and with such conditions as the Board of Appeals may impose to safeguard the district and the Town against injury to persons or property in the district and to conform to the intent and purpose of this bylaw:

- A. Tanneries, slaughterhouses or rendering plants.
- B. Junkyards.
- C. Automobile dismantling yards.
- D. Bulk station or storage of explosives.
- E. Steam laundries.
- F. Public dance halls.
- G. Airport or landing field (as defined by the Massachusetts Aeronautics Commission).

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36. Editor's Note: Former § 196-17, C Conservancy District, as amended, was repealed 5-13-2014 ATM, Art. 24.

**§ 196-20. Elderly Housing District. [Added 5-9-1984 ATM, Art. 24; amended 5-8-2018 ATM by Art. 18]**

- A. In an Elderly Housing District, no building or land shall be used and no building shall be erected or converted except:
- (1) To provide housing for the elderly, such housing to be owned and operated by a for-profit or nonprofit organization. A "private nonprofit organization" shall mean a corporation, foundation or other organization no part of the net earnings of which inures to the benefit of any private shareholder or individual and which has been organized pursuant to MGL c. 180, as amended.
  - (2) For any of the uses permitted in the R-A Residence-Agricultural District with the development regulations applicable to the R-A Residence-Agricultural District outlined in Article VI governing.
- B. Accessory uses permitted in the Elderly Housing District may include:
- (1) Accessory uses customarily incidental to any main permitted use on the same premises, including but not limited to private garages, a pool, and other such accessory uses customarily incidental to an age-restricted, active adult community.
  - (2) One separate building, not exceeding one story in height, to house snow removal and mowing machines, garden and other tools and equipment required to maintain and service housing for the elderly, as well as separate structures to house any water or sewer utility and/or centralized mailbox facility or residents.
  - (3) One building which may be used as a common building by the residents of the district, which building may include central kitchen and dining facilities providing meals to residents thereof and their guests and may also provide lounge and meeting rooms for the common use of the residents and their guests.
- C. Design guidelines. In addition to the standards for site plans under § 196-30, a proposal within the Elderly Housing District shall be consistent with the following design guidelines:
- (1) All proposed buildings and structures shall be compatible with other quality buildings of similar village-style architecture, building materials and colors;
  - (2) The compatibility of such buildings and structures shall be analyzed in terms of the following factors: size and bulk; orientation to the street; distance from the street; height and roofline articulation; the pattern of window, door, and other building openings; architectural styles; and exterior building materials and colors; and
  - (3) The applicant shall submit a separate landscaping plan, prepared by a registered landscape architect, that provides for intensive high-quality landscaping of all open areas, including areas adjacent to paths, driveways and parking lots, and, where appropriate for screening purposes, dense buffers of trees and shrubs.

**§ 196-21. Pond Watershed Overlay District. [Added 5-22-1996 ATM, Art. 51]**

- A. The Pond Watershed Overlay District consists of the mapped watersheds to Boxford's freshwater ponds. Long considered one of the Town's most significant natural resources, Boxford's numerous freshwater ponds are threatened by land-based activities within the pond watersheds, including residential development, removal of natural vegetative growth and waterfowl. Of particular concern

are elevated levels of nutrients, such as nitrogen and phosphorus, present in the Town's surface waters. Excessive nutrients will cause pond water quality to decline, create noxious odors, increase growth of nuisance plants and reduce values of property within the ponds' watersheds.

- B. The purpose of this District is to identify land areas that provide recharge and runoff to Boxford's freshwater ponds by incorporating these contributing areas into the Town's Zoning Map, Zoning Bylaw and other regulatory tools, as amended.
- C. Permitted uses. In any lot created after the adoption of this amendment:
  - (1) The Pond Watershed Overlay District shall be considered to be superimposed over any other district established in this bylaw. Land in a Pond Watershed Overlay District may be used for any purpose otherwise permitted in the underlying district, subject to the additional restrictions presented herein. Land located such that the site lies partially within an Overlay District shall be governed by the restrictions applicable to the zoning district in which the part of the land is located.
  - (2) Within a Pond Watershed Overlay District, no principal or accessory structure shall be constructed within 100 feet of the high-water mark of a pond. Excluded from this prohibition, subject to other applicable regulations in the Town of Boxford, are structures commonly referred to as "duck walks," landings, docks and piers.
  - (3) Within a Pond Watershed Overlay District, no land area within 300 feet of a measured high-water mark of a pond shall consist of cultivated lawn greater than 5,000 square feet on any single lot.
  - (4) For a distance of at least 25 feet from the high-water mark of any pond within a Pond Watershed Overlay District, natural vegetation shall be left in its natural state, except for a path, not to exceed seven feet in width. Dead or dying vegetation that poses a threat to persons or property may be removed, subject to other applicable regulations in the Town of Boxford.

**§ 196-22. Wireless Communications Services. [Added 5-22-1997 ATM, Art. 51; amended 5-11-2004 ATM, Art. 31; 11-15-2005 STM, Art. 12; 5-9-2006 ATM, Art. 35]**

Wireless communications services and the construction of towers shall be located according to the special permit provisions of the Zoning Bylaw.

- A. (Reserved)
- B. (Reserved)
- C. Use restrictions. A wireless communications facility (including antennas and accessory structures, if any), antenna or satellite dish may be erected upon the issuance of a special permit by the Zoning Board of Appeals pursuant to Article X, subject to site plan review and approval as set forth herein at § 196-30, subject to the following conditions:
  - (1) The only wireless communication facilities allowed are freestanding monopoles, with associated antenna and/or panels to be installed internally within the monopole.
  - (2) To the extent feasible, all service providers shall collocate on a single facility. Wireless communications facilities shall be designed to accommodate the maximum number of users technologically practical. The intent of this requirement is to reduce the number of facilities which will be required to be located within the community.



- (3) Any proposed extension in the height, addition of cells, antennas or panels or construction of a new facility shall be subject to a new application for an amendment to the special permit.
- (4) New facilities shall be considered by the Zoning Board of Appeals only upon a finding by the Zoning Board of Appeals that the equipment planned for the proposed facility cannot be accommodated on any existing or already approved facilities.
- (5) All facilities shall be designed to be constructed at the minimum height necessary to accommodate the anticipated present and future use but in no event to exceed 120 feet in height as measured from the mean finished ground level at the base of the facility.
- (6) A facility shall not be erected nearer to any property line than a distance equal to the vertical height of the facility (inclusive of any appurtenant devices), measured at the mean finished grade of the facility base.
- (7) Siting shall be such that the view of the facility from adjacent abutters, residential neighbors and other areas of Town shall be as limited as possible. All facilities shall be painted or otherwise colored so they will blend in with the landscape or the structure on which they are located. The coloring scheme of the pole shall be at the discretion of the Board of Appeals based upon information provided during the public hearing.
- (8) Wireless communication facilities shall be suitably screened from abutters and residential neighborhoods.
- (9) Fencing shall be provided to control access to wireless communications facilities and shall be compatible with the scenic character of the Town. Chain link is not acceptable.
- (10) Existing on-site vegetation shall be preserved to the maximum extent possible.
- (11) There shall be no signs, except for announcement signs, no-trespassing signs and a required sign giving a phone number where the owner can be reached on a twenty-four-hour basis. All signs shall conform with § 196-27.
- (12) Night lighting of the facilities shall be prohibited unless required by the Federal Aviation Administration (FAA). Lighting shall be limited to that needed for emergencies and/or as required by the FAA.
- (13) There shall be a maximum of one parking space for each facility, to be used in connection with the maintenance of the facility and the site, and not to be used for the permanent storage of vehicles.
- (14) To the extent technologically feasible, all network interconnections from the facility shall be via underground land lines.
- (15) Applicants proposing to erect facilities on municipally owned land or structures shall provide evidence of contractual authorization from the Town of Boxford to conduct wireless communications services on municipally owned property.
- (16) Traffic associated with the facility and accessory facilities and structures shall not adversely affect abutting ways.
- (17) Satellite dishes and/or antennas may be located on structures or may be freestanding.
- (18) Satellite dishes and/or antennas shall be situated on a structure in such a manner that they are

screened, preferably not being visible from abutting streets. Freestanding dishes and/or antennas shall be located on the landscape in such a manner so as to minimize visibility from abutting streets and residences and to limit the need to remove existing vegetation. All equipment shall be colored, molded and/or installed to blend into the structure and/or landscape.

- (19) Antennas or dishes located on a structure shall not exceed 10 feet in height above the level of its attachment to the structure.
  - (20) Annual certification demonstrating continuing compliance with the standards of the Federal Communication Commission, Federal Aviation Administration and the American National Standards Institute and required maintenance shall be filed with the Building Inspector by the special permit holder.
  - (21) All unused facilities or parts thereof or accessory facilities and structures which have not been used for one year shall be dismantled and removed at the owner's expense.
- D. Procedure for a special permit. All applications for wireless communications facilities, antennas or satellite dishes shall be made and filed on the applicable application forms for site plan and special permit in compliance with the Boxford Zoning Board of Appeals application instructions. In addition to the requirements for site plan review under § 196-30 and the special permit requirements under §§ 196-45, 196-46, 196-47, 196-48 and 196-49, five copies of the following information must be submitted for application to be considered complete:
- (1) A locus plan at a scale one inch equals 200 feet, which shall show all property lines, the exact location of the proposed structure(s), street, landscape/topography features, residential dwellings and neighborhoods and all buildings within 500 feet of the facility.
  - (2) A color photograph or rendition of the facility with its antennas and/or panels. For satellite dishes or antennas, a color photograph or rendition illustrating the dish or antenna at the proposed location is required. A rendition shall also be prepared illustrating a view of the monopole, dish or antenna from the nearest street or streets.
  - (3) The following information must be prepared by a professional engineer:
    - (a) A description of the facility and the technical, economic and other reasons for the proposed location, height and design.
    - (b) Confirmation that the facility complies with all applicable federal and state standards.
    - (c) A description of the capacity of the facility, including the number and type of panels, antennas and/or transmitter receivers that it can accommodate and the basis for these calculations.
    - (d) If applicable, a written statement that the proposed facility complies with, or is exempt from, applicable regulations administered by the Federal Aviation Administration (FAA), Federal Communications Commission (FCC) and the Massachusetts Aeronautics Commission and the Massachusetts Department of Public Health.
    - (e) The applicable review and advertising fees as noted in the application guidelines.
- E. Exemptions. The following types of wireless communications facilities are exempt from this § 196-22:
- (1) Amateur radio towers used in accordance with the terms of the amateur audio service license

issued by the Federal Communications Commission, provided that the tower is not used or licensed for any commercial purpose.

- (2) Facilities used for the purposes set forth in MGL c. 40A, § 3.
- (3) Satellite dishes and antennae for residential use.

**§ 196-22.1. Floodplain District.<sup>37</sup> [Added 5-8-2012 ATM, Art. 14]**

- A. Floodplain District Boundaries. The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Boxford designated as Zone A or AE on the Essex County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Essex County FIRM that are wholly or partially within the Town of Boxford are panel numbers 25009C0226F, 25009C0227F, 25009C0229F, 25009C0231F, 25009C0233F, 25009C0234F, 25009C0241F, 25009C0242F, 25009C0244F, 25009C0253F, 25009C0254F, 25009C0261F, 25009C0262F, 25009C0263F, 25009C0264F, and 25009C0401F dated July 3, 2012. The exact boundaries of the District are defined by the 100-year base flood elevations shown on the FIRM and further defined by the Essex County Flood Insurance Study (FIS) report dated July 3, 2012. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk.
- B. Base flood elevation and floodway data.
  - (1) Floodway data. In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available federal, state, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
  - (2) Base flood elevation data. Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or five acres, whichever is the lesser, within unnumbered A Zones.
- C. Notification of watercourse alteration. In a riverine situation, the Conservation Director shall notify the following of any alteration or relocation of a watercourse:

Adjacent communities.  
 NFIP State Coordinator  
 Massachusetts Department of Conservation and  
 Recreation  
 251 Causeway Street, Suite 600-700  
 Boston, MA 02114-2104  
  
 NFIP Program Specialist  
 Federal Emergency Management Agency,  
 Region I  
 99 High Street, 6th Floor

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37. Editor's Note: The provisions of former § 196-22.1, Temporary moratorium on medical marijuana treatment centers, adopted 5-14-2013 ATM, Art. 28, expired 7-31-2014.

Boston, MA 02110

## D. Use regulations.

- (1) The Floodplain District is established as an overlay district to all other districts. All development in the district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with MGL c. 131, § 40, and with the following:
  - (a) Sections of the Massachusetts State Building Code (780 CMR), as may be currently in effect, which address construction in floodplain areas;
  - (b) Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
  - (c) Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);
  - (d) Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5).
- (2) Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.
- (3) In Zone AE, along watercourses that have a regulatory floodway designated on the Essex County FIRM, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (4) All subdivision proposals must be designed to assure that:
  - (a) Such proposals minimize flood damage;
  - (b) All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
  - (c) Adequate drainage is provided to reduce exposure to flood hazards.

## E. Permitted uses. The following uses of low flood damage potential and causing no obstructions to flood flows are encouraged provided they are permitted in the underlying district and they do not require structures, fill, or storage of materials or equipment:

- (1) Agricultural uses such as farming, grazing, truck farming, horticulture, etc.
- (2) Forestry and nursery uses.
- (3) Outdoor recreational uses, including fishing, boating, play areas, etc.
- (4) Conservation of water, plants, wildlife.
- (5) Wildlife management areas, foot, bicycle, and/or horse paths.
- (6) Temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises.
- (7) Building lawfully existing prior to the adoption of these provisions.

**§ 196-22.2. Solar Overlay District. [Added 5-8-2018 ATM by Art. 17]****A. Large-Scale Ground-Mounted Solar Photovoltaic Installation Overlay District.**

- (1) Purpose. The purpose of this bylaw is to permit as-of-right siting of large-scale ground-mounted solar photovoltaic installations within a designated Solar Overlay District by providing standards for the design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and that provide adequate financial assurance in the event of abandonment or removal of such installations.

- (2) Definitions. As used in this bylaw, the following terms shall have the meanings indicated:

AS-OF-RIGHT SITING — That development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary zoning approval.

LARGE-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATION (also "installation") — A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a minimum rated nameplate capacity of 250 kW DC.

RATED NAMEPLATE CAPACITY — The maximum rated output of electric power production of the photovoltaic system in direct current (DC).

SOLAR OVERLAY DISTRICT — As used in this section shall include the following properties:

- (a) Property at Spofford Road designated as Assessor's Map 19, Block 3, Lot 28 and Assessor's Map 15, Block 2, Lot 1; and
  - (b) Property designated as Assessor's Map 42, Block 1, Lot 1.
- (3) General requirements.
- (a) The construction and operation of all large-scale ground-mounted solar photovoltaic installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of the installation shall be constructed in accordance with the State Building Code. No installation shall be constructed, installed or modified as provided in this section without first obtaining a building permit.
  - (b) No large-scale ground-mounted solar photovoltaic installation shall be constructed until evidence has been given to the Planning Board that the utility company that operates the electrical grid where the installation is to be located has been informed of the installation and the owner or operator's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
  - (c) All large-scale ground-mounted solar photovoltaic installations shall undergo site plan review by the Planning Board in accordance with this Zoning Bylaw prior to construction or modification as provided in this section. The Planning Board may, at the Board's option, hold an informal hearing, of which abutters are given notice, in order to solicit comment during the site plan review. The Planning Board may impose reasonable conditions on the project in granting site plan approval. The Planning Board shall act on an application for site plan review and file a written decision of its action with the Town Clerk within 90

days of receipt of a complete site plan review submission unless otherwise agreed by the project proponent.

- (4) Site plan review submission requirements. The project proponent shall provide the following documents:
- (a) A site plan on one or more sheets. All plans shall be prepared, stamped and signed by a professional engineer licensed to practice in Massachusetts. The plans, at a minimum, must include the following:
    - [1] Property lines and physical features, including roads, topography, vegetation, hydrological features, shading from existing structures and Zoning Map designation of the project site;
    - [2] Proposed changes to the site, including proposed grading, planting or removal of vegetation, lighting, signage and structures;
    - [3] Blueprints or drawings of the solar photovoltaic installation;
    - [4] An electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
    - [5] Manufacturers' specifications, warranties and related documentation for the major system components to be used, including the PV panels, mounting system, and inverter. These may be referenced on the plan to documents provided for the Planning Board file;
    - [6] Name, address, and contact information for the proposed installer of the installation;
    - [7] Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any;
    - [8] The name, contact information and signature of any agents representing the project proponent.
  - (b) The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed installation.
  - (c) The project proponent shall submit an Operation and Maintenance Plan for the large-scale ground-mounted solar photovoltaic installation which shall include measures for maintaining safe access to the installation, stormwater controls, and general procedures for operation and maintenance of the installation.
  - (d) Proof of liability insurance naming the Town of Boxford as additional insured in the amounts of at least \$1,000,000 current and \$3,000,000 aggregate, or such other amounts as are standard in the Town of Boxford. Such proof will not be required for municipally or state-owned facilities.
  - (e) Proof of utility notification.
  - (f) A designation of a date representing the end of the useful life of the installation, which date may be extended by the project proponent upon notice to the Planning Board provided

no later than 30 days in advance of the designated date. Upon such notice the Planning Board may review the installation and determine, at its sole discretion, if an application for a modification is required under the terms of this section.

- (g) A removal plan, signed by the project proponent, listing the actions to be taken to remove the installation and a plan showing the proposed physical characteristics of the site upon completion of the removal.
  - (h) Description of financial surety and cost of removal. The project proponent shall submit a fully inclusive estimate of the costs associated with removal of the installation, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation. The project proponent shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the Town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Planning Board not to exceed 125% of the estimated cost of removal. Such surety will not be required for municipally or state-owned facilities.
- (5) Design standards.
- (a) Dimensional requirements.
    - [1] Front yard. The front yard depth shall be at least 50 feet.
    - [2] Side yard. Each side yard shall have a depth at least 15 feet; provided, however, that where the lot abuts a Residential-Agricultural District, the side yard shall not be less than 50 feet.
    - [3] Rear yard. The rear yard depth shall be at least 25 feet; provided, however, that where the lot abuts a Residential-Agricultural District, the rear yard shall not be less than 50 feet.
    - [4] Appurtenant structures. All appurtenant structures to large-scale ground-mounted solar photovoltaic installations shall be subject to applicable regulations, including the dimensional regulations established in this bylaw, concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be shaded from view by vegetation and/or joined or clustered to avoid adverse visual impacts.
  - (b) Lighting. Lighting of installations shall be the minimum required by local, state and federal law, or as required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the installation shall be directed downward and shall incorporate full cutoff fixtures to reduce light pollution.
  - (c) Signage. Signs shall comply with § 196-27 of the Zoning Bylaw. A sign posted in a location visible from a public way shall identify the name and nature of the installation, the owner and the operator, and provide a twenty-four-hour emergency contact phone number. Signs at installations shall not be used for displaying advertising.
  - (d) Utility connections. All utility connections from the installation shall be placed underground unless otherwise required by the utility provider.

- (6) Safety and environmental standards.
- (a) Emergency services. The project proponent shall provide a copy of the site plan review submission documents to the Boxford Fire Department and the Boxford Police Department upon submission of its application for site plan review to the Planning Board. The project proponent shall cooperate with these Departments in developing an Emergency Response and Security Plan. As approved by the Planning Board through site plan review, a copy of the plan shall be kept on the project site at all times and shall be placed on file with the Boxford Fire and Police Departments. All means of shutting down the solar photovoltaic installation shall be clearly identified in the Emergency Response and Security Plan and, where practicable, marked in the filed.
  - (b) Land clearing, soil erosion and habitat impacts. Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the installation or otherwise prescribed by applicable laws, regulations, and bylaws.
- (7) Monitoring and maintenance. The installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the Boxford Fire Department. The owner or operator shall be responsible for the cost of maintaining the installation and associated site improvements. The owner or operator shall be responsible for the cost of maintaining any access road(s) unless the access road is accepted as a public way.
- (8) Modifications. All material modifications to a solar photovoltaic installation made after issuance of the required building permit shall require approval by the Planning Board in accordance with this bylaw. The Planning Board may waive any requirements of the site plan review submission requirements deemed by the Board to be not relevant to the proposed modification.
- (9) Abandonment, decommissioning or removal.
- (a) Abandonment. Absent written notice provided by the owner or operator to the Planning Board of extenuating circumstances, the installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Planning Board.
  - (b) Decommissioning. The owner or operator shall, upon 30 days' advance notice to the Planning Board, identify a date for decommissioning the installation. If the owner or operator of the installation fails to remove the installation in accordance with the requirements of this section within 150 days of the decommissioning date, the Town may, to the extent it is otherwise authorized by law, enter the property and physically remove the installation and apply any financial surety provided by the project proponent towards the cost of removal.
  - (c) Removal. Any installation which has reached the end of its useful life, or been abandoned, or reached a decommissioning date, shall be removed within 150 days. Removal shall consist of the following:
    - [1] Physical removal of all installation structures, equipment, security barriers and transmission lines from the site.
    - [2] Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.



- [3] Stabilization or revegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
- (10) Severability. The provisions of this section are severable, and the invalidity of any section, subdivision, paragraph or other part of this section shall not affect the validity of the remainder of this section.

ARTICLE VI  
**Development Regulations**

**§ 196-23. Height regulations.**

- A. The height of any structure in all districts shall not exceed 35 feet or three stories. **[Amended 5-12-1982 ATM, Art. 34]**
- B. Building height shall be measured as the vertical distance from the average elevations of the finished lot grade at the front of the building to the highest point of the top story in the case of a flat roof, and to the mean height between the plate and the ridge in the case of a pitched roof.
- C. Each story shall be deemed to be the portion of a building between the upper surface of any floor and the upper surface of any floor next above, having more than 1/2 of its height above the average elevation of the finished grade adjoining the building, provided that any part of a building between the topmost floor and the roof shall be deemed a half story.
- D. Limitations of height shall not apply to such structures as belfries, flagpoles, chimneys, radio and television antennas, windmills, silos, water tanks and similar noninhabitable structures.

**§ 196-24. Area, frontage and yard regulations.**

- A. Use of legally established lots. Nothing in this section shall prevent the use of land, which is not held in common ownership with any adjoining land, for the activities which comply with the permitted uses for the district in which the land is located, upon lots legally established preceding the adoption of any amendment and nonconforming as to width, area or frontage, provided that no such lot shall be changed in width, area or frontage, respectively, in such manner as to increase its nonconformity. Nothing in this section shall be construed to permit the use of any lot so affected without at least 50 feet of frontage. **[Amended 5-12-1982 ATM, Art. 36; 5-14-1986 ATM, Art. 38; 6-9-1987 STM, Art. 4]**
- B. Lot area. (Lot as defined in Article VIII.)
  - (1) For each dwelling in any district, except for the Elderly Housing District, there shall be a lot area of not less than two acres.
  - (2) The minimum lot area within Business and Manufacturing or Industrial Districts shall have one acre and be in accordance with an approved site plan submitted pursuant to § 196-30 below, except as provided in § 196-14B(10)(f).
  - (3) Computation of lot area.
    - (a) In computing the area of any lot, no part of a public or private way, except a common driveway or other easement for nonmotorized recreational use, and no part of a pond or river shall be included. **[Amended 5-14-1986 ATM, Art. 35]**
    - (b) Every lot laid out for residential use shall have at least one acre of contiguous legally buildable area of naturally occurring land with soils not subject to flooding as defined in 310 Code of Massachusetts Regulation 10.57, and sufficiently dry to permit installation and use of facilities for disposal of sanitary waste. **[Amended 5-11-1983 ATM, Art. 38; 5-15-1985 ATM, Art. 25; 5-2-1987 ATM, Art. 43; 5-18-1988 ATM, Art. 54]**
    - (c) In any lot created after the adoption of this amendment, no land which is part of a Wetland

Resource Area as specified in 310 CMR 10.02 (1)(a) subject to protection under the Massachusetts Wetlands Protection Act, MGL, c. 131, § 40, nor any land within 75 feet of such Wetland Resource Area may be counted towards the contiguous buildable area. **[Added 5-10-1995 ATM, Art. 38]**

- (4) The minimum area of a lot within the Elderly Housing District shall be 24 acres.
  - (5) The maximum number of dwellings on any given lot within the Elderly Housing District shall be 104. **[Amended 5-9-1990 ATM, Art. 25]**
  - (6) The number of buildings containing dwellings on any lot within the Elderly Housing District shall not exceed one for every two acres of lot area.
- C. Lot coverage. All buildings, including accessory buildings, shall not cover more than 25% of the area of any lot, except that the Board of Appeals may grant a special permit for larger building occupancy in any district other than R-A.
- D. Lot frontage and width.
- (1) Minimum lot frontage.
    - (a) For each dwelling in an R-A Residence-Agricultural District and for every building which includes a dwelling in any district, there shall be a minimum continuous lot frontage of 250 feet, except in the Elderly Housing District where the minimum continuous lot frontage shall be 100 feet. **[Amended 3-2-1970 ATM, Art. 27]**
    - (b) In Business and Manufacturing or Industrial Districts the minimum lot frontage shall be in accordance with an approved site plan submitted in accordance with § 196-30.
    - (c) Lot frontage shall be measured along the side line of a street or right-of-way not less than 50 feet in width, as shown on plans filed with the Planning Board, and such right-of-way shall thereafter be considered as a street for the purpose of this bylaw.
  - (2) Minimum width of lot.
    - (a) Each lot for residential use in an R-A Residence-Agricultural District shall contain a minimum diameter area of 200 feet within which any dwelling shall be built, which dwelling shall conform to all setback and other provisions of this bylaw. The diameter area of 200 feet shall be designated on any plans for the lot and need not conform to the said setback provisions. **[Amended 5-15-1985 ATM, Art. 26; 5-14-1986 ATM, Art. 38; 5-2-1987 ATM, Art. 44; 5-10-2005 ATM, Art. 25]**
    - (b) No lot laid out after adoption of this amendment shall have a lot width measured between side lot lines of less than 100 feet at any point in the buildable portion of said lot.
    - (c) Each lot for residential use in an R-A Residential-Agricultural District shall have a minimum depth of at least 50 feet along its minimum required frontage for a minimum of 200 contiguous feet along such frontage. **[Amended 5-18-1988 ATM, Art. 55; 5-2-1987 ATM, Art. 45; 5-10-1995 ATM, Art. 39]**
  - (3) Frontage exception for larger lots. **[Added 5-13-1975 ATM, Art. 10; amended 5-20-1980 ATM, Art. 29; 5-10-1995 ATM, Art. 40]**
    - (a) Notwithstanding the above provisions, a lot in an R-A Residence-Agricultural District

need not have the specified amount of street frontage, provided that:

- [1] The area of the lot exceeds by at least four acres the minimum area required for such an R-A District;
- [2] The lot has a minimum continuous street frontage of not less than 50 feet and a width of not less than 50 feet at any point between the street and the site of the dwelling;
- [3] There is not more than one other such lot with frontage contiguous to it; and
- [4] It is not, in the opinion of the Planning Board, so located as to block the possible future extension of a dead-end street.

(b) Notwithstanding any other provisions, no such lot as described in Subsection D(3)(a) above on which a dwelling is located shall be hereafter subdivided, reduced in area. **[Amended 5-14-1986 ATM, Art. 38]**

E. Front yards. Every structure in all districts, except for the Elderly Housing District, shall be so located as not to extend within:

- (1) Fifty feet of the front lot line, except that no building need be set back more than the average setback of the buildings on either side, a vacant lot being counted as though occupied by a building set back 50 feet. **[Amended 5-11-1999 ATM, Art. 35]**
- (2) In case of lots abutting on more than one street, the full width of the front yard shall be provided from each street.
- (3) Every structure in Elderly Housing Districts shall be so located as not to extend within 200 feet of the front lot line. **[Amended 5-11-1999 ATM, Art. 36]**

F. Rear and side yards.

- (1) Every main structure or part thereof in a residential district and every dwelling or part thereof in any district shall be so located as not to extend within 25 feet of a side or rear lot line or within 50 feet of any other building.
- (2) Structures, other than dwellings in a Business or Manufacturing or Industrial District, shall be located to provide rear and side yards in accordance with the site plan required under § 196-30 and Subsection H below.
- (3) The common building and every building in the Elderly Housing District shall be located as not to extend within 100 feet of a side or rear lot line.

G. Watercourse yards. There shall be a yard or setback between any building or structure in any district and a watercourse, stream, swamp or floodway of a width to leave the area subject to flooding free of obstruction.

H. Appurtenant open space. No yard or other open space required for a building by these bylaws shall, during the life of such building, be occupied by or counted as open space for another building.

I. Projections. Nothing herein shall prevent the projection of steps, unroofed porches, cornices, windowsills, built courses and other ornamental features into any required yard.

J. Corner clearance. Within an area formed by the side line of intersecting streets and a line joining points on such lines 15 feet distant from their point of intersection, or in case of a rounded corner,

from the point of intersection of their tangents, no structure shall be erected and no foliage maintained between a height of 3 1/2 feet and a height of eight feet above the plane through their curb grades.

**K. Irregularly shaped lots. [Added 5-14-1986 ATM, Art. 36; amended 5-12-1987 ATM, Art. 46; 5-22-1997 ATM, Art. 66]**

- (1) Following acceptance of this subsection, no lot for residential use shall be laid out which is irregular in shape:
  - (a) A lot with at least 250 feet of street frontage is substantially irregular in shape if the area of the lot is less than 50% of the area of a square lot of the same perimeter.
  - (b) A lot with less than 250 feet of street frontage is substantially irregular in shape if the area of the lot is less than 20% of the area of a square lot of the same perimeter.
- (2) The aforementioned percentage standards may be applied to the entire lot or, at the discretion of the owner, to the minimum lot area which conforms to all other requirements of this bylaw.

**§ 196-25. Accessory buildings and structures. [Amended 5-9-1990 ATM, Art. 23; 5-11-1999 ATM, Art. 37]**

Accessory buildings and structures, including detached garages, shall not be closer than 50 feet from the front lot line, nor any closer to any side or rear line than the height of such accessory building above the ground or 20 feet, whichever is greater, except structures used for housing animals which shall be set back 50 feet from all lot lines. No accessory building shall be located closer than 20 feet from any dwelling or main structure on a lot unless both structures conform with Building Code regulations relative to fire safety.

**§ 196-26. Off-street parking and loading areas.**

- A. Off-street parking spaces and loading areas shall be required in at least the ratio specified below for the following uses of land and buildings:
- (1) Dwellings: one parking space for each dwelling unit therein.
  - (2) Places of public assembly including churches: one parking space for each three seats therein.
  - (3) Schools: one parking space for each classroom therein, plus one space for each two employees or staff positions other than teachers; and where an auditorium is provided, one space for each three seats therein.
  - (4) Hotels, motels and lodger accommodations: one parking space for each room accommodation therein and loading space for all delivery trucks or sanitary collection vehicles.
  - (5) Other service establishments and retail businesses: the minimum required parking and loading spaces including driveways for these establishments shall be in proportion to at least one parking space of 300 square feet for each 100 square feet or fraction thereof of gross area, excluding basement storage area.
  - (6) Wholesale and industrial establishments: one parking space for each two persons employed on the largest shift, plus one space for each company-owned and -operated vehicle, plus spaces for customers' vehicles as appropriate, and loading spaces for all delivery or shipping trucks.
  - (7) Other uses requiring off-street parking and loading space: spaces in accordance with anticipated

needs as determined by the grant of a special permit by the Board of Appeals.

- (8) In an Elderly Housing District, no housing shall be constructed unless there is provided on the lot off-street parking totaling at least four parking spaces as defined below for each three units contained in such residence buildings. Parking spaces with a garage may be counted towards the required number of parking spaces. **[Amended 5-14-1986 ATM, Art. 38]**
- B. Required off-street parking and loading spaces shall be located on the same lot and in the same district as the building or use they are intended to serve, or, in the case of parking spaces, on other premises in the same district within 200 feet of such lot. **[Amended 5-22-1991 ATM, Art. 42]**
- C. Required off-street parking and loading spaces shall not hereafter be reduced, nor any loading space counted as or substituted for a parking space.
- D. Required off-street parking spaces shall each contain a minimum of 162 square feet (9 feet by 18 feet) of area for each vehicle suitable for parking; provided, however, that a driveway may be considered a required parking space for a dwelling. In addition, within a parking lot, there must be adequate space provided for the aisles and other accessways so that the minimum square footage required for each parking space is maintained. **[Amended 5-11-1999 ATM, Art. 41]**
- E. Required off-street parking and loading spaces shall all have adequate vehicular access to a street.
- F. No part of an off-street parking or loading space required for another building or use shall be included as part of an off-street parking area required for another building or use unless granted a special permit by the Board of Appeals upon its determination that the period of usage of such structures will not be simultaneous.
- G. All off-street parking areas and loading areas, other than those provided for dwellings, but including drives and other accessways, shall be paved with bituminous or other surfacing material and shall be provided where necessary with appropriate bumper and wheel guards. Illumination shall be so arranged as to deflect the light away from adjoining lots and abutting streets, and screening shall be provided where required by this bylaw.
- H. Parking areas and loading areas in Business and in Manufacturing or Industrial Districts shall be shown on site plans, as provided in § 196-30 below.

#### **§ 196-27. Signs.**

- A. In any and every district signs will be permitted in conformity with other provisions of this bylaw.
- (1) One sign pertaining to the lease, sale or use of a lot or building on which such sign is placed not exceeding a total area of six square feet;
  - (2) One sign for identification of professional and home occupations or of occupant not exceeding a total of three square feet;
  - (3) For directional purposes, not exceeding a total area of three square feet.
- B. Subject to a grant of a special permit by the Board of Appeals for specified periods not exceeding one year, other and larger signs, but in no case exceeding a total area of 36 square feet.
- C. No sign in any district shall be flashing or animated, nor shall be illuminated by other than white light directed within the area of the sign, and no illumination shall be allowed beyond 8:00 p.m. or after the business closes for the night, whichever is earlier, said sign allowed to be again illuminated when

the business reopens the following morning. **[Amended 5-22-1997 ATM, Art. 50]**

D. In Business and Manufacturing or Industrial Districts signs will be permitted:

- (1) Advertising goods and services available on the premises, not exceeding one square foot for every linear foot of store frontage and in no case exceeding a total area of 36 square feet per lot.
- (2) For identification of the business, company or agency on a wall or parapet of the main building not exceeding 30 square feet for each separate business in a Business District and not exceeding 300 square feet in a Manufacturing or Industrial District.
- (3) For the purpose of identifying the business development or shopping center, one freestanding sign with a total of 36 square feet of area for each street on which the business development fronts.

E. The Select Board Members may grant permits for signs no larger than 50 square feet, relating to some nonprofit, charitable public event, to be erected for not more than 30 days at a location and in a manner approved by the Select Board Members. **[Added 12-4-1972 STM, Art. 10; amended 9-12-2020ATM by Art. 19]**

#### **§ 196-28. Manufacturing or industrial standards.**

Buildings and uses permitted in the Manufacturing or Industrial District shall be subject to the following minimum standards for construction, use and operation. Applicants shall submit such evidence as is necessary for the Inspector of Buildings to determine compliance, including detailed plans certified as to compliance by an architect or engineer. Refusal of a permit on the grounds of lack of sufficient documentation may be appealed to the Board of Appeals.

- A. Hazardous or detrimental effect to adjacent property: No fire and explosive hazards shall exist such as to produce dangerous exposure to adjacent property.
- B. Gases: No noxious, toxic or corrosive fumes or gases shall be emitted.
- C. Dust and smoke: No observable dust or smoke shall be exhausted into the air.
- D. Heat and glare: No heat or glare shall be evident beyond the property line.
- E. Exterior lighting: No exterior lighting, other than properly shielded streetlighting, shall shine directly on adjacent properties or towards any street.
- F. Noise: No noise shall be detectable beyond the property line in excess of the average level or street and traffic noise generally heard at the point of observation, and no noise below such level shall be objectionable with respect to intermittence, beat frequency or shrillness. No external loud speakers will be permitted, except emergency alarms. **[Amended 5-14-1986 ATM, Art. 38]**
- G. Vibration: No inherent and recurrently generated vibration shall be perceptible at the property line.
- H. Radiation: No dangerous radiation shall be detectable at the property line.
- I. Waste disposal and water service: Water service, and waste and refuse disposal methods shall comply with pertinent health regulations and shall be in accordance with the approved site plan.
- J. Screening: Screening by fences, walls and/or evergreen planting, in accordance with the approved site plan, shall be provided, erected and maintained to shield the business, industrial and

manufacturing uses of land and buildings from any adjoining residential property.

- K. Storage: Fuel, raw or partially processed or finished material, machinery and equipment, including company-owned or -operated vehicles, shall not be stored between the street line and the front line of structures on the subject lot, or if there be no structure within 50 feet of the street line, and in no case to be visible from the street.

**§ 196-29. New driveways. [Added 5-13-2008 ATM, Art. 19]**

It shall be unlawful to install, construct, or relocate any driveway without first obtaining a driveway permit from the Planning Board. Normal maintenance, repair and repaving shall be exempt.

- A. Driveways for detached single-family houses shall comply with the following:

- (1) Layouts and configurations shall avoid excessive curves, switchbacks, and slopes to provide optimal safety for access to and from the dwelling site.
- (2) To the extent possible, the driveway apron shall be aligned at 90° to the road and have curved flare radii of six feet between the road and drive.
- (3) No person or persons shall cut or destroy any tree on Town property (right-of-way along side of the road) without first obtaining the approval of the Boxford Planning Board and the Boxford Tree Warden. No person or persons shall remove, alter, or destroy any stone wall on or bordering Town property (right-of-way along side of the road) without first obtaining the approval of the Boxford Planning Board in accordance with the Scenic Road Bylaw.

- B. Single driveways shall meet the following standards.

- (1) All single driveways shall have a finished width no less than nine feet.
- (2) The first 25 feet in from the paved portion of the public way shall have a maximum slope of 3%; the maximum driveway slope along the centerline shall be 12%; any slopes over 8% shall be paved. To preserve the stability of the existing natural topography, no cut or fill in excess of eight feet of the natural topography shall be allowed within the limits of the driveway cross section.
- (3) The slope grade shall allow rapid emergency access during normal weather conditions. No physical barrier shall be located on the inside of the curves that could impede fire truck or emergency vehicle access.
- (4) The rate of runoff during construction and post-development shall not exceed the rate of pre-development runoff.
- (5) After driveway completion, water runoff from the new driveway shall not be allowed to enter onto the public right-of-way and abutting property at any time.
- (6) The Planning Board may impose conditions on the construction, re-construction or relocation of a driveway at their discretion to ensure safe access onto public roads and to prevent any damage or dangerous situation(s) due to drainage, icing, or other hazards. The conditions may incorporate recommendations made by the Fire Chief, Police Chief and Superintendent of Public Works.
- (7) The Superintendent of Public Works and Fire Chief and may impose other conditions at their



discretion to ensure safe access and to prevent any damage or dangerous situation(s) because of drainage, icing, etc. onto public roads.

- (8) Sight distance entering the public way shall be 50 feet in either direction to the best extent possible.
  - (9) During construction, no debris shall be left on the road or shoulder; nor shall drainage structures, culverts, or ditches be blocked or impeded at any time.
  - (10) All driveways longer than 500 feet shall have a turnaround location within 25 feet of the dwelling for large vehicle turnaround or as appropriate to be determined by the Planning Board.
  - (11) Driveways shall conform to all other rules and regulations of the Town of Boxford.
- C. Shared driveways shall conform to all the regulations as set forth in Subsection B and § 196-13B(11)(m)<sup>38</sup> of the Zoning Bylaw, plus the following:
- (1) The shared driveway shall not enter the roadway at a point separated by less than 100 feet (centerline to centerline) from any other driveway or intersection.
  - (2) The shared portion of the driveway shall have a finished width no less than 12 feet plus a one-foot level shoulder on either side.
- D. Application.
- (1) The driveway location, layout, slopes, drainage, and associated improvements shall be shown on a plan prepared by a professional architect, engineer, or landscape architect. The Planning Board at its sole discretion may waive the requirements for a driveway site plan.
  - (2) Four copies of the plan shall be submitted to the Planning Board for review. The Planning Board may circulate the copies to the Fire Chief, Police Chief, and the Superintendent of Public Works.
  - (3) The Fire Chief, Police Chief and the Superintendent of Public Works may return recommendations within 14 days to the Planning Board. If no recommendations are received within 14 days, the official failing to submit a report shall be deemed to have approved the proposed work on the driveway.

**§ 196-30. Site plans. [Amended 5-14-1986 ATM, Art. 38; 5-11-1999 ATM, Art. 39]**

- A. For the purpose of reasonably protecting the legitimate interests of adjoining property owners and occupants, ensuring the most advantageous use of all properties and administering the provisions of this bylaw relating to parking and loading spaces, no permit shall be issued for any new building or structure in a Business, Manufacturing, Industrial, Official or Open Space District; nor for an addition to or alteration of an existing building for commercial use in any district; nor for any new building or structure in an Elderly Housing District, until a site plan, prepared by a professional architect, engineer or landscape architect, has been approved for a special permit by the Board of Appeals, with the exception of Large Scale Ground Mounted Solar Photovoltaic Installations approved pursuant to § 196-22.2. Prior to the grant of any such special permit, the Board of Appeals shall refer such plans to the Inspector of Buildings and to the Planning Board for their respective review and recommendation. **[Amended 5-8-2018 ATM by Art. 17]**

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38. Editor's Note: See now § 196-13B(11)(l).

B. The site plan shall provide for:

- (1) Compliance with the requirements for parking and loading spaces, for lot size, frontage, yards and heights and coverage of buildings, and all other provisions of this bylaw.
- (2) Convenience and safety of vehicular and pedestrian movement on the site and for the location of driveway openings in relation to street traffic.
- (3) Convenience and safety of vehicular and pedestrian movement off the site, if vehicular and pedestrian traffic off site can reasonably be expected to be substantially affected by on-site changes.
- (4) Adequacy as to the arrangement and, where not herein specified, the number of parking and loading spaces in relation to the proposed uses of the premises.
- (5) Design and appearance of proposed buildings, structures, freestanding signs, screening and landscaping.
- (6) Adequacy of water supply, method(s) of waste disposal, surface and subsurface drainage and lighting.

C. To the extent that any change on site can reasonably be expected to substantially affect the neighborhood adjacent to the site, the Board of Appeals shall impose such restrictions as are reasonably related to mitigating any such negative impact. In assessing potential negative impact on the adjacent neighborhood, the Board of Appeals shall consider all of the factors set forth in Subsections B(1) through (6) hereof, as well as the potential for increased litter, noise or light pollution.

D. The Planning Board may from time to time adopt rules prescribing reasonable minimum regulations under this section.

E. Site plans shall indicate existing and proposed:

- (1) Boundaries.
- (2) Structures.
- (3) Parking and loading spaces.
- (4) Driveways and driveway openings.
- (5) Service areas and other open areas.
- (6) Facilities for lighting, for water supplies, for sewage, refuse and other waste disposal, for drainage and for screening.
- (7) Landscape features.

**§ 196-31. (Reserved)**

**§ 196-32. Phased growth. [Added 5-22-1997 ATM, Art. 40]**

A. Purpose. The purposes of phased growth are to protect and promote the public health, safety and welfare of the Town of Boxford by phasing the growth of the Town at a manageable rate to ensure

that the Town has adequate time to expand its resources and to provide the necessary services to meet the educational, infrastructure and public safety needs of its residents in accordance with its Master Plan.

- B. Applicability. This section shall apply to every new residential development except housing for the elderly, as defined in § 196-35, within an Elderly Housing District. "Development" shall mean a single parcel or set of contiguous parcels of land held in common ownership, regardless of form, at any time on or after the effective date of this section for which one or more building permits will be sought. **[Amended 5-13-2003 ATM, Art. 25]**

- C. Phasing schedule. **[Amended 5-11-1999 ATM, Arts. 31 and 32]**

- (1) Building permits for each development shall be granted at an annual rate not greater than that permitted by the following schedule:

<b>Number of New Dwellings Projected in Total Development</b>	<b>Maximum Number of Building Permits for New Dwellings Per Year, Beginning with the Filing Date with the Registry of Deeds of the Definitive Subdivision Plan</b>
1-10	5
11-20	6
21-30	7
31-40	8
41-50	9
More than 50	10 plus 5% of number Over 50

- (2) The phasing schedule shall be set forth on the definitive recorded subdivision plan.

- D. Subsequent changes in the shape or ownership of lots shall not affect the applicability of this section. Lots can be sold at any time for construction of dwellings in future years; however, any lots covered by the provision, hereafter sold or otherwise transferred, shall include in the deed the earliest date on which construction may be commenced.
- E. This section shall be effective until May 1, 2014. This section shall be necessary to permit and facilitate orderly development and predicted growth. **[Amended 5-9-2006 ATM, Art. 33]**

ARTICLE VII  
**General Regulations**

**§ 196-33. Soil stripping.**

- A. The removal of sod, loam, sand, gravel or quarried stone forming a part of the real estate in the Town of Boxford, except when necessarily incidental to or in connection with the construction, at the site of removal, or a building for which a permit has been issued, or for grading or otherwise improving the premises of which such building is a part, shall not be permitted unless a special permit from the Board of Appeals be first obtained. To be considered incidental, the total volume of material removed may not exceed 500 cubic yards. **[Amended 5-22-1997 ATM, Art. 64]**
- B. Any person desiring to obtain a special permit from said Board for such purpose shall make written application therefor, and said Board shall hold a public hearing thereon, of which public notice shall be given, and render a decision. The applicant shall show to the satisfaction of said Board that such use of the premises for which such application is made shall not constitute a nuisance because of noise, vibration, smoke, gas fumes, odor, dust or other objectionable features; shall not be hazardous because of fire or explosion; shall not adversely affect the economic status of the district or the Town; and shall not be injurious or dangerous to the public health and the welfare of the district or Town. The Board may grant a permit upon condition especially designed to safeguard the district or Town against permanent and temporary injury to the stabilized values in the district after operations are completed, or because of the methods of handling such materials at the site or because of transporting such material through the Town. The Board may, after a hearing and proof of violation of such conditions or any of the terms of the permit withdraw the permit, after which the use shall be discontinued.

**§ 196-34. Trailers.**

Trailers and other movable structures shall not be occupied as dwellings, except as provided in MGL c. 40A, § 3, and, except that for reasons of necessity or hardship, the Board of Appeals, after public notice and a hearing, may grant a special permit for temporary occupancy of such structures for dwelling purposes for not more than one year at a time in any part of the Town.

## ARTICLE VIII

**Definitions****§ 196-35.**

In this bylaw, the following terms shall have the meanings described below:

**ACCESSORY USE OR BUILDING** — A use or building which is subordinate and customarily incidental to and located on the same lot with the principal use or building to which it is accessory.

**AUTOMOBILE REPAIR SHOP** — A shop or garage for the repair of motor vehicles, other than a private garage or service station.

**BUILDING** — A structure having a roof or cover and forming a shelter for persons, animals or property.

**DWELLING** — A building or part thereof designed, erected and used for continuous and permanent habitation for one family or individual, but not including trailers, however mounted, or commercial accommodations offered for periodic occupancy.

**FAMILY** — Any number of persons living together as a single economic unit and ordinarily using a single cooking facility.

**GASOLINE SERVICE STATION** — A structure or lot used for the sale of gasoline and oil or servicing or storing motor vehicles, other than a private garage.

**HOTEL, MOTEL or LODGING HOUSE** — A building or part thereof, or group of buildings on a single lot, where space is used for sleeping or eating by more than three persons as paying guests, regular or transient.

**HOUSING FOR THE ELDERLY** — Multifamily dwellings which consist of buildings containing no less than two nor more than 10 independent units consisting of a room or suite of rooms, its own bath and toilet facilities and its own kitchen facility. In one building, a unit may be included for occupancy by the manager of the project and his/her immediate family, one room of which may be used as an office, and except for the unit to be occupied and used as aforesaid by the manager, each building and each unit shall be restricted to occupancy as an age-restricted community in which at least one occupant of each unit shall be at least 55 years of age or older at the time of occupancy in accordance with 24 CFR 100, 300 and other applicable laws, and provided such occupancy conforms with the Federal Fair Housing Act, 42 USC § 3607(b), as amended, the regulations promulgated thereunder at 24 CFR 100, 300 et seq., Subpart E - Housing for Older Persons, as amended, and the Massachusetts Fair Housing law, MGL c. 151B, § 4. **[Amended 5-8-2018 ATM, Art. 18]**

**LOT** — The area of a single parcel of land under single ownership, whether the tenure be joint, in common or by entirety. Whenever such parcel is on a plan which has been recorded or filed at the Essex County Registry of Deeds the term "lot" as used in this bylaw shall mean a single parcel on the plan. Further the description of a lot set forth in an application shall not be changed in any future application unless such future application conforms to this bylaw, and no new description including part of an old lot shall be permitted unless the remaining part of the old lot shall conform to the yard and area regulations of this bylaw.

**PRIVATE GARAGE** — Covered space for the housing of motor vehicles, no more than two of which belong to others than the occupants of the lot on which such space is located.

**RECONSTRUCTION** — Rebuilding within the same footprint and total square footage and having similar dimensions. **[Added 5-11-2004 ATM, Art. 32]**

**ROOMING OR BOARDING HOUSE** — A dwelling in which the family resident therein provides eating

and/or sleeping accommodations for not more than four paying guests who use only the cooking facility ordinarily used by the resident family.

**STREET** — A public way, a way opened or dedicated to public use or a way plotted and laid out for ultimate public use, whether or not constructed.

**STREET LINE** — The sideline of a street or way, as determined by deeds and plans recorded at the Registry of Deeds; where no line is thus legally established, then a line parallel with and 25 feet distant from the center line of a traveled way.

**STRUCTURE** — Any construction, erection, assemblage or other combination of materials upon the land made in such a manner as to indicate a purpose that it remain in position indefinitely but excluding fences, signs and driveways.**[Amended 5-9-1990 ATM, Art. 24]**

**WIRELESS COMMUNICATION FACILITY** — A wireless communications monopole, including antennas and accessory structures, if any, which facilitates the provision of wireless communications services.**[Added 5-22-1997 ATM, Art. 51]**

**WIRELESS COMMUNICATIONS SERVICES** — The following types of services: cellular telephone service, personal communications and enhanced specialized mobile radio service.**[Added 5-22-1997 ATM, Art. 51]**

ARTICLE IX  
**Administration**

**§ 196-36. Inspector of Buildings.**

- A. The provisions of this bylaw shall be administered and enforced by the Inspector of Buildings. On any question of interpretation the officer or officers administering these provisions shall consult with the Planning Board. The Inspector of Buildings, with the approval of the Select Board Members may, and if required by them, shall institute appropriate legal proceedings to enforce this bylaw and restrain by injunction any violation thereof. **[Amended 9-12-2020ATM by Art. 19]**
- B. The Select Board shall appoint in June of each year an Inspector of Buildings, who shall hold office for the term of one year until such time as his successor is appointed. His compensation shall be regulated by the Select Board Members unless determined by a vote of the Town at the Annual Town Meeting preceding his appointment. He shall not be interested in any contract or in the furnishing of materials for any building. **[Amended 9-12-2020ATM by Art. 19]**
- C. The Select Board shall have the power to discharge the Inspector of Buildings for failure to perform his duties and fill the vacancy in the office and appoint such assistant inspectors as they deem necessary. **[Amended 9-12-2020ATM by Art. 19]**
- D. The Inspector of Buildings may, so far is necessary in the performance of his duties, enter any building or premises within the Town at any reasonable hour.
- E. He shall keep a record of all business of the department, which record and all other books and papers relating to the transactions of the department shall be open at all times to the inspection of the Select Board Members, and shall submit to them a yearly report on such business and such other reports as they may require. **[Amended 9-12-2020ATM by Art. 19]**

**§ 196-37. Permit required.**

After the passage of this bylaw, it shall be unlawful to erect, alter, reconstruct or relocate any structure or to institute a new or altered use of land or structure without first obtaining a permit from the Inspector of Buildings. Whenever such permit is refused because of some provision of this bylaw, the reason therefor shall be clearly stated in writing.

- A. Application for permit. Any application for a new or altered use of land or structure shall be accompanied by a specific reference to the subject lot as recorded in the Registry of Deeds, and by copies of a recorded plan of the lot, drawn to scale, showing the entire recorded ownership, all existing structures, all abutting streets and the exact area and boundaries of the parcel assigned to the subject use. **[Amended 5-11-1999 ATM, Art. 38]**
- B. Approval of applications. The Inspector of Buildings shall approve no application of any kind or plans or specifications or intended use which are not in all respects in conformity with this bylaw, or unless the applicant has secured a variance or special permit if required from the Board of Appeals pursuant to Article X below and recorded at the Registry of Deeds. **[Amended 5-14-1986 ATM, Art. 38; 5-11-1999 ATM, Art. 38]**

**§ 196-38. Occupancy permit.**

No building erected, altered or in any way changed as to construction or use, under a permit or otherwise, shall be occupied or used without an occupancy permit, signed by the Inspector of Buildings, which permit

shall not be issued until the building and its uses, and the uses incident thereto, comply in all respects with this bylaw.

**§ 196-39. Appeals. [Amended 3-2-1970 ATM, Art. 22; 5-14-1986 ATM, Art. 38]**

Parties aggrieved by the orders or decisions of the Inspector of Buildings or other Zoning Administrative Officials may within the following 30 days appeal to the Board of Appeals.

**§ 196-40. Complaint of violation. [Amended 3-2-1970 ATM, Art. 23; 9-12-2020ATM by Art. 19]**

Any person may make a complaint to the Inspector of Buildings that a provision of this bylaw is being violated. Such complaint shall be in writing to the Inspector of Buildings with a copy to the Select Board and shall clearly specify the alleged violation(s). Within 14 days of receipt, the Inspector of Buildings shall render a decision in writing to the person making the complaint stating whether there is or is not a violation and shall send a copy of said decision to the Select Board.

**§ 196-41. Violations and penalties.**

Whoever violates any provision of this bylaw shall be punished by a fine not exceeding \$50 for each offense. Each day or portion thereof that such violation continues shall constitute a separate offense.



ARTICLE X  
**Board of Appeals**

**§ 196-42. Organization. [Amended 5-14-1986 ATM, Art. 38; 9-12-2020ATM by Art. 19]**

There shall be a Board of Appeals consisting of three persons, citizens of the Town. The members shall be appointed by the Select Board. They shall hold office for a term of three years, except that, when the Board of first established hereunder, one member shall be appointed for term of one year; and one shall be appointed for a term of two years; and one shall be appointed for a term of three years. The Select Board shall also appoint three persons, citizens of the Town, associate members of said Board of Appeals, who shall hold office for a term of three years, except that, when associate members are first appointed hereunder, one shall be appointed for a term of one year; one shall be appointed for a term of two years; and one shall be appointed for a term of three years. In case of vacancy, inability to act or interest on the part of any member of the Board of Appeals, his or her place shall be taken by an associate member. The Board established hereunder shall act as the Board of Appeals under the Building Code and Zoning Bylaw, respectively, and under MGL c. 41, § 81.

**§ 196-43. Powers and duties.**

The Board of Appeals shall have and exercise all the powers granted to it by MGL c. 40A, c. 40B and c. 41, and by this bylaw, including the power to hear and decide applications for special permits upon which the Board is empowered to act under this bylaw; to hear and decide petitions for variances; to hear and decide other appeals from any aggrieved person, officer or board of the Town or any abutting Town or the Regional Planning Commission.

**§ 196-44. Rules and procedures.**

The Board of Appeals shall adopt rules and procedures consistent with MGL c. 40A. Such rules of procedures shall include provisions for submission of petition in writing, for advertising and holding hearings, for keeping records of proceedings, for recording the vote of each member upon each question, for setting forth the reason or reasons for each decision and for notifying the parties of interest, including the Inspector of Buildings and the Planning Board, as to each decision.

**§ 196-45. Special permits. [Amended 3-2-1970 ATM, Art. 24]**

- A. Authority. Unless specifically designated otherwise, the Board of Appeals shall act as the special permit granting authority.
- B. Temporary uses. The Board of Appeals may grant a special permit, limited to one year at a time and not to exceed a total of three years, for nonconforming uses or buildings incidental to construction operations on a site, and for signs as provided in § 196-27 of this bylaw, if in each case the Board of Appeals finds that the granting of such special permit will not be injurious to persons or to adjacent property. In any case, the applicant shall file with the Inspector of Buildings a bond or other security in such sum as may be required by the Board of Appeals, effective in case any use, building or structure is not removed prior to the expiration of the permit.
- C. Hearings. Special permits shall only be issued following public hearing held within 65 days from the transmittal by the Town Clerk to the Board of Appeals of such application for a special permit.
- D. Considerations. Special permits shall be granted only upon written determination by the special permit granting authority that the use for which such special permit is requested is in harmony with

the intent and purpose of this bylaw.

- E. Lapse. Special permits shall lapse if a substantial use thereof or construction has not begun, except for good cause, within 24 months of special permit approval (plus such time as is required to pursue or await the determination of an appeal from the grant thereof). **[Amended 5-14-2019 ATM, Art. 19]**

**§ 196-46. Planning Board review. [Amended 3-2-1970 ATM, Art. 25; 5-14-1986 ATM, Art. 38]**

The Planning Board shall be requested to make a report and recommendation on each appeal, application or petition before the Board of Appeals, which report and recommendation shall be filed as soon as practicable and not later than 21 days after the final public hearing or 10 days before the Board of Appeals is required to make a decision, whichever is sooner.

**§ 196-47. Conditions. [Amended 3-2-1970 ATM, Art. 26]**

In carrying out the provisions of §§ 196-43 and 196-44 above, the Board of Appeals may impose, as a condition of its decision, such restrictions as to manner and duration of use as will in its opinion safeguard the legitimate use of the property in the neighborhood and the health and safety of the public, and conform to the intent and purpose of this bylaw and such restrictions to be stated in writing by the Board of Appeals and made a part of the permit.

**§ 196-48. Reconsideration.**

No appeal, application or petition which has been unfavorably and finally acted upon by the Board of Appeals shall be again considered except as provided by MGL c. 40A, § 16.

**§ 196-49. Cost of proceedings.**

Wherever proceedings under this bylaw require the giving of notice by publication in a newspaper, mailing or service by a civil officer, the costs thereof shall be borne by the applicant, and the Board of Appeals shall require estimated costs to be advanced by the applicant.

ARTICLE XI  
**Miscellaneous Provisions**

**§ 196-50. Amendments.**

This bylaw may be amended from time to time as provided in MGL c. 40A, § 5.

**§ 196-51. Validity and conflict of laws.**

Where this bylaw imposes greater restriction upon the use of premises than is imposed by other bylaws, the provisions of this bylaw shall control. The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof.

**§ 196-52. Previous laws.**

The provisions of the existing bylaw shall continue until this amendment shall become effective, and thereafter all provisions of the existing bylaws so far as they are consistent with this amended bylaw are hereby repealed.

**Division 2: Board of Health Regulations**

SUBSURFACE SANITARY SYSTEMS

**Chapter 201**

**SUBSURFACE SANITARY SYSTEMS**

**[HISTORY: Adopted by the Board of Health of the Town of Boxford as indicated in article histories. Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Percolation tests — See Ch. 145, Art. I.**

**Subdivision of land — See Ch. 300.**

ARTICLE I

**Groundwater Elevation Testing Dates**  
**[Adopted as Regulation 1-85]**

**§ 201-1. Determination of groundwater elevation.**

Groundwater elevation shall be determined in the months of March, April and May. *Should this period be abnormally dry or abnormally wet, the Boxford Board of health may adjust this period accordingly.*  
*[Italics are 2-1-1998 amendment]*

ARTICLE II

**Septic System on Contiguous Buildable Area of Lot  
[Adopted as Regulation 1-86]**

**§ 201-2. New building construction after effective date of regulations.**

The Board of Health for the Town of Boxford, Massachusetts, acting under the provisions of MGL c. 111, § 31, as amended, hereby further supplements 310 CMR 15.00 in the interest and for the protection of public health as follows: Section 15.03(1). Add "In the case of all new building construction after the effective date of this regulation, subsurface sewage disposal systems shall be located on the contiguous buildable area of the building lot." Effective date: This regulation shall become effective 1 April 1986.

ARTICLE III  
**Percolation Testing Dates**  
**[Adopted as Regulation 1-88]**

**§ 201-3. Acceptable months.**

Percolation test shall be performed during the months of June through February, inclusive. *At the discretion of the Health Agent, percolation tests expected to be less than five minutes an inch may be performed at any time of the year. [Italics are 2-1-1998 amendment]*



ARTICLE IV  
**Small Package Wastewater Treatment Plants**  
**[Adopted 9-4-2019<sup>39</sup>]**

**§ 201-4. Background and justification.**

The disposal of wastewater, including sanitary sewage, in Boxford, is regulated under 310 CMR 15.00, Title 5, as amended, and local Board of Health regulations. Board of Health authority applies to systems with a daily discharge of up to 9,999 gallons per day [310 CMR 15.004(1)(a)]. Questions have been raised about the appropriateness of current regulations for small wastewater systems when applied to small package wastewater treatment plants with a daily discharge of 2,000 to 9,999 gallons. These questions include the increased impact of such facilities on groundwater and the environment, the life expectancy of such facilities and the long-term liability and ownership of such facilities. To address these concerns, acting under the provisions of MGL c. 111, § 31, and in the interest and for the protection of public health, the Boxford Board of Health hereby defines additional restrictions and conditions on small package treatment plants in Boxford with a daily discharge of 2,000 to 9,999 gallons. Treatment plants with a daily discharge of 10,000 gallons per day or greater are under the authority of the Massachusetts Department of Environmental Protection and 314 CMR 5.000.

**§ 201-5. Regulation 1-2019.**

**§ 201-5.1. References.**

This regulation is based on and draws from established Boxford Code, studies on wastewater movement through Boxford soils into surface waters, Massachusetts Regulations and guidance documents, and similar regulations from other Massachusetts municipalities. These include but are not limited to the following:

- A. Boxford Town Code Chapters 201 and 205.
- B. K-V Associates, Falmouth, MA, 1995. Water Quality Management Study for Seven Ponds in Boxford, MA.
- C. Horsley & Witten, Boston, MA, 1996. Modeling and Analysis. 3-Pond Study Nutrient Modeling in Boxford, MA.
- D. Mass 310 CMR 15.00, The State Environmental Code, Title 5.
- E. Mass 310 CMR 22.00, Drinking Water.
- F. Mass 310 CMR 42.00, Certification and Operation of Environmental Analysis Laboratories.
- G. Mass 314 CMR 4.00, Mass Surface Water Quality Standards.
- H. Mass 314 CMR 5.00, Ground Water Discharge Permit Program.
- I. Mass 257 CMR 2.00, Certification of Operators of Waste Water Treatment Facilities.
- J. DEP, Division of Watershed Permitting, 2018, Guidelines for the Design, Construction, Operation, and Maintenance of Small Wastewater Treatment Facilities.
- K. DEP, Groundwater Mounding for Wastewater treatment facilities Larger than 2,000 gpd.

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**39. Editor's Note: This regulation also repealed former Art. IV, Wastewater Treatment Plants, adopted as Regulation 1-91.**

- L. DEP, WP-83, Hydrogeologic Evaluation Report.
- M. DEP, 1999, Standard References for Monitoring Wells.
- N. Acton, MA, Health Department, 2015, Article 19, Design, Operation and Maintenance of Wastewater Treatment Facilities.
- O. Wayland, MA, Board of Health, 1988. Regulations for the Design, Operation, and Maintenance of Small Wastewater Treatment Facilities.

### **§ 201-5.2. Definitions.**

When used in this regulation or in communications, notices, orders or other references relative thereto, the following words and phrases shall have the meanings ascribed to them below and shall apply in the interpretation and enforcement of this regulation:

**ABUTTER** — The owner of any property that lies within 500 feet radial from any lot line of the subject property, including those properties across a traveled way or body of water. In the case of property that has frontage on a pond, abutters will include all those properties with frontage on the pond.

**APPLICANT** — The person, organization, Town department or body, private organization or company, or any other entity proposing the installation of a small package treatment wastewater treatment plant (WWTP).

**BOARD** — Boxford Board of Health.

**BOH** — Boxford Board of Health.

**BOXFORD BOARD OF HEALTH** — The responsible Town authority for any and all installations, modifications, construction, and use of a WWTP in the Town of Boxford, Massachusetts.

**BOXFORD BOARD OF HEALTH AGENT** — An agent of the BOH with the authority to act on the behalf of the BOH. The agent will normally be the Health Agent or a member of the BOH.

**BYPASS** — The diversion of wastes from any portion of a treatment works.

**DEP** — Massachusetts Department of Environmental Protection.

**EFFLUENT** — The wastewater emerging from enhanced secondary treatment and before entering the leaching facility.

**ENHANCED SECONDARY TREATMENT** — Secondary treatment that includes disinfection to ensure that the effluent is capable of meeting an effluent limitation of no more than 200 fecal coliform organisms per 100 ml, and additional processes capable of meeting an effluent limitation of 10 mg/l of nitrate nitrogen and total nitrogen.

**GROUNDWATER** — Water below the land surface in a saturated zone, including perched groundwater.

**HAZARDOUS SUBSTANCE** — Any of the substances designated under 40 CFR Part 116 pursuant to § 311 of the Federal Act, 33 U.S.C. § 321, or any hazardous material as defined in MGL. c. 21E.

**HAZARDOUS WASTE** — A hazardous waste pursuant to 310 CMR 30.000; Hazardous Waste.

**LEACHING FACILITY** — As defined in 310 CMR 15, as amended.

**LOT** — An area of land in one ownership, with definite boundaries.

**MASS DEP CERTIFIED LABORATORY** — A laboratory that has been certified to carry out chemical and microbiological analysis on water and environmental samples under 310 CMR 42.00.

**MILLIGRAMS PER LITER or MG/L** — The weight in milligrams of any specific substance or substances contained in one liter of solution.

**MONITORING WELL** — A well that is specifically designed, constructed, emplaced, and located to measure the impact of a discharge of pollutants on groundwater quality and quantity.

**NITROGEN REMOVAL (REDUCTION) SYSTEM** — An approved Massachusetts DEP Title 5 (310 CMR 15.000) innovative/alternative technology used to reduce or remove nitrogen from septic system leaching areas.

**OWNER** — The entity or organization that owns the WWTP, such as a condominium association, and includes as stakeholders all owners of housing units served by the WWTP. All stake holders in the entity or organization shall share responsibility for the operation, maintenance, and repair of the WWTP [ref: 314 CMR 5.15(2)(a)].

**PERMIT** — The written authorization issued by the BOH to the owner for construction and operation of the WWTP.

**PRIMARY TREATMENT** — The process or group of processes capable of removing from sewage a minimum of 25% of the five-day biochemical oxygen demand, 55% of the suspended solids, and 85% of the floating and settleable solids (ref: 314 CMR 5.00).

**SECONDARY TREATMENT** — The process or group of processes capable of removing from untreated wastewater a minimum of 85% of the five-day biochemical oxygen demand and suspended solids, and virtually all floating and settleable solids, followed by disinfection (ref: 314 CMR 5.00).

**SMALL PACKAGE WASTEWATER TREATMENT PLANT (WWTP)** — A subsurface sewage disposal system with a daily discharge of 2,000 to 10,000 gallons per day that serves multiunit housing.

**SOIL ABSORPTION SYSTEM** — As defined in 310 CMR 15, as amended.

**STAKEHOLDERS** — Shall include the persons who own or control or will own or control any activities that result in the discharge of pollutants.

**SUBSURFACE SANITARY SEWAGE DISPOSAL SYSTEM** — Individual sewage disposal system or on-site subsurface sewage disposal system as defined in 310 CMR 15, as amended, with a daily discharge of up to 1,999 gallons per day.

**TOTAL DISSOLVED SOLIDS** — The total dissolved (filterable) solids as determined by use of the method specified in 40 CFR Part 136, or other method approved by the DEP.

**WATER BODY** — A body of water having a water surface area of 10 acres or more in its natural (historic) state.

**WETLAND RESOURCE AREA** — Any land area or surface area so defined by the Massachusetts Wetlands Protection Act, MGL c. 131, § 40, and regulations promulgated pursuant thereto 310 CMR 10.00, and Town of Boxford Wetlands Protection Bylaw and regulations promulgated pursuant thereto. (See Boxford Code Ch. 192, Wetlands Protection. The regulations promulgated pursuant thereto are on file in the office of the Town Clerk).

**WWTP** — (Small Package) Waste Water Treatment Plant that includes any and all devices, processes, and properties used in the collection, pumping, transmission, storage, treatment, disposal, recycling, reclamation or reuse of water-borne pollutants.

**WWTP OPERATOR** — A person certified to manage and operate a WWTP pursuant to 257 CMR 2.00.

**ZONE 1 AND ZONE 2** — The protective radii around a public water supply as defined and assigned by DEP for every public water supply and as defined in 310 CMR 22.02.

**§ 201-5.3. Compliance with existing regulations required.**

- A. At a minimum, any WWTP shall follow and meet all requirements of Massachusetts 310 CMR 15.00, Title 5, as amended; and Boxford Code. §§ 201-1 to 201-3; 201-8 to 201-12; and §§ 201-19 to 201-26, inclusive, except where this regulation stipulates alternative requirements for a WWTP discharging from 2,000 to less than 10,000 gpd. As of the effective date of this regulation, former Boxford Code §§ 201-4 and 201.5 are hereby repealed in their entirety.
- B. In calculating daily discharge from a WWTP serving housing for the elderly, each unit of housing containing no more than two bedrooms shall use a discharge of 150 gallons per day with no garbage grinder (Boxford Code § 201-11.3). The daily discharge of any additional, nonhousing unit buildings served by the WWTP shall be calculated using the assignments listed in 310 CMR 15.203, as amended, or as determined by the BOH.
- C. All housing units served by the WWTP and the WWTP itself must be located on the same lot (Boxford Code § 201-2).

**§ 201-5.4. Additional requirements.**

In addition to all existing requirements for subsurface sanitary systems in Boxford, small package wastewater treatment plants shall meet the following additional requirements.

- A. Permit. Any WWTP in Boxford must receive a permit from the BOH before operations commence. Permits shall be renewed every three years by the BOH. Renewal applications for a permit must be submitted to the BOH no less than 60 days before the current permit expires. The BOH may withhold reissuing a permit if any of the stipulations of this regulation are violated and/or found not to be in compliance with this regulation.
- B. System design and components. All WWTP in Boxford shall contain adequately sized components for pretreatment, secondary treatment, enhanced secondary treatment, and a disposal area/leaching facility, unless otherwise allowed by the BOH.
- C. Hydrogeological evaluation. The WWTP applicant shall submit a hydrogeological evaluation report in accordance with Massachusetts DEP guidelines (ref: DEP WP 83, Hydrogeologic Evaluation Report) and prepared by a qualified geotechnical engineer or hydrologist, showing the impact of the subsurface discharge of the WWTP on groundwater. The report shall include determination of the discharge flow direction and projected wastewater plume. The report shall assess the impact of the proposed discharge on all potentially impacted groundwater sources of potable water for public water systems and all private drinking water supplies, and to determine whether the proposed discharge will cause or contribute to a violation of 314 CMR 4.00: Massachusetts Surface Water Quality Standards or impair the actual or potential use of the groundwater as a source of potable water.
- D. WWTP distances.
  - (1) No portion of the WWTP shall be located less than the following distances stated to the components listed as follows (in feet):

<b>Component</b>	<b>Subsurface Tank (feet)</b>	<b>Leaching Area (feet)</b>
Well	100	See Note a
Dwelling unit	50	100

<b>Component</b>	<b>Subsurface Tank (feet)</b>	<b>Leaching Area (feet)</b>
Property boundary	100	100
Water body	100	300
Wetland	100	See Note b

## NOTES:

- a. One hundred feet minimum, 150 feet in soils with a percolation rate of less than five minutes per inch, or the Zone 1 radius of a public water supply, whichever is greater.
- b. One hundred feet minimum, 150 feet in soils with a percolation rate of less than five minutes per inch.

- (2) These distances may be changed by the BOH depending on the findings of the hydrogeological evaluation.

## E. Preliminary plan.

- (1) Prior to submitting final drawings and specifications for a WWTP, the owner shall submit to the BOH a preliminary plan for the proposed WWTP which includes all components of the system, including types and sizing of holding/septic tanks (primary treatment); advanced pretreatment, such as but not limited to media filters (secondary treatment); enhanced secondary treatment, including nitrogen removal and disinfection methods, such as ultraviolet or ozone treatment; and details on the final dispersal area/leaching field. The plan shall be presented to the BOH at a regularly scheduled meeting. The BOH will have up to 30 days to evaluate and give preliminary approval to the plan following said meeting unless the Board decides to hire an independent consultant to evaluate the system as described in § 201-5.4E(2) of this regulation.
- (2) At its discretion, the BOH may contract the services of an independent consultant to evaluate compliance of a proposed WWTP with this regulation. Said consultant shall be compensated for all costs by the WWTP applicant. If an independent consultant is used, the Board shall have 30 days after the consultant issues written recommendations or a report to give preliminary approval.

## F. WWTP subsurface leaching facilities.

- (1) No WWTP leaching facility or discharge from that facility will be allowed within the Zone 1 of a public water supply source, or the six-month groundwater travel time distance to the public water supply source, whichever is larger.
- (2) The bottom interface of the WWTP leaching facility shall be no less than five feet above the maximum elevation of the groundwater or saturated soil zone. This elevation shall be calculated after adding the effect of groundwater mounding to the high groundwater elevation as determined pursuant to 310 CMR 15.103(3).
- (3) In the case where the earth removal site coincides with the approved site for a subsurface sewage disposal system, the ten-foot excavation limit of § 205-4E(4)(a) is waived for that site.

- (4) The bottom of the WWTP leaching facility shall be located a minimum of 10 feet above the elevation of bedrock or impervious soil layer. "Impervious soil" is defined as having a percolation rate of greater than 20 minutes per inch.
  - (5) A depth of at least five feet of naturally occurring permeable soil shall be maintained below the bottom of the leaching area. "Permeable soil" is defined as having a percolation rate of 20 minutes per inch or less.
  - (6) A distribution valve or equivalent device shall be used to allow direction of effluent to specific zones of the leaching facility as part of normal operations.
- G. Effluent testing. The effluent resulting after enhanced secondary treatment of the wastewater shall be tested for the parameters listed in Table 1:
- (1) Monthly for the first three months of initial occupancy and then every six months.
  - (2) Testing shall be performed by a MEPA certified analysis laboratory.

<b>Table 1</b> <b>Maximum Allowable Parameter Limits</b> <b>Effluent and Monitoring Well Samples</b>		
<b>Parameter</b>	<b>Units</b>	<b>Limit<sup>a</sup></b>
Field parameters		
Temperature	Degrees C	NS <sup>b</sup>
Specific conductivity	mS/cm <sup>c</sup>	NS
Dissolved oxygen	mg/L	NS
pH	units	6.5-8.5
Biological oxygen demand	mg/L	30
Inorganics		
Alkalinity as CaCO <sub>3</sub>	mg/L	NS
Chloride	mg/L	250 <sup>d</sup>
Total cyanide	mg/L	0.2 <sup>e</sup>
Nitrate as nitrogen	mg/L	10
Sulfate	mg/L	250 <sup>d</sup>
Total dissolved solids	mg/L	500 <sup>d</sup>
Dissolved metals		
Arsenic	mg/L	0.01
Cadmium	mg/L	0.005
Calcium	mg/L	NS
Chromium	mg/L	0.1

<b>Table 1</b> <b>Maximum Allowable Parameter Limits</b> <b>Effluent and Monitoring Well Samples</b>		
<b>Parameter</b>	<b>Units</b>	<b>Limit<sup>a</sup></b>
Copper	mg/L	1.3
Iron	mg/L	0.3 <sup>d</sup>
Lead	mg/L	0.015
Manganese	mg/L	0.05 <sup>d</sup>
Mercury	mg/L	0.002
Sodium	mg/L	20 <sup>d</sup>
Zinc	mg/L	5 <sup>d</sup>
Microbial		
Total coliforms	cfu/100mL <sup>f</sup>	200 <sup>g</sup> , 0 <sup>h</sup>
Fecal coliforms <sup>i</sup>	cfu/100mL	200 <sup>g</sup> , 0 <sup>h</sup>

## NOTES:

- <sup>a</sup> From Drinking Water Standards & Guidelines for Chemicals in Massachusetts Drinking Water, 2017 and DEP Guidelines for Small Wastewater Treatment Plants, 2018.
- <sup>b</sup> No standard.
- <sup>c</sup> mS/cm = milliSiemens/centimeter.
- <sup>d</sup> SMCL = secondary maximum contaminant level concentration.
- <sup>e</sup> MMCL = standard for free cyanide.
- <sup>f</sup> cfu = colony forming units.
- <sup>g</sup> Effluent.
- <sup>h</sup> Monitoring wells.
- <sup>i</sup> No testing required if TC = 0.

- H. System inspection. A Title 5 inspection shall be carried out on the WWTP every three years and the results from said inspection sent to the BOH within 30 days of the inspection (310 CMR 15.301).
- I. WWTP discharging from 5,000 to 9,999 gpd.
- (1) WWTPs discharging from 5,000 to 9,999 gpd shall install groundwater monitoring wells based on the hydrogeological evaluation as follows:

- (a) One up-gradient cluster of two monitoring wells.
  - (b) Two down-gradient clusters of two monitoring wells.
  - (c) One monitoring well for groundwater level near the center of the leaching/dispersal field.
- (2) Each monitoring well cluster shall contain one well screened in shallow overburden across the water table, and one well screened in a deep portion of the overburden.
  - (3) Screen depths for the cluster wells shall be set at elevations such that at least one of the wells will yield samples at the time of seasonal low groundwater (e.g., September).
  - (4) The number of wells may be changed based on the results from mounding and the hydrogeological studies.
  - (5) The location of the ground water monitoring wells shall be approved by the BOH prior to installation.
  - (6) Ground water monitoring wells shall be installed according to DEP requirements (e.g., Standard References for Monitoring Wells (WSC-310-91), and DEP DRMR Supplement, January 1999).
  - (7) The parameters listed in Table 1 will be measured on samples withdrawn from the up-gradient and two down-gradient wells. The BOH reserves the right to require additional testing if deemed necessary for parameters such as VOCs (volatile organic compounds), SOC (synthetic organic compounds), and other parameters as detailed in 310 CMR 22.00, the Massachusetts Drinking Water Regulations.
    - (a) Testing shall be performed by a MEPA certified analysis laboratory.
    - (b) Testing of all parameters shall be carried out according to the following schedule: one, six, and 12 months after the WWTP becomes operational; thereafter, every April and September (twice annually).
    - (c) The BOH may require additional testing if it concludes that any parameter indicates a potential problem with the WWTP.

#### **§ 201-5.5. Reports.**

The owner of the WWTP or the owner's designated representative as identified to the BOH shall be responsible for submitting all analysis and inspection reports to the BOH within 30 days of the analysis or investigation. Any disruption or damage to the system will be reported immediately to the BOH or, if outside of normal working hours, to the Boxford Communications Department, 978-887-8136, or, in the event of an emergency, 911. The owner shall maintain a record of all analyses, inspections, and any disruptions of the WWRP in a readily accessible location, and make such record available to the BOH upon request.

#### **§ 201-5.6. Modifications or changes to approved operations and monitoring.**

Any proposed modification or changes to the approved operations and monitoring of the WWTP shall be made in writing to the BOH by the owner of the WWTP or the owner's designated representative. No changes shall be made until the BOH has reviewed and approved the proposed changes. The BOH may request a presentation from the owner or owner's representative about the proposed changes at a scheduled meeting of the Board. The BOH reserves the right to modify or disapprove any proposed changes.



**§ 201-5.7. Private ownership certification.**

- A. The owner shall be responsible for the operation of the facility, including reporting, monitoring, maintenance, repair and replacement of the WWTP. This owner shall be identified in writing to the BOH together with documents proving ownership or assigned responsibility of the WWTP from the owner.
- B. The owner shall not change organizational arrangements, nor sell, assign, or transfer the WWTP without the prior written approval of the BOH.
- C. The owner shall own or control the land on which the WWTP is located, and shall own or control land or obtain easements that provide access to:
  - (1) The land on which the WWTP is located;
  - (2) The wastewater collection system and any associate appurtenances;
  - (3) All land within 100 feet of any component of the collection system; and
  - (4) The land area surrounding the disposal system that is essential to system operation and maintenance.
- D. The owner shall certify to the BOH and the Town of Boxford that each stakeholder in the WWTP owner organization shall share the financial and operational responsibility for the WWTP.
- E. The obligation of all stakeholders to share in the financial and operational responsibilities for the WWTP shall include, without limitation, the obligation to establish, fund and maintain a financial assurance mechanism that provides for an immediate repair and replacement account.

**§ 201-5.8. General operating conditions.**

- A. No discharge authorized in the permit shall cause or contribute to a violation of 314 CMR 4.00: Massachusetts Surface Water Quality Standards.
- B. Duty to comply. The owner shall comply at all times with the terms and conditions of the permit granted by the BOH to operate the WWTP.
- C. WWTP reliability. The WWTP shall be planned and designed so as to provide for maximum reliability at all times. The WWTP shall be capable of operating satisfactorily during power failures, flooding, peak loads, equipment failure, and maintenance shutdowns. Such reliability shall be achieved through the use of design techniques which will result in a facility that is virtually fail-safe.
- D. Best management practices or BMP. The WWTP shall be operated according to best management practices and will include schedules of activities, prohibitions of practices, maintenance procedures, and other management practices designed to prevent or reduce the discharge of pollutants to waters of the commonwealth. BMPs include treatment requirements, operating procedures, structures, devices and practices to control plant site runoff, spillage, or leaks, sludge or waste disposal, or drainage from raw material storage.
- E. Proper operation and maintenance. The owner shall at all times properly operate and maintain all facilities and equipment installed or used to achieve compliance with the terms and conditions of the WWTP permit. All equipment shall be maintained in an acceptable condition for its intended use. The owner shall utilize a certified wastewater facility operator (as defined in Massachusetts 257 CMR 2.00) for all operations carried out at the WWTP.

- F. Duty to halt or reduce activity. Upon reduction, loss, or failure of the WWTP, the owner shall, to the extent necessary to maintain compliance with its permit, control production, discharges, or both, until the facility is restored or an alternative method of treatment is provided. The owner may not raise as a defense in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.
- G. Power failure. In order to maintain compliance with the effluent limitations and prohibitions of the permit, the owner shall either:
  - (1) Provide an alternative power source, such as an emergency generator, sufficient to operate the wastewater control facilities;
  - (2) Halt, reduce or otherwise control production or all discharges upon the reduction, loss, or failure of the primary source of power to the wastewater control facilities.
- H. Duty to mitigate. The owner shall take all reasonable steps to minimize or prevent any adverse impact on human health or the environment resulting from noncompliance with the permit. Additionally, the owner shall take all necessary steps to prevent an operational upset of the WWTP.
- I. Duty to provide information. The owner and any operator of the permitted WWTP shall furnish to the BOH within a reasonable time as specified by the BOH any information which the BOH may request to determine whether cause exists for modifying, suspending, revoking and reissuing, or terminating the permit, or to determine whether the owner is complying with the terms and conditions of the permit.
- J. Inspection and entry. The owner shall allow the BOH or its authorized representatives to:
  - (1) Enter upon the owner's premises where a regulated facility or activity is located or conducted, or where records required by the permit are kept;
  - (2) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;
  - (3) Inspect at reasonable times any facilities, equipment, practices, or operations regulated or required under the permit; and
  - (4) Sample or monitor at reasonable times for the purpose of determining compliance with the terms and conditions of the permit.
- K. The owner shall physically secure the treatment works and monitoring wells and limit access to the treatment works and monitoring wells only to those personnel required to operate, inspect and maintain the treatment works and to collect samples.
- L. The owner shall identify each monitoring well by permanently affixing to the steel protective casing of the well a tag with the identification number listed in the permit.
- M. Recordkeeping.
  - (1) The owner shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by the permit, and all records of all data used to complete the application for the permit, for a period of at least five years from the date of the sample, measurement, report or application. This period may be extended by request of the BOH at any time. Records of monitoring information shall include without limitation:

- (a) The date, exact place (such as well number), time of the sampling or measurements;
  - (b) The individual(s) who performed the sampling or measurement;
  - (c) The date(s) analyses were performed;
  - (d) The individual(s) who performed the analyses;
  - (e) The analytical techniques or methods used; and
  - (f) The results of such analyses.
- (2) The owner shall make and retain for a period of at least five years records of all operations carried out at the WWTP, including routine maintenance, repairs, and emergency operations. Records shall include:
  - (a) The date, time and nature of the operation.
  - (b) The individual(s) who performed the operation.
  - (c) The length of time the WWTP was shut down if at all.
  - (d) A description on what was done during the operation and the end result.
- N. Prohibition of bypassing. Except as provided in 314 CMR 5.16(13), bypassing is prohibited and the BOH may take enforcement action against an owner for bypassing unless:
  - (1) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - (2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if the owner could have installed adequate backup equipment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; or
  - (3) The owner submitted notice of the bypass to the BOH:
    - (a) In the event of an anticipated bypass, at least 10 days in advance, if possible; or
    - (b) In the event of an unanticipated bypass, as soon as the owner has knowledge of the bypass and no later than 24 hours after its first occurrence.
- O. Permit actions. The WWTP permit may be modified, suspended, or revoked for cause. The filing of a request by the owner for a permit modification, reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.
- P. Other laws. The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, nor does it relieve the owner of the obligation to comply with any other applicable federal, state, or local law, or regulation.
- Q. Removed substances. Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed in a manner consistent with applicable federal and state laws and regulations, including, but not limited to, the Massachusetts Clean Waters Act, MGL c. 21, §§ 26 through 53, and the Federal Act, 33 U.S.C. § 1251 et seq., the Massachusetts Hazardous Waste Management Act, MGL c. 21C, and the Federal Resource Conservation and

Recovery Act, 42 U.S.C. § 6901, et seq., 310 CMR 19.000: Solid Waste Management and 310 CMR 30.000: Hazardous Waste.

- R. Reopener clause. The BOH reserves the right to make appropriate revisions to the permit to establish any appropriate effluent limitations, schedules of compliance, or other provisions, as authorized by the Massachusetts Clean Waters Act, MGL c. 21, §§ 26 through 53, or the Federal Act, 33 U.S.C. § 1251 et seq., to bring all discharges into compliance with these statutes.

**§ 201-5.9. Fee.**

A one-time fee of \$1,000 is due at the time an application is received for a new WWTP.

**§ 201-5.10. Violations and penalties.**

Any applicant who shall violate any provisions of this regulation for which a penalty is not otherwise provided shall, upon conviction, be fined not less than \$100 nor more than \$500 per violation. Each separate incident of failing to comply with this regulation shall constitute a separate violation. Each day the incident continues shall constitute a separate violation.

**§ 201-5.11. Severability.**

So far as the BOH may provide, each section of these rules and regulations shall be construed as separate to the end that if any section, item, sentence, clause or phrase shall be held invalid for any reason, the remainder of these rules and regulations shall continue in full force and effect.

**§ 201-5.12. Appeals.**

Any applicant to whom an order has been served pursuant to this regulation may request a hearing before the BOH by filing a written petition within seven days. Upon receipt of such petition, the BOH shall schedule a hearing within 30 days. Anyone aggrieved by the decision of the BOH may seek relief therefrom within 60 days in a court of competent jurisdiction.

**§ 201-5.13. Lifting of moratorium; effective date.**

- A. Upon the effective date of these amended regulations, the BOH hereby lifts the moratorium on WWTPs which generate a design flow of less than 10,000 gallons per day, and such WWTPs are thus regulated under both 310 C.M.R. 15.000 and Boxford Code § 201, as amended.
- B. This regulation shall take effect on September 5, 2019.

**§ 201-6. (Reserved)**

## ARTICLE V

**Supplement to 310 CMR 15 Water Supply Protection**  
**[Adopted as Regulation 2-94; amended in its entirety 12-15-2021]****§ 201-7. Background and justification.**

- A. Dwellings within Boxford rely on private wells and subsurface disposal of sanitary sewage on individual lots. In addition, several small public water supply systems provide potable water to public and commercial buildings and high-density housing developments, which are also serviced by subsurface sewage disposal systems. The aquifers for these wells are primarily groundwater bedrock fissures and soil overburden. Such aquifers are recharged from rainfall, surface waters and from wetlands.
- B. Further, under Article 12 of the General Bylaws for the Town of Boxford as amended,<sup>40</sup> established under Home Rule, the Conservation Commission of the Town of Boxford has promulgated regulations that determine that failure to enforce the requirements set forth in § 201-9C(1), (2), (3) and (4) of these regulations will have significant or cumulative detrimental effect upon wetland values, including public and private water supply, groundwater, flood control, prevention of erosion, sedimentation control, storm damage prevention, prevention of water pollution, protection of fisheries and wildlife habitat, recreation and aesthetics.
- C. For these reasons, and acting under the authority of MGL c. 111, § 31, as amended, and with reference to MGL c. 40, § 54, and in the interest of and for the protection of public health, the Boxford Board of Health has established and adopted the following regulations, which supplement Massachusetts 310 CMR 15.00 and Boxford Health Regulation 1-94,<sup>41</sup> for the protection of private wells and small public water supplies as sources of potable water in the Town of Boxford.
- D. Regulation of retaining walls evolved from concerns over long-term hydrogeologic and structural impacts of retaining walls for leaching facilities in steep slope areas. The specific concerns are:
- (1) The potential for groundwater mounding behind a retaining wall that is footed within the water table resulting in reduced vertical separation between a soil absorption system and the groundwater table; and
  - (2) The increased risk of retaining wall failure due to buildup of water pressure behind such retaining walls.

**§ 201-8. Definitions.**

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

**ABUTTER** — The owner of any property that lies within 500 feet radial from any lot line of the subject property, including those properties across a traveled way or body of water. In the case of property that has frontage on a pond, abutters will include all those properties with frontage on the pond.

**CESSPOOL** — A cesspool is a pit with open-jointed linings or holes in the bottom and/or sidewalls into which raw sewage is discharged, the liquid portion of the sewage being disposed of by seeping or leaching into the surrounding soils, and the solids or sludge being retained in the pit. Cesspools are nonconforming systems. (MGL 310 CMR 15.002)

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40. Editor's Note: See Ch. 192, Wetlands Protection.

41. Editor's Note: See Ch. 202, Private Water Supply Regulations.

LEACHING FACILITY — As defined in 310 CMR 15 as amended.

LOT — An area of land in one ownership, with definite boundaries.

SOIL ABSORPTION SYSTEM — As defined in 310 CMR 15, as amended.

SUBSURFACE SANITARY SEWAGE DISPOSAL SYSTEM — An individual sewage disposal system or on-site subsurface sewage disposal system as defined in 310 CMR 15, as amended.

WETLAND RESOURCE AREA — Any land area or surface area so defined by the Massachusetts Wetlands Protection Act, MGL c. 131, § 40, and regulations promulgated pursuant thereto 310 CMR 10.00, and Town of Boxford Wetlands Protection Bylaw and regulations promulgated pursuant thereto.<sup>42</sup>

**§ 201-9. Setback and groundwater requirements: Supplemental to 310 CMR 15.211, as amended.**

**A. Private wells and public water supplies.**

- (1) The leaching field or subsurface absorption system of a subsurface sanitary sewage disposal system shall be set back 100 feet from a private well used as a potable water supply where the percolation rate is equal to or greater than five minutes per inch (310 CMR 15.211).
- (2) The leaching facility or subsurface absorption system in those cases where the percolation rate is less than five minutes per inch shall be installed at least 150 feet from a private well used as a potable water supply.
- (3) No leaching field or subsurface absorption system shall be installed within the Zone 1 of a public water supply or as required in Subsections A(1) or A(2) of § 201-9, whichever distance is the greater [310 CMR 15.211(2)].

**B. Depth to groundwater.**

- (1) The minimum vertical separation between the bottom of the stone underlying the leaching field or subsurface absorption system shall be four feet in soils with a recorded percolation rate equal to or more than two minutes per inch.
- (2) The minimum vertical separation between the bottom of the stone underlying the leaching field or subsurface absorption system shall be five feet in soils with a recorded percolation rate of less than two minutes per inch.

**C. Wetlands.**

- (1) No component of a subsurface sanitary sewage disposal system may be located within 50 feet of a wetland resource area.
- (2) The leaching facility or soil absorption system of a subsurface sanitary sewage disposal system shall be set back 100 feet from any wetland resource area.
- (3) No leaching facility in those cases where the percolation rate is less than five minutes per inch shall be installed within 150 feet of a wetland resource area.
- (4) No wetland resource area may be altered in order to achieve the setbacks called for in Subsections C(1), (2) or (3) of § 201-9.

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42. Editor's Note: See Ch. 192, Wetlands Protection. The regulations promulgated pursuant thereto are on file in the office of the Town Clerk.

- D. Requirement for alternative systems. In those cases where the leaching facility must be installed less than 100 feet from a well used as a potable water supply, or less than 100 feet from a wetland resource area, or less than four feet above the high groundwater level if the percolation rate is equal to or more than two minutes per inch, or less than five feet above the high groundwater level if the percolation rate is less than two minutes per inch, then an alternative system approved by the DEP that reduces nitrogenous compounds shall be installed as part of the sewage disposal system [310 CMR 15.282(4)].
- E. Great ponds. Setbacks and additional requirements for septic systems from great ponds (Bald Plate, Chadwick, Four-Mile, Hovey's, Johnson's, Sperry, Spofford, Stevens, and Stiles Ponds located completely in Boxford or those portions bordering on Boxford) are detailed in Chapter 201, Article VI, of the Boxford Town Code.

#### **§ 201-10. Garbage grinders.**

Garbage grinders are not recommended. In order to accommodate potential retrofit of garbage grinders, all new and upgraded subsurface sanitary sewage disposal systems shall be designed for garbage grinders by increasing the daily flow by 50%. If a grinder is not to be installed, a variance must be requested. If the variance is granted, a deed restriction must be placed on the residence stating that a garbage grinder is not allowed.

#### **§ 201-11. Shared systems.**

The use of a subsurface sewage disposal system by more than one lot is prohibited.

##### **§ 201-11.1. Reserve area between trenches.**

There shall be no reserve area between trenches.

##### **§ 201-11.2. Impervious barriers (retaining walls).**

- A. Before any impervious barrier is approved, the design engineer must demonstrate that the lot meets Title V slope requirements for construction in fill for both the primary and reserve soil absorption systems. If the slope requirements cannot be met, then a concrete retaining wall will not be allowed.
- B. When a concrete retaining wall is proposed for new construction, both the primary and reserve areas must be fully designed, and no part of the construction of the primary system including the retaining wall shall interfere with the future use of the reserve area soil absorption system (SAS).
- C. The bottom elevation of the footing of a concrete retaining wall must be at least one foot above the estimated high groundwater table as tested in the area where the footing will be placed.
- D. When a concrete retaining wall is used, the orientation of the soil absorption system piping will be parallel to the retaining wall.
- E. The horizontal distance from the toe of the slope on the downgradient side of a concrete retaining wall from a lot line shall be a minimum of five feet.
- F. Any approval of a septic system with a concrete retaining wall shall be contingent upon no disturbance of soil within 200 feet of the proposed system. If the soils are disturbed by cuts or fills within a 200-foot radius of the system, then the groundwater elevation and surface water drainage must be reevaluated prior to issuance of a disposal works construction permit.

**§ 201-11.3. Housing for the elderly.**

The design flow for a single unit of housing for the elderly will be 150 gallons per day for any unit with two bedrooms or fewer and a total of five rooms or less. A larger elderly housing unit will have the design flow calculated in the same manner as a single-family dwelling.

**§ 201-12. Cesspools.**

- A. No increase in design flow or square footage of a building served by a cesspool is allowed.
- B. New construction of cesspools is prohibited.
- C. Any inspection required for determining the condition of a septic system, such as a Title 5 Inspection, or any inspection required because of a failed septic system, shall include determination of whether a cesspool exists on the property under inspection whether or not the cesspool is the cause of the inspection or failure. The location of the cesspool shall be noted and become part of any report to the Board of Health.
- D. In the case where a septic system is in failure, the disposal system construction permit allowing repair of the system shall include the requirement that any cesspool on the property shall be closed as described in § 201-12H of this regulation whether or not the cesspool is part of the failed septic system on the property.
- E. In the case where application is made to change or increase flow to an existing septic system, the Disposal System Construction Permit allowing repair of the system shall include the requirement that any cesspool on the property shall be identified and closed as described in § 201-12H of this regulation.
- F. Any addition or change of use to a structure not requiring an increase in flow to the septic system but requiring a building permit and/or occupancy permit shall have an inspection by a qualified Title 5 inspector that shall locate and report to the Board of Health all septic system(s) and any cesspools serving the structure [MGL 310 CMR 15.301(5)]. The approval of any proposed addition or change of use to the structure by the Board of Health shall require that any cesspool on the property be closed as described in § 201-12H of this regulation.
- G. Any new well proposed on a property where a cesspool exists shall be located a minimum of 200 feet from cesspool unless the cesspool is abandoned and closed as described in § 201-12H of this regulation.
- H. A cesspool shall be closed by 1) obtaining a disposal system construction permit from the Board of Health, 2) disconnecting all input lines, 3) pumping the cesspool empty of all liquid and solid materials by a licensed septage hauler, and 4) filling the cesspool with sand or other material approved by the Board of Health.

**§ 201-13. Variances.**

See Article VII of Chapter 201.



## ARTICLE VI

**Regulation of Septic Systems Within 300 feet of Great Ponds  
[Adopted as Regulation 2-96; amended in its entirety 12-15-2021]****§ 201-13.1. Purpose and authority.**

- A. Based on the monitoring data and analysis of the Water Quality Management Study for Seven Ponds in Boxford, Massachusetts, and Appendix dated April 1995, prepared by K-V Associates, Inc., of Falmouth, Massachusetts, and the Modeling and Analysis presented in Boxford - 3 Pond Study Nutrient Modeling Results by Horsley & Witten of Falmouth and Boston, Massachusetts, dated February 1996 with revisions to April 1996, the Boxford Board of Health has concluded that in order to preserve the great ponds in Boxford the phosphate and nitrate loading of the ponds must be reduced. Existing septic systems have been identified as a major source of nutrient loading in Boxford great ponds and upgrading of inadequately protective systems must be undertaken in order to assure the continuation of the existence of Boxford's great ponds into the future.
- B. Acting under the authority of MGL c. 111, § 31, as amended, and for the protection of public health and the environment, the Boxford Board of Health has established and adopted the following regulations, which supplements Massachusetts 310 CMR 15.00.

**§ 201-14. Applicability.**

This regulation shall apply to existing and proposed septic systems within the watershed of and within 300 feet of the mean high-water mark of all great ponds within or bordering on Boxford.

**§ 201-15. Definitions.**

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

**ABUTTER** — The owner of any property that lies within 500 feet radially from any lot line of the subject property, including those properties across a traveled way or body of water. In the case of property that has frontage on a pond, abutters will include all those properties with frontage on the pond.

**EXISTING SYSTEMS** — A sewage disposal or treatment system which is in existence at the time of adoption of these regulations and which is located within the watershed of and within 300 feet of the high-water mark of a great pond.

**GREAT POND** — Any pond or lake that contained more than 10 acres in its natural state. Ponds that once measured 10 or more acres in their natural state, but which are now smaller, are still considered great ponds. This regulation applies to sewage disposal systems on Bald Pate, Chadwick, Four-Mile, Hovey's, Johnson's, Sperry, Spofford, Stevens, and Stiles Ponds located completely in Boxford or those portions Bordering on Boxford. (Ref: <https://www.mass.gov/files/documents/2017/09/18/magreatponds.pdf>)

**§ 201-16. Inspections for existing systems.**

- A. All existing septic systems less than 300 feet of the high-water mark of a great pond shall be inspected by a state certified system inspector upon application by the owner of said system for a repair, expansion, or replacement of the system. An inspection report shall be submitted to the Board of Health for its review and approval. All existing systems shall be reinspected every five years following the initial inspection or certificate of compliance for new installation or upgrade. The requirement for an inspection may be waived if a plan for upgrading the system in compliance with maximum feasible protection is submitted.

- B. In addition to the inspection requirements of 310 CMR 15.302, the following must be performed and results of which reported to the Board of Health as part of the inspection:
- (1) Determination of the location and condition of the leaching area is required, including length and number and location of lines or trenches, number and volume of pits.
  - (2) A deep observation hole shall be performed to determine high groundwater and determine the depth of naturally occurring pervious soils by a state certified soil evaluator. Such observation hole shall be witnessed by the Board of Health or its agent. Such observation hole shall be performed within the vicinity of the system, but not so as to impair the integrity or function of the system. If, in the opinion of the health agent, the high groundwater table cannot be determined through soil profiling, the agent may determine that the high groundwater table must be determined by a deep observation hole dug and observed during high-water table season (March, April and May).
  - (3) A physical measurement shall be taken of the horizontal distance of system components (septic tank, D-box, pump chamber, soil absorption system) to the mean high-water mark of the pond.
  - (4) Holding tanks shall be tested for watertightness. Pumping records for the tank shall be submitted to the Board of Health as part of the inspection report.
- C. Any inspection required under 310 CMR 15.301 for change of title, change in use or expansion in use for a system to which this regulation applies shall be performed in accordance with this regulation. If weather conditions preclude an inspection for change of title, the inspection shall be completed as soon as weather permits, but in no event later than six months after the change in title.

#### **§ 201-17. Failure criteria.**

In addition to the failure criteria in 310 CMR 15.303, the following conditions shall constitute a failure of an existing system and shall require upgrades in compliance with Title V, local health regulations and maximum feasible protection as in § 201-21 of this regulation.

- A. Any portion of the soil absorption system is within the pond watershed and within 100 feet of the mean high-water mark of a great pond.
- B. The bottom of the soil absorption system is less than four feet above the high-water table.
- C. The depth of naturally occurring pervious soils in the vicinity of the soil absorption system is less than four feet below the elevation of the bottom of the soil absorption system.
- D. A cesspool is located within the watershed of and within 300 feet of the high-water mark of a great pond.
- E. A tight tank that is not watertight or a tight tank whose records of pumping are not commensurate with the use of the existing facility.

#### **§ 201-18. Upgrades.**

- A. All existing systems in failure shall be upgraded to maximum feasible protection standards. Any increase in flow to an existing system (i.e., increase in the number of bedrooms or bedroom-usable spaces) in the structure shall require upgrade to maximum feasible protection. Systems found in failure during reinspection shall have two years to come into compliance with maximum feasible protection.

- B. Any existing system in failure shall come into compliance with maximum feasible protection within four years of the effective date of this regulation.

**§ 201-19. New wastewater systems.**

No soil absorption system for any new construction in a pond watershed shall be allowed within 300 feet of the mean high-water mark of a great pond. New construction shall mean any structure not in existence as of the passage of this regulation or any structure for which the use has been suspended for a period of three or more years.

**§ 201-20. Reinspections.**

All existing system shall be inspected every five years following the initial inspection or certificate of compliance for new installation or upgrade. The requirement for an inspection may be waived by the Board of Health or its agent with the submission of a plan for upgrade of a system bringing it in compliance with maximum feasible protection. A deep observation hole is not required for reinspections if the health agent determines that a test hole has previously been performed and certified in writing by a certified soil evaluator in the vicinity of the soil absorption system.

**§ 201-21. Maximum feasible protection.**

Maximum feasible protection provides for a choice of alternative technology wastewater treatments whereby the nutrient loading, particularly of phosphorus, is reduced or eliminated in the wastewater stream so as to protect the ponds from nutrient overloading and accelerated eutrophication. The applicant may choose from the following choices for maximum feasible protection wastewater treatment facilities by submitting a design plan prepared by a registered sanitarian or professional engineer registered in the Commonwealth of Massachusetts. The applicant shall apply for a disposal system construction permit as per 310 CMR 15.00.

- A. Tight tanks: plastic (PVC) or fiberglass tanks tested for tightness.
- B. Composting toilets: combined with nonleaching gray water system. Leaching gray water systems shall be allowed in combination with composting toilets if they are in compliance with all other state and local regulations.
- C. Phosphorus pretreatment wastewater systems shall include systems demonstrated to reduce phosphates in the wastewater stream by 30% or more.

ARTICLE VII  
**Variances**  
**[Adopted 12-15-2021]**

**§ 201-22. Standard of review.**

- A. The Boxford Board of Health may vary the application of any provision of Regulation 2-96 (Town Code Chapter 201, Articles I through VI) with respect to any particular case. Variances shall be granted only when, in the opinion of the Boxford Board of Health:
- (1) The person requesting a variance has established that enforcement of the section of Regulation 2-96 (Chapter 201, Articles I through VI) from which a variance is sought would be manifestly unjust, considering all the relevant facts and circumstances of the individual case; and
  - (2) The person requesting a variance has established that a level of environmental protection that is at least equivalent to that provided under Regulation 2-96 (Chapter 201, Articles I through VI) can be achieved without strict application of the provision of Regulation 2-96 (Chapter 201, Articles I through VI) from which a variance is sought.
- B. With regard to variances for new construction, enforcement of the provision from which a variance is sought must be shown to deprive the applicant of all beneficial use of the subject property in order to be manifestly unjust.

**§ 201-23. Application; hearing; determination.**

- A. The Boxford Board of Health shall review request for variances as follows:
- (1) Every request for a variance shall be made in writing on a form provided by the Board of Health and shall make reference to the specific provision of Regulation 2-96 (Chapter 201, Articles I through VI) for which a variance is sought and a statement is in compliance with § 201-22.
  - (2) The Board will notify the applicant of a date for a hearing to consider the variance within 45 days of receiving said request.
  - (3) No application for a variance shall be complete until the applicant has notified all abutters by mail, at his/her own expense at least 10 days before the Board of Health meeting at which the variance request will be on the agenda. The notification shall reference the specific provisions of Regulation 2-96 (Chapter 201, Articles I through VI) from which a variance is sought, a statement of the standards set forth in Regulation 2-96 and the date, time and place where the application will be discussed. Proof of mailing to each abutter must be submitted to the Board prior to the variance hearing.
- B. The Board of Health shall make a determination on the variance request within 30 days following the variance hearing.
- C. Any variance allowed by the Boxford Board of Health shall be in writing. Any denial of a variance shall also be in writing and shall contain a brief statement of the reasons for the denial. A copy of each variance shall be available to the public at all reasonable hours in the office of the Board of Health while it is in effect.



**Chapter 202****PRIVATE WATER SUPPLY REGULATIONS**

**[HISTORY: Adopted by the Board of Health of the Town of Boxford as Regulation 1-94; amended in its entirety 12-19-2012. Subsequent amendments noted where applicable.]**

**§ 202-1. Background and justification.**

The majority of the dwellings in the Town of Boxford, Massachusetts, rely on private wells as their source of potable water. Such wells, and including wells for irrigation and agricultural use, are not regulated under State Code, 310 CMR 22.00, and are under authority of the Board of Health. For this reason, the Board of Health for the Town of Boxford, acting under MGL c. 111, § 31, as amended, and with reference to MGL c. 40, § 54, in the interest of and for the protection of public health, established and adopted the following rules and regulations concerning private well water supplies in the Town of Boxford.

**§ 202-2. Definitions.**

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

**ABANDONED WELL** — A well that has not been used as a source of potable water for at least 12 consecutive months.

**ABUTTER** — The person or persons owning land contiguous to or within 100 feet of the lot lines of the land owned by an applicant applying for a variance to this regulation.

**APPROVED LOCATION** — The preapproved area defined in the well permit for a specific property in Boxford within which the well contractor may carry out test borings or well drilling for the purpose of investigating the potential for or installation of a safe drinking water supply.

**BEDROCK WELL** — A drilled well which extends into the bedrock and has a sealed casing.

**BOARD** — Board of Health.

**BORING or TEST BORING** — See "well."

**DEP** — The Massachusetts Department of Environmental Protection.

**DEP-CERTIFIED WATER TESTING LABORATORY** — A laboratory that has been deemed capable by the DEP of producing valid data for tests of specified contaminants, such as nitrate, volatile organic compounds (VOC's), fecal coliform bacteria, etc., and has demonstrated it is able to perform accurate testing using scientific methods which have been approved by the United States Environmental Protection Agency.

**DRILL HOLE** — see "well."

**DUG WELL** — A shallow well or pit which has been constructed by excavation.

**DWELLING** — Every building or shelter, including but not limited to rooming houses and temporary housing used or intended for human habitation, and every other structure or condition located within the same lot lines whose existence causes or is likely to affect noncompliance with the provisions of this regulation. (Ref: 105 CMR 410.000)

**DWELLING UNIT** — The room or group of rooms within a dwelling used or intended for use by one family or household for living, sleeping, cooking and eating. "Dwelling unit" shall also mean "condominium unit." (Ref: 105 CMR 410.000)

**IRRIGATION WELL** — A well used as a source of water for irrigation of agricultural, residential or public lands and not intended for human consumption.

**LIVESTOCK WELL** — A well used as a source of water for animals kept on agricultural, residential or public lands and not intended for human consumption.

**MANURE STORAGE AREA** — An area approved by the Board of Health for the storage of livestock manure and as located on the drawing submitted as part of an application for a stable permit to the Board of Health. (Ref: Boxford Code Chapter 203, Stable Licensing).

**MONITORING WELL** — A well drilled for the purpose of sampling and testing water quality. The well shall not be used as a source of potable water and shall be abandoned once testing is completed according to these regulations [§ 202-3D(2)], unless reapplication is made to convert the monitoring well into a potable water supply.

**PERSON** — Any individual, family, partnership, association, firm, company, corporation, agency, group (including a city, town, county, state or other governmental unit) or any other entity responsible in any way for an activity subject to this regulation.

**POTABLE WATER SUPPLY** — A well or other source of water for human consumption which provides water which should meet all primary and secondary drinking water standards and guidelines as established by the DEP.

**PRIVATE WATER SUPPLY** — Any water system that is not regulated by 310 CMR 22.00.

**PUBLIC WATER SYSTEM** — Any system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days of the year. (Ref: 310 CMR 22.00)

**WATER SYSTEM** — All pipes, valves, fittings, tanks, pumps, motors, switches, controls and appurtenances installed or used for the purpose of storage, distribution, filtration, treatment or purification of water for any use, whether or not located inside a building.

**WELL** — Any pit, pipe, excavation, casing, drill hole, boring, test boring, or other private source or potential source of water to be used or potentially used for the purpose of supplying potable water or water for irrigation or agricultural use or used for analysis and testing purposes.

**WELL CONTRACTOR** — A person or persons registered by the Commonwealth of Massachusetts to engage in the business of digging or drilling wells within the commonwealth. (Ref: MGL c. 21, § 16)

**WELL DRILLING PERMIT** — A permit issued by the local Board of Health or its agent for the purpose of granting permission to a well contractor to drill or bore into the earth for the purpose of exploring or testing an approved location as a potential water source or for the purpose of monitoring water quality. Such permit is issued as part of the well drilling permit application submitted by the well contractor prior to the start of any test boring or well drilling activity. Permits must be signed by the person(s) owning the land; or, to be signed by the well drilling contractor, a signed letter from the land owner stating that the well contractor may sign the permit must be presented as part of the permit process. Permits for well drilling on Town land must be signed by an authorized representative of the Select Board Members. **[Amended 9-12-2020 ATM by Art. 19]**

### § 202-3. Wells.

- A. No well shall be installed or repaired in Boxford until a well drilling permit has been issued by the Board of Health, except as detailed in § 202-4A of this regulation. This shall include irrigation, livestock, and monitoring wells. A well drilling permit shall be issued or denied within 45 days after receipt, by the Board of Health or its agent, of a well drilling permit application. Application forms

shall be available at the local Board of Health office during normal working hours.

- B. No building permit shall be issued for the construction of a building which necessitates the use of potable water therein from a well located on the lot where the building is to be constructed until a well has been installed and the Board of Health has determined that a safe and adequate supply of potable water is available. The well and water supply system of a private water supply shall be located on the same lot as the dwelling or buildings wherein the water is used.
- C. Repair, renovation or replacement of an existing well and/or water system shall follow all provisions of this regulation and must be approved by the Board of Health.
- D. The well contractor shall observe reasonable sanitary measures and precautions on the performance of any work in order to prevent the pollution or contamination of the well.
  - (1) Newly constructed wells or wells where repair work has been done shall be appropriately flushed and disinfected before being put into use.
  - (2) All abandoned wells shall be tightly sealed by approved methods or filled with clean earth with a very high clay content to prevent pollution of the groundwater.
  - (3) Where a well is to serve as a source of water for human consumption, there shall be a separate well for each dwelling unit, exclusive of legal in-law apartments.
  - (4) For new subdivisions and high-density housing developments, the Board of Health may set additional restrictions on the permitted number of operational wells per lot or per development. Such additional restrictions may be made based on the potential impact of the proposed development on the public health and environment and on existing wells and septic systems bordering the proposed development.
  - (5) No new or replacement well shall be installed closer than:
    - (a) Fifty feet to any lot line.
    - (b) Fifty feet to any septic tank.
    - (c) One hundred feet to any privy, cesspool or leaching facility.
    - (d) One hundred fifty feet to any privy, cesspool or leaching facility in those cases where the percolation rate of the septic system installation area is less than five minutes per inch.
    - (e) One hundred feet from an existing manure storage area.
  - (6) The separation between two operational wells shall be no less than 100 feet.
  - (7) Public water systems shall require approval by the Division of Water Supply, Department of Environmental Protection, prior to the issuance of a well permit and/or building permit. The Board of Health may set additional requirements for operation of the system and for the quality of water from the system.
  - (8) The Board recommends that no new well or replacement well be less than 30 feet from an abandoned well on the same property.
- E. Every well shall supply safe and adequate water for the purpose for which it is intended and shall give satisfactory evidence of continuing capability to do so.



- (1) All new and replacement wells to be used as a source of potable water shall be bedrock drilled wells. Dug wells shall not be permitted as new or replacement wells for potable water.
- (2) Before being approved, every well shall be pump tested (bailing method accepted) for at least four hours by the well contractor. The results of the pump test shall be submitted on a form provided by the Board of Health and kept as a public record.
- (3) In cases of the construction of a well as a potable water source, whether a new or a replacement well, and before the well is connected to the residence it will serve, the Board of Health shall require the submission of an analysis report attained of the well water prior to the issuance of a disposal works construction permit in the case of new construction, or prior to connection of the well to the residence in the case of a replacement well. Such analysis shall include, as a minimum, pH value; specific conductance and hardness; levels of iron, manganese, sodium, nitrate nitrogen and arsenic; coliforms; and the report from an appropriate test for organic compounds, such as EPA Method 524.2, Purgeable Organic Compounds in Water, or an equivalent EPA-approved method. All test results shall be submitted to the Board of Health. The well shall not be connected to the residence until the Board of Health has reviewed the test results and approved connection, except in the case of an emergency, as determined by the Board or its agent.
- (4) The Board of Health may recommend that a specific water treatment system is installed as part of a water system based on the water analysis results specified in § 202-3E(3) of this regulation, if such analysis results do not meet the water standards stipulated in 310 CMR 22.00, and any additional primary or secondary water standards. A second chemical analysis report as required in § 202-3E(3) of this regulation is recommended if a water treatment system has been installed.
- (5) All bacterial and chemical analyses for new and replacement wells shall be carried out and reported by a DEP-certified water testing laboratory.

**§ 202-4. Potable water systems.**

- A. There shall be a separate water system for each dwelling unit, which may include an approved in-law apartment, and it shall not be installed or materially altered thereafter until a permit has been issued by the Board of Health. The Board will require a description of the installation with each application for such a permit. Emergency work for repairs or service of existing equipment not amounting to a substantial renovation or overhaul of the system, including replacement of pumps, tanks, motors, water lines, fittings, filters, water treatment systems, and controls may be done without a permit, provided such repairs meet all requirements of these regulations.
  - (1) The water pipe from the house to the well pit or pitless adapter and all wiring shall be properly enclosed.
  - (2) All pumps, motors and tanks shall be placed on a suitable foundation, and all equipment and parts of the system that may require adjustments or service shall be made readily accessible.
  - (3) All pump houses, pump or pipe pits and wells shall be designed and constructed so as to prevent flooding and otherwise to prevent the entrance of pollutants or contaminants.
  - (4) Well casings shall extend at least 18 inches above the final grade of the ground surface.
- B. The installation of any water treatment system, including but not limited to water softeners, green sand or charcoal filters, and reverse-osmosis systems, shall be in accordance with all local and state

building requirements. The system installer shall obtain the appropriate plumbing and electrical permit(s) from the local authority. Copies of the permit(s), a description of the system installed, a description of any backwash methods used in the system and the place of backwash disposal, and a water analysis report of samples taken after the system is in operation [as required in § 202-3E(4) of this regulation] shall be submitted to the Board of Health within 30 days of installation of the treatment system.

- C. No certificate of occupancy shall be issued until all the provisions of this regulation have been met. The issuance of said certificates shall not be construed as a guaranty by the Town of Boxford, or of its agents, that the water system will function satisfactorily.

**§ 202-5. Livestock, irrigation and monitoring wells.**

Livestock, irrigation, and monitoring wells shall be subject to all provisions contained in §§ 202-3A, C and D, 202-7, 202-8, 202-9, 202-10, and 202-11 of this regulation.

**§ 202-6. Protection of well areas. [Amended 11-17-2021]**

- A. New and replacement chemically treated utility poles. **[Amended 2-7-2024]**

- (1) New and replacement chemically treated utility poles, including but not limited to utility poles treated with preservatives, fungicides, insecticides and petroleum products, shall not be installed within 100 feet of any public or private water supply. In the case of utility poles treated with arsenical containing pesticides, such as chromated copper arsenate (CCA), the high ground water level shall be established for the pole location, and installation of the treated pole is prohibited if the pole will extend below the high ground water level.
- (2) The location of all private wells within 100 feet of any new or replacement chemically treated utility pole shall be identified on a map and submitted to the Board of Health (by the installer) prior to installation of the utility pole. Said map shall contain the location of the proposed utility pole installation, all wells within 100 feet of the proposed pole location, and sufficient street identifications and landmarks to enable the Board to identify the area of installation.
- (3) In the event that a chemically treated utility pole cannot meet the installation requirements of § 202-6A(1), a non-chemically treated utility pole will be allowed. The utility pole installer must certify that the utility pole installed is not chemically treated to the BOH in writing.
- (4) The Board of Health may delay or prohibit installation of the proposed utility pole, or may require its removal, if it is installed prior to Board review, if the Board finds that the utility pole presents a potential threat to the public health or the environment.
- (5) Emergency replacements due to damage in the same location are exempt from this regulation.

- B. The Board of Health strongly recommends that no pesticide be applied in any form within 100 feet of any public or private potable water supply, including but not limited to the application of pesticides to turf, shrubs, trees and agricultural crops, except in those specific cases where the pesticide has been approved for use by the United States Environmental Protection Agency in wellhead areas. It is the responsibility of the pesticide applicator to locate all wells within an area to be treated prior to application of pesticides and to delineate, if required, a nonapplication zone around each well.

§ 202-7

PRIVATE WATER SUPPLY REGULATIONS

**§ 202-7. Variances.**

Every request for a variance from this regulation on a specific property shall be made by the property owner, in writing, to the Board of Health and shall state the specific variance sought and the reason for the request. The Board will notify the applicant of a date for a hearing to consider the variance within 45 days of receiving said request. The person requesting the variance shall also be responsible for notifying all abutters of the variance request as well as the time and place of the hearing to consider the variance. The Board of Health shall make a determination on the variance request within 30 days following the variance hearing.

**§ 202-8. Appeal.**

Any person aggrieved by the decision of the Board of Health may seek relief therefrom within 30 days in any court of competent jurisdiction, as provided by the laws of the Commonwealth of Massachusetts.

**§ 202-9. Enforcement; violations and penalties.**

- A. The Board of Health, its agents, officers and employees shall have the authority to enter upon privately owned land for the purpose of performing their duties for the administration and review of this regulation and may make or cause to be made such examinations, surveys or samplings as the Board deems necessary.
- B. The Board of Health shall have the authority to enforce these regulations and permits issued thereunder by violation notices, administrative orders and civil and criminal court actions.
- C. Any person who shall violate any provisions of this regulation for which a penalty is not otherwise provided shall be subject to a fine of not more than \$200. Each day or portion thereof during which a violation occurs or continues shall constitute a separate offense, and each provision of the regulation or permit that is violated shall constitute a separate offense.

**§ 202-10. Severability.**

So far as the Board of Health may provide, each section of these rules and regulations shall be construed as separate, and to the end that if any section, item, sentence, clause or phrase shall be held invalid for any reason, the remainder of these rules and regulations shall continue in full force and effect.

**§ 202-11. Effective date.**

This regulation will take effect on or about September 8, 2010. As required by MGL c. 111, § 31, an attested copy of this regulation has been filed with the Massachusetts Department of Environmental Protection and with the Town Clerk of Boxford.

**Chapter 203****STABLE LICENSING**

**[HISTORY: Adopted by the Board of Health of the Town of Boxford by Regulation 2-88; amended in its entirety 4-23-2009, and further amended 8-12-2009. Subsequent amendments noted where applicable.]**

**GENERAL REFERENCES**

Stables — See Ch. 159.

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**§ 203-1. Statutory authority; purpose.**

The Board of Health for the Town of Boxford, Massachusetts, acting under the provisions of MGL c. 111, §§ 31, 122, and 155, and any other statutory authority, as amended, has, in the interest of and for the protection of public health and animal health and in the interest of protecting the quality of surface and ground waters as such impacts public health, established and adopted the following rules and regulations.

**§ 203-2. Definitions.**

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

**ABUTTER** — The owner of any property sharing a common lot line with or located across a common street from the subject property.

**BARN** — Any building, shelter, stable, sty, or other similar structure used for the protection and keeping of livestock.

**BOARD** — The Boxford Board of Health.

**COMPOSTING** — The natural degradation of manure and other organic material in an actively managed, aerobic process generating heat. Simple stockpiling of manure is not composting.

**FACILITY** — The portion of a property, including all structures thereon, used for containing and keeping livestock as well as for the storage or handling of manure and manure-containing products, and including but not limited to barns, shelters, sheds, ancillary buildings, paddocks, corrals, and fenced areas. **[Amended 2-10-2010]**

**LIVESTOCK** — Equine and bovine animals, and swine.

**Paddock** — Any and all enclosed or fenced nonturf areas for containing or displaying livestock.

**PASTURE** — A fenced, turf-covered area for the containing and/or grazing of livestock.

**PRIVATE WELL** — Any well or source of potable water as defined by Board of Health Regulation Chapter 202, Private Water Supply Regulations.

**PUBLIC WELL** — Any system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days of the year (Ref: 310 CMR 22.00).

**STABLE** — A shelter for livestock. See also "barn."

STABLE PERMIT — A license for a facility to keep livestock issued by the Board of Health under the terms of this regulation.

TOWN — The Town of Boxford, Massachusetts.

WETLAND RESOURCE AREA — Any land area or surface area so defined by the Massachusetts Wetlands Protection Act, MGL c. 131, § 40, and the regulations promulgated pursuant thereto at 310 CMR 10.00, and the Town of Boxford Wetlands Protection Bylaw and regulations promulgated pursuant thereto,<sup>43</sup> excluding riverfront area.

**§ 203-3. Licenses; general requirements.**

- A. No person shall erect, occupy or use a facility in the Town unless a stable permit for such use is issued by the Board and, in such case, only to the extent so licensed. Within 12 months of the passage of this regulation, any person keeping livestock in the Town of Boxford and not having a stable permit shall apply for this license.
- B. Application for a stable permit shall be made to the Board or its agent on a form provided by the Board.
- C. The initial and each subsequent license application submitted to the Board of Health or its agent under this regulation shall include an accurate, to-scale drawing, which need not be an engineered drawing, with  $\pm$  10% accuracy, showing the location of the stable, paddock, and manure storage area, and any septic system, private or public wells, abutter dwelling(s), surface watercourses and wetland resource areas within 100 feet of the stable, paddock and manure storage area. Additionally, any lot lines or streets within 50 feet of the stable, paddock and manure storage area shall be shown to scale on the drawing.
- D. In addition to the information required for submission by this regulation, the applicant may also submit to the Board current or historical documentation or plans or maps for the property available from any Town or other reputable source to demonstrate compliance with the requirements of this regulation, including but not limited to septic system design and test data, submissions to the Building Inspector and Planning Board, Zoning Board of Appeals, and the Conservation Commission.
- E. The applicant shall submit to the Board, together with the permit application, an operation/management plan for manure storage, handling, and disposal which shall include:
  - (1) A manure management/removal plan which includes details on frequency of manure removal from the facility.
  - (2) A composting plan, if any.
  - (3) A control management plan for flies and rodents.
  - (4) A plan for ensuring that drainage or liquid effluent containing livestock waste products shall not be discharged in runoff, or flow over the surface of the ground onto abutting properties, a public way, or into wetland resource areas.

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43. Editor's Note: See Ch. 192, Wetlands Protection, and Ch. 375, Wetlands Protection Regulations.

The operation/management plan shall be based on best management practices as defined in instructions and requirements provided by the Board of Health.

- F. Issuance of the stable permit shall be conditional upon a site inspection by the Health Agent or other agent appointed by the Board of Health to determine compliance with the provisions of this regulation.
- G. The stable permit shall consist of a Board of Health approved copy of the application form and to-scale drawing described in § 203-3C of this regulation.
- H. The stable permit shall be kept on the premises for which it is issued and shall be produced upon demand of the Boxford Animal Inspector or any agent of the Boxford Board of Health.
- I. Provided that no change in the location or increase in size of the facility is made, the stable permit as issued shall remain in force for the period of three years. Each facility owner shall apply for a new stable permit in accordance with § 203-3, Subsections B through F, of this regulation, 60 days prior to expiration of the license then in force.
- J. A modification to an existing stable permit shall be submitted 60 days prior to any change in the location of the manure storage area or paddock; or if any new facility is built or established; or if ownership of the facility changes. Any new application shall be made in accordance with § 203-3, Subsections B through F, of this regulation.
- K. Provided that the application for a stable permit is complete and meets all requirements of this regulation, and the required inspection has been carried out within 30 days of the completed application date, the Board of Health will issue the license within 30 days of said inspection unless deficiencies are found which must be resolved. In such case, the license will be issued within 30 days after such deficiencies have been resolved.

#### **§ 203-4. Location.**

- A. No manure storage and handling area shall be located within:
  - (1) One hundred feet of a wetland resource area, not including any riverfront area.
  - (2) Fifty feet of a lot line or street.
  - (3) One hundred feet of wells for potable water.
  - (4) The Zone I of a public water supply.
  - (5) Seventy-five feet of an abutter dwelling.

In the event of a conflict with future abutter structures, permits, and uses, the existing manure storage area(s), as identified by the current stable permit issued under this regulation, shall take precedence over and control the setback of any subsequent uses, structures, or permits on abutting properties.

- B. No paddock or livestock exercise area shall be located over the leaching facility of a subsurface sewage disposal system.

**§ 203-5. Fee.**

The stable permit fee as approved by Town Meeting action shall apply.

**§ 203-6. Maintenance; general care of animals and facilities.**

Every facility owner shall, as a condition of the stable permit:

- A. Maintain all facilities in a sanitary condition and in compliance with MGL Chapter 129, Livestock Disease Control; **[Amended 2-10-2010]**
- B. Have equipment available for any necessary storage or disposal of waste material to control vermin or insects;
- C. Provide adequate shelter necessary for the comfort of any livestock on the premises, based on common and accepted standards in the agricultural community;
- D. Take all reasonable precautions to prevent the spread of infectious or contagious diseases;
- E. Provide that stalls shall be cleaned regularly and shall be of an adequate size for the comfort of the livestock contained therein, based on common and accepted standards in the agricultural community.

**§ 203-7. Grandfathering and transferability.**

- A. Any person who shall have a stable permit issued under Boxford Board of Health Regulation 2-88 (Chapter 203 of the Boxford Code) may, at his or her request, be held to the standards of Regulation 2-88 as in effect prior to the amendments of April 23, 2009, until the expiration of the term of that permit.
- B. Upon expiration of a stable permit issued under Regulation 2-88 as in effect prior to the amendments of April 23, 2009, any application for renewal thereof shall be submitted in accordance with Regulation 2-88 as in effect prior to the amendments of April 23, 2009, except that the operation/management plan (§ 203-3E), the term (§ 203-3I), fee, and inspection (§ 203-3F) for the permit, and license enforcement (§ 203-8) will be held to the standards of the April 23, 2009, amended Regulation 2-88.
- C. Upon transfer of a property, any existing stable permit shall be deemed expired and shall be renewed in the manner as specified in § 203-7B of this regulation.

**§ 203-8. License enforcement.**

- A. The Board of Health may deny, revoke, suspend or refuse to renew a stable permit upon finding by the Boxford Animal Inspector or Boxford Health Agent that the licensee has violated any of the following:
- (1) Any provision of MGL c. 272, § 77 or 78A;
  - (2) Any provision of this regulation;
  - (3) A quarantine order;
  - (4) Applicant has made material misstatement(s) in the application for a license or renewal thereof; or
  - (5) Failure to comply with the operation and management plan approved for the facility.
- B. The Health Agent or other designated agent of the Board of Health may notify the owner of the facility against whom a complaint is lodged that the facility will be inspected to investigate the complaint. If grounds for the complaint are found and the facility is determined not to be in compliance with these regulations, then the owner of the facility will receive a written warning detailing the nature of the noncompliance, means to correct the noncompliance, the date by which the noncompliance must be corrected, and the action to be taken by the Board should the noncompliance not be corrected within the allowed time period. The Health Agent or other designated agent of the Board of Health shall reinspect the property to determine that the noncompliance has been corrected. In the event that the same noncompliance occurs at the same facility twice more within a period of six months, and written warnings are issued for each violation at the same facility, the Board of Health may summon the facility owner to a hearing before the Board. After such hearing, the Board may, at its discretion, levy appropriate fines and/or revoke the stable permit of the facility owner.
- C. No stable permit shall be denied, suspended, revoked or refused to be renewed except by decision of the Board of Health after a hearing.
- D. The Health Agent or Board of Health may call on the Conservation Commission, Building Inspector, Animal Inspector, Agricultural Commission or Massachusetts Society for the Prevention of Cruelty to Animals for assistance with resolving a problem, or observation of possible violations of other statutes, regulations, or codes under the jurisdiction of those boards or commissions.

#### **§ 203-9. Nuisance.**

Commercial farms shall be held to the standard of MGL c. 111 § 125A, such that nuisance such as odor or noise from normal farming activity is allowed, but generation of odor or noise that exceeds generally accepted farming procedure shall be considered a nuisance to be abated.

#### **§ 203-10. Variances.**

The Board of Health may grant a variance from any section of this regulation if the Board determines that it is in the public interest to do so, and so long as the grant of any variance under this regulation does not result in detriment to the public health or deter from the purpose and intent of this regulation or MGL c. 111, § 155. Every request for a variance from this regulation shall be made, in writing, to the Board of Health and shall state the specific variance sought including the specific section(s) of this regulation which cannot be fully met and reasons for the requested relief. In response to a written request for a variance, the Board will notify the applicant of a date for a hearing to consider the variance within 45 days of receiving said request. The person requesting the variance shall also be responsible for notifying all abutters of the



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STABLE LICENSING

variance request as well as the time and place of the hearing to consider the variance. The Board of Health shall make a determination on the variance request within 30 days following the variance hearing.

**§ 203-11. Appeal.**

Any person aggrieved by the decision of the Board pursuant to this regulation may seek relief therefrom in any court of competent jurisdiction, as provided by the laws of this commonwealth.

**§ 203-12. Penalties.**

Whoever violates any provision of this regulation shall be punished by a fine of \$5 each day such violation continues as provided by MGL c. 111, § 157.

**§ 203-13. Severability.**

Each part of this regulation shall be construed as separate to the end that if any part of the regulation or sentence, clause or phrase thereof shall be held invalid for any reason, the remainder of the regulation shall continue in full force.

**§ 203-14. Effective date.**

This regulation shall be effective on April 23, 2009.

**Chapter 204****SOLID WASTE**

**[HISTORY: Adopted by the Board of Health of the Town of Boxford as Regulation 2-91; amended in its entirety July 2018. Subsequent amendments noted where applicable.]**

**GENERAL REFERENCES**

Sanitary landfill — See Ch. 156, Art. I.

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**§ 204-1. Background and justification.**

The Board of Health for the Town of Boxford, Commonwealth of Massachusetts, acting under the authority of MGL c. 111, § 31, as amended, hereby supplements the provisions of 105 CMR 410.000: the State Sanitary Code, Chapter II, Minimum Standards of Fitness for Human Habitation; and 310 CMR 19.000: Solid Waste Management Regulations, in the interest of and for the protection of public health and environment, and establishes and adopts the following rules and regulations concerning the disposal of solid waste in the Town of Boxford.

**§ 204-2. Definitions.**

When used in this regulation or in communications, notices, orders or other references relative thereto, the following words and phrases shall have the meanings ascribed to them below and shall apply in the interpretation and enforcement of this regulation:

**AGRICULTURAL WASTE** — Discarded materials produced from the raising of plants and animals, including, without limitation, animal manure, bedding, plant stalks and other vegetative matter.

**CURBSIDE COLLECTION** — Scheduled times when solid waste and recyclables will be collected at the roadside in approved containers by a waste collection company contracted by the Town of Boxford through the Board of Health.

**DIVERTED WASTE** — The Boxford recycling center accepts wastes that are not accepted as solid waste or recyclables for curbside collection. The recycling center is open on weekends, and the hours of operation and list of accepted items are posted on the Town of Boxford website. Items that may be delivered to the recycling center include large metals items, special waste, bulky household items, button batteries, waste oil, and unshredded tires.

**GARBAGE** — Animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.

**HAZARDOUS WASTE** — Any waste that is defined and regulated under 310 CMR 30.00, the Hazardous Waste Regulations, as may be amended. Household hazardous waste is collected annually. The collection date is posted on the Town of Boxford website.

**LARGE METAL ITEM COLLECTION DAYS** — If scheduled by the Board of Health, specific days when large metal items are collected at the roadside by a waste collection company contracted by the Town of Boxford through the Board of Health.

**LARGE METAL ITEMS** —

**Examples of Items Allowed**

- Metal bike frames
- Stoves
- Metal furniture
- Metal desks
- Broken-down metal swing sets
- Metal piping (cut down to four-foot pieces)
- Lawn mowers (no ride-on mowers; all fluids must be drained and gas tanks removed)
- White goods items: stove, water heater, washer, dryer (no freon items)
- Metal frames for lawn furniture
- Metal bed frames
- Grills (no gas canisters allowed)

**Examples of Items Not Allowed**

- Refrigerators\*
- Air conditioners\*
- Dehumidifiers, etc, still containing freon\*
- Items longer than six feet
- Items containing less than 80% metal
- Tanks or containers containing hazardous materials
- Chain-link fences

**NOTES:**

\*

Items containing freon will not be accepted due to new DEP regulations and guidelines that our provider has to strictly adhere to.

**LEAF AND YARD WASTE** — Deciduous and coniferous seasonal deposition, grass clippings, weeds, hedge clippings, garden materials and brush.

**RECYCLABLE MATERIALS** — Materials that have the potential to be reused or recycled and that are not contaminated by significant amounts of waste such as No. 6 newspaper (which may contain small quantities of magazines, paperboard containers, paper bags, junk mail and a normal percentage of phone books) metal, glass, rigid Nos. 1, 2, 3, 4, 5, 6, and 7 single-polymer plastics and other items that may be added from time to time. Residents will be notified annually on the specific recyclables allowed for curbside pickup by the Town's waste collection company.

**RECYCLING CENTER** — A designated and dedicated area located in the closed landfill area where Boxford residents may dispose of recyclable materials such as construction and demolition materials, tires, appliances and white goods, including Freon-containing appliances, cardboard, electronic devices and materials, gas cylinders, and other items as allowed by the Board of Health. Fees may be charged for

such items.

**SOLID WASTE** — Useless, unwanted or discarded solid, liquid or contained gaseous material, resulting from municipal or household activities, that is abandoned by being disposed or incinerated, or is stored, treated or transferred pending such disposal, not including any hazardous waste or special wastes.

**SPECIAL WASTE** — A solid waste that requires special handling (i.e., demolition material) or disposal techniques or methodologies to protect public health or safety or the environment.

**TIRES** — A continuous solid or pneumatic rubber covering encircling the wheel of a motor vehicle.

**WHITE GOODS** — An appliance employing electricity, natural gas or liquefied petroleum gas to supply heat or motive power to preserve or cook food, to wash or dry, or to cool or heat air or water.

### **§ 204-3. Solid waste.**

All solid waste in the Town of Boxford shall be disposed of in accordance with 310 CMR 19.000, Solid Waste Management Regulations. Prohibited wastes, as defined in §§ 204-4 and 204-5 of this regulation, shall be prohibited from disposal as trash or recyclables for curbside collection.

### **§ 204-4. Recyclable materials.**

Board of Health designated recyclable materials shall not be disposed of as trash. These shall include but not be limited to aluminum, metal, glass, No. 6 newspapers and single-polymer plastics. Trash containing such items shall be refused by the trash collection company.

### **§ 204-5. Prohibited wastes.**

No solvents, oils, volatile or combustible materials, pesticides, herbicides, special wastes, or any other hazardous materials, including but not limited to batteries, shall be disposed of as trash or recyclables. In addition, the following materials shall be prohibited from disposal as trash or recyclables: leaves and yard waste, agriculture waste, white goods, and unshredded tires.

### **§ 204-6. Violations and penalties.**

Any person who shall violate any provisions of this regulation for which a penalty is not otherwise provided shall, upon conviction, be fined not less than \$10 nor more than \$500 per violation. Each separate incident of failing to comply with this regulation shall constitute a separate violation.

### **§ 204-7. Severability.**

So far as the Board of Health may provide, each section of these rules and regulations shall be construed as separate, to the end that, if any section, item, sentence, clause or phrase shall be held invalid for any reason, the remainder of these rules and regulations shall continue in full force and effect.

### **§ 204-8. Appeals.**

Any person to whom an order has been served pursuant to this regulation may request a hearing before the Board of Health by filing a written petition within seven days. Upon receipt of such petition, the Board of Health shall schedule a hearing within 30 days. Anyone aggrieved by the decision of the Board of Health may seek relief therefrom within 30 days in a court of competent jurisdiction.

**§ 204-9. Effective date.**

This regulation shall take effect on July 1, 1991.

**Chapter 205****EARTH REMOVAL AND EARTH FILLING PROJECTS**

**[HISTORY: Adopted by the Board of Health of the Town of Boxford as Regulation 1-96; amended in its entirety 9-29-2021. Subsequent amendments noted where applicable.]**

**§ 205-1. Background and justification.**

- A. The majority of dwellings in the Town of Boxford, Massachusetts, rely on private wells as their source of potable water and on septic systems for the disposal of solid waste. The Board of Health hereby finds that major earth removal or earth filling projects in the Town may introduce added burdens on groundwater quality and aquifer recharge, that such burdens need to be assessed by the Board and that the Town will incur significant expense in reviewing applications for such major projects in order to assess the resulting health impacts. For this reason, the Board of Health for the Town of Boxford, acting under MGL c. 111, §§ 31, 122 and 143; MGL c. 44, § 53G; MGL c. 41, § 81U; and MGL c. 40B, § 21, as amended, in the interest of and for the protection of public health, and in order to provide for timely and adequate review of applications as required by statute, has established and adopted the following regulation concerning requirements for proposed major earth removal or earth filling projects and any fees associated with review required by the Board for such projects in Boxford.
- B. These regulations are intended to protect the public and environmental health, provide adequate water supply and ensure that there will be adequate protection of wells and septic systems against flooding, siltation and other drainage problems. These regulations are also intended to make certain that earth removal or earth filling projects:
- (1) Will maintain a depth to groundwater which is adequate for the construction of subsurface wastewater disposal systems under both local and state regulations;
  - (2) Will not be injurious to water supplies;
  - (3) Will be carried out so as to provide adequate protection against flooding, siltation and other drainage problems; and
  - (4) Will not introduce hazardous materials into the environment.

**§ 205-2. Definitions.**

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

**ABUTTER** — The owner of any property that lies within 500 feet radially from any lot line of the subject property, including those properties across a traveled way or body of water. In the case of property that has frontage on a body of water, abutters shall include owners of all those properties with frontage on the body of water.

**BOARD** — Board of Health.

**COMPREHENSIVE PERMIT** — Any application or permit received and to be reviewed by the Board pursuant to MGL c. 40B, § 21.

**DEP** — Massachusetts Department of Environmental Protection.

**EARTH** — The fragmental material composing part of the surface of the globe (Merriam-Webster). For the purposes of this regulation, "earth" shall include both organic and inorganic material such as but not

limited to dirt, soil, rocks, stone, gravel, and sand, or mixtures thereof. **[Added 9-28-2022]**

**EARTH REMOVAL-RESTORATION PLAN (ERRP)** — A plan for a specific earth removal project which contains all information necessary to evaluate the site, a detailed description of the proposed earth removal operation and the proposed plan for restoration of the site after the operation is complete.

**FILL** — A quantity of soil, stones, sand, clay, or other earthen materials used to form embankments, fill depressions or holes, or change the topography of land in any manner.

**LOT** — Any single parcel of land in the Town of Boxford.

**MAJOR EARTH FILLING PROJECTS** — Any proposed action in which fill material in excess of 500 cubic yards per lot or 2,000 cubic yards per project (in the case of a subdivision project) is brought to a site in Boxford from another site either in Boxford or from another locality. Movement of fill between the lots of the same subdivision or in the construction of a road within a single subdivision or for the construction of a septic system approved by the Board of Health is exempted from this regulation for a period not more than three years from the start of subdivision construction.

**MAJOR EARTH REMOVAL PROJECTS** — Any proposed earth removal operation in which fill material is removed from a lot and in which the total amount of material removed exceeds the lesser of 500 cubic yards per lot or 2,000 cubic yards per project (in the case of a subdivision or project) in aggregate. Major earth removal projects include the removal of earth from lots of a subdivision and movement to another, nonsubdivision location for a period not more than three years from the start of subdivision construction. Normal earth removal during road construction or during landshaping on the same lot or during the construction of a septic system approved by the Board of Health is not considered a major earth removal project.

**PERSON** — Any individual, family, partnership, association, firm, company, corporation, trust, agency, group (including a city, town, county, state or other governmental unit) or any other entity responsible in any way for an activity subject to this regulation.

**SUBDIVISION** — Any application or permit received and to be reviewed by the Board pursuant to MGL c. 41, § 81U. For the purposes of this regulation, a subdivision shall include all ANR (approval not required) properties formed from the original land subdivided during, after or two years prior to the subdivision.

### **§ 205-3. Jurisdiction and application.**

This regulation shall apply to all lots, subdivisions and developments in the Town of Boxford.

### **§ 205-4. Major earth removal projects: regulation.**

- A. All plans for major earth removal projects proposed in the Town of Boxford shall be submitted to the Board for review under this regulation. No such projects shall be started without the written approval of the Board.
- B. When reviewing an application and plans for, or when conducting inspections in relation to, major earth removal projects, the Board may determine that the assistance of outside consultants is warranted due to the size, scale or complexity of the proposed project, because of the project's potential impact on health and the environment or because the town lacks the necessary expertise to perform the work related to project. Therefore the Board, whenever reviewing the ERRP for a major earth removal project, may employ outside consultants to assist in the review or inspection of such projects and may require that the proposer of the project pay a project review fee to cover the costs of such outside consultants and a fee to cover the costs of other reasonable expenses incurred by the

Board of Health incident to its review or inspection services.

- C. The Board will act to determine the need for analysis and assistance in reviewing a major earth removal project and define the scope of such needs and assistance within 30 days of receiving the ERRP and supporting plans and documentation at its offices.
- D. After its review of the application and plans for a major earth removal project, the Board may require that determinations be made by independent consultants and contractors hired by the Board to determine and establish specific information relative to the project. For example, specific information may be required relative to the operation of the existing on-site and proposed septic systems, including soil conditions, surface drainage calculations, hydrogeologic determinations and descriptions of groundwater resources and movement, effects of precipitation and irrigation and any wastewater treatment methodology. Information on the impact of the project on private and public water supplies and supply sources, such as surface waters and aquifers and wetlands, may also be required.
- E. Earth removal plans and standards.
  - (1) Any removal of more than 500 cubic yards of earth from any lot or more than 2000 yards from a subdivision or development in the Town of Boxford, including the movement of earth between lots of a subdivision as defined in § 205-2 of this regulation and without the written approval of the Board, constitutes a violation of this regulation.
  - (2) An earth removal-restoration plan (ERRP) for any proposed earth removal operation exceeding the lesser of 500 cubic yards per lot or 2,000 cubic yards per project in aggregate for a subdivision or development shall be filed with the Board for its review and approval. The Board shall review and approve or disapprove of the plan within 30 days of receiving said plan at its offices. The Board may also grant a preliminary approval of the project conditional on the successful completion of additional information and studies related to the proposed project as described in § 205-4A through D, inclusive, of this regulation.
  - (3) The ERRP must be prepared by a registered engineer or registered land surveyor, at a scale of 80 feet to the inch or less, and must contain all information necessary to evaluate the site, the proposed earth removal operation and the proposed restoration of the site after the operation is complete. The ERRP shall include, at a minimum, the following:
    - (a) The location of the perimeter of the proposed excavation.
    - (b) Property lines, abutting owners of record and buildings or other structures on the property or within 200 feet of the site boundaries or within 500 feet of the earth removal operation site.
    - (c) The location of all private wells within 150 feet and public wells within 1,000 feet of the earth removal operation site.
    - (d) The location of walls, fences, test pits, test borings, observation wells with logs, streams and pools and wetlands on the site and any streams, pools, water bodies and wetlands on abutting properties within 150 feet of the earth removal operation site.
    - (e) At least one permanent bench mark, with elevations thereon, used in the topographical surveying of the property, and referenced to the National Geodetic Vertical Datum (NGVD).



- (f) The location of adjacent public streets, private ways and service roads.
  - (g) The perimeter and topography of any existing excavation as of the date of the application.
  - (h) The depth of removal within the area, shown by five-foot contours or other contour interval found to be appropriate by the Board, and final spot elevations.
  - (i) The proposed lateral support to all adjacent properties.
  - (j) Details on the proper provision for safe and adequate water supply and sanitary sewage disposal, and for the temporary and permanent drainage on the site.
  - (k) Topography shown by five-foot contours or other contour interval found to be appropriate by the Board, and spot elevations of the area of removal as restored and to at least 200 feet beyond the perimeter of that area.
  - (l) The location and method used in providing permanent drainage and erosion and sediment control on the site.
  - (m) The location of proposed lot lines, if any, as shown on a preliminary or definitive subdivision plan filed with the Boxford Planning Board.
  - (n) Written evidence that health and safety concerns have been adequately addressed with provisions which shall be maintained throughout the proposed operation.
- (4) Further, the following, minimum requirements must be met for an earth removal project in areas which may be used for installation of septic systems:
- (a) In order to provide for potential installation of subsurface sewage disposal systems, no excavation shall occur closer than 10 feet to the maximum groundwater elevation.
  - (b) There shall be no increase nor decrease of surface water flow off the site.
- (5) Further, the following requirements must be met during earth removal and restoration activities:
- (a) There shall be no potential adverse effect on public health or safety, or to the health and safety of persons living, working or otherwise present in the neighborhood, due to excessive noise, dust or any other condition which may result from the proposed operation.
  - (b) There will be no potential adverse impact on surface waters or public or private wells as a result of the proposed operation.
  - (c) Lateral support shall be maintained for all adjacent properties, and no banks shall be left after completion of operations with a slope which exceeds one foot vertical rise in four feet of horizontal distance.
  - (d) Any access to an excavated area shall be adequately posted with "Keep Out" and "Danger" signs.
  - (e) During operations, any excavation quarry, bank or work face having a depth of 10 feet or more and/or creating a slope of more than 30° downward shall be fenced. Such fence shall be located 10 or more feet from the upper edge of the excavation and shall be at least six feet in height.
  - (f) No boulders in excess of a volume of 20 cubic yards, and no trees, stumps, demolition

materials or construction waste materials shall be buried on the site.

- (g) Notwithstanding any standard otherwise required in this regulation, operation and restoration of the site shall comply with the standards contained in the Massachusetts Conservation Guide, Volumes I and II, United States Department of Agriculture Soil Conservation Service.
- (h) At the end of the restoration, the areas subject to this regulation shall be covered with a minimum of four inches of compacted topsoil and seeded with an appropriate grass or legume.

**§ 205-5. Major earth filling projects.**

- A. Any project in the Town of Boxford proposing to move more than 500 cubic yards of fill to a single lot or more than 2,000 cubic yards of fill to a single project, except as defined above in § 205-2 of this regulation, must be reported to the Board of Health and must receive the Board's approval.
- B. A written, signed letter must be submitted to the Board, requesting a permit to move soils/earth onto a property. The application shall include the following:
  - (1) The address and owner of the site in Boxford to receive the fill.
  - (2) The approximate amount of fill to be moved to the accepting site.
  - (3) At least seven days before any fill is brought onto the property, an invoice shall be submitted to the Board clearly identifying the source of the fill including address, property owner and the nature of the site (such as residential industrial, landfill, hazardous waste site, etc.). If the site is a nonresidential site, a site plan shall be submitted showing the approximate location of the fill origin on the site. No fill shall be brought onto the property until the owner is notified by the BOH. The Board may halt delivery of the fill to the property if it determines that testing of the fill is required (see § 205-5C).
  - (4) The name, address and contact person of the company moving the fill.
  - (5) If the fill is from a site under DEP directive, the name, address and telephone number of the LSP (licensed site professional) in charge of the site.
  - (6) Any letters, test results and plans related to the site from the DEP or to the DEP. If none are known to exist, the applicant shall state this.
- C. Upon receipt of the information stipulated in § 205-5B of this regulation, the Board shall review and approve or disapprove the proposed filling operation within 30 days. The Board may also grant a preliminary approval of the proposed filling operation conditional on receiving additional information and testing results on the material to be moved.
- D. Additional testing.
  - (1) The Board may require that additional testing be carried out at the expense of the applicant on the proposed fill material. This may include, but is not inclusive of, the following tests:
    - (a) Total metals (EPA method 3005/3050 or equivalent).
    - (b) Volatile organics (EPA method 8260 or equivalent).

- (c) Polychlorinated biphenyls (EPA method 8080 or equivalent).
  - (d) Organochlorine pesticides (EPA method 8080 or equivalent).
  - (e) Hydrocarbon scan (EPA method 8100M or equivalent).
  - (f) Polyaromatic (polynuclear) aromatics (EPA method 8260 or equivalent).
  - (g) Per/polyfluorinated alkyl substances (EPA method 533, 537.1, or 8327 as determined by the Board).
- (2) All analyses shall be carried out by an EPA certified laboratory certified for each method. All samples shall be traceable to the specific site of origin on the site plan. Chain-of-custody documentation shall be provided to the Board for all samples.
  - (3) The Board will act to determine whether additional testing is required for the proposed fill within the thirty-day review period stipulated in § 205-5C of this regulation.
  - (4) The Board reserves the right to prohibit the tested soil/earth from being moved onto a subject property if any of the materials tested for exceed Massachusetts and federal maximum allowed levels.
- E. When reviewing an application for or data in relation to a major earth filling project, the Board may determine that the assistance of outside consultants is warranted due to the nature of the fill material and proposed site where the fill will be deposited. In such cases the Board may employ outside consultants and may require that the proposer of the project pay a project review fee to cover the costs of such outside consultants and an additional fee to cover the costs of other reasonable expenses incurred by the Board incident to its review or inspection services. The Board will act to determine the need for assistance within the thirty-day review period defined in § 205-5C of this regulation.

#### **§ 205-6. Outside consultants.**

- A. In hiring outside consultants, the Board may engage engineers, planners, legal counsel, urban designers or other appropriate professionals who can assist the Board in analyzing a project to ensure compliance with all relevant laws, ordinances and bylaws and regulations. Such assistance may include, but is not limited to, analyzing the ERRP, monitoring or inspecting a project or site for compliance with the Board's decision or regulations or inspecting a project during operations.
- B. The minimum qualifications for any outside consultant employed pursuant to this regulation shall consist of an educational degree in or related to the field at issue or three or more years of practice in the field at issue or a related field.
- C. For purposes of expediency, the Board may, in advance, prequalify outside consultants and form a list of such prequalified consultants. This list shall then be used by the applicant to select the outside consultant, subject to final approval by the Board.

#### **§ 205-7. Disposition of funds.**

- A. Funds received by the Board pursuant to this regulation shall be deposited with the Town Treasurer who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Board without further appropriation. Expenditures from this special account shall be made only for services rendered in connection with a specific project or projects for which a project review fee has been or will be collected from the applicant. Accrued interest may also

be spent for this purpose. Failure of an applicant to pay a review fee shall be grounds for denial of the ERRP or an earth filling application.

- B. Upon completion of the Board's review of a project, any excess amount in the account, including interest, attributable to a specific project shall be repaid to the applicant or the applicant's successor in interest. A final report of said account shall be made available to the applicant or the applicant's successor in interest. For the purpose of this regulation, any person or entity claiming to be an applicant's successor in interest shall provide the Board with documentation establishing such succession in interest.

#### **§ 205-8. Variances.**

Every request for a variance from this regulation shall be made in writing to the Board of Health within 15 days of a determination by the Board and shall state the specific variance sought and the reason for the request. The Board will notify the applicant of a date for a hearing to consider the variance within 30 days of receiving said request. The person requesting the variance shall also be responsible for notifying all abutters of the variance request as well as the time and place of the hearing to consider the variance. The Board of Health shall make a determination on the variance request within 30 days following the variance hearing.

#### **§ 205-9. Other permits.**

No well permits nor disposal works construction permits shall be granted for any project subject to this regulation until the Board has approved the ERRP, the earth filling proposal or any additional studies required under this regulation.

#### **§ 205-10. Appeals.**

- A. Any applicant to whom an order has been served pursuant to this regulation may request a hearing before the BOH by filing a written petition within seven days. Upon receipt of such petition, the BOH shall schedule a hearing within 30 days. Anyone aggrieved by the decision of the BOH may seek relief therefrom within 60 days in a court of competent jurisdiction.

#### **§ 205-11. Severability.**

Each section of this regulation shall be construed as separate, and to the end that if any section, item, sentence, clause or phrase shall be held invalid for any reason, the remainder of these rules and regulations shall continue in full force and effect.

#### **§ 205-12. Enforcement.**

- A. The Board of Health, its agents, officers and employees shall have the authority to enter upon privately owned land for the purpose of performing their duties for the administration and review of this regulation, and may make or cause to make such examinations, surveys or samplings as the Board deems necessary.
- B. The Board shall have the authority to enforce this regulation and orders and permits issued thereunder by violation notices, administrative orders and civil and criminal court actions.
- C. Any person who violates any provision of this regulation or orders or permits issued hereunder shall be subject to a fine of not more than \$300 per truckload of material removed or brought to a property. Estimates on total truckloads of material taken from or brought to a property shall be made by the

Board of Health or its Agent.

**§ 205-13. Effective date.**

This regulation will take effect on or about June 12, 1996, and after publication of a notice of this regulation in a newspaper circulated in the Town of Boxford. As required by MGL c. 111, § 31, an attested copy of this regulation has been filed with the Massachusetts Department of Environmental Protection and with the Boxford Town Clerk.

**Chapter 206****MESSAGE ESTABLISHMENTS**

**[HISTORY: Adopted by the Board of Health of the Town of Boxford 8-21-2002. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Licensing — See Ch. 109.

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**§ 206-1. Definitions.**

For the purpose of these regulations, the following terms shall have the meanings indicated:

**APPROVED** — Approved by the Board of Health, of the Town of Boxford in accordance with accepted standards and regulations.

**ESTABLISHMENTS FOR GIVING MESSAGE, VAPOR, POOL, SHOWER OR OTHER BATHS** — The office, place of business, or other premises where message is practiced or where therapeutic or conditioning baths of vapor, or other substances are given.

**MESSAGE** — The manipulation of parts of the body by manual, mechanical, or other means as a beauty treatment, for purported health or medical treatment for the purpose of invigoration.

**MASSEUR** — A male who practices message.

**MASSEUSE** — A female who practices message.

**§ 206-2. Exceptions and exclusions.**

For the purpose of these regulations:

- A. Persons excepted. Physicians, physical therapists, school athletic trainers, or chiropodists (podiatrists) registered in the Commonwealth of Massachusetts are excluded. A person registered as a barber or an apprentice under the provisions of Section 987H or Section 87I of Chapter 112 of the General Laws, or as a hairdresser, operator, or a student under the provisions of Section 87I to 87J, inclusive, of said Chapter 112 of the General Laws may practice facial and scalp message without taking out a license.
- B. Other person excepted. A person licensed to practice message or conduct an establishment in any other city or town in the commonwealth may, on written orders from a physician, attend patients, specified by the physician, in Boxford. He shall, if requested, submit to the Board of Health copies of his license from another community and the physician orders.
- C. Establishment exceptions. Hospital, nursing and convalescent homes, and other similar licensed institutions where message and baths may be given are excluded from the definition of an establishment.

**§ 206-3. License required; fee.**

No person shall practice message or conduct an establishment for the giving of message or vapor, pool,

shower, or other baths for hire or reward, or advertise or hold himself out as being engaged in the business of massage or the giving of said baths in the Town of Boxford without receiving a license therefor from the Boxford Board of Health. The license fee for each establishment shall be \$100 and for each masseur or masseuse shall be \$50. A license issued to an establishment, masseur or masseuse is not transferable.

**§ 206-4. Expiration date of license.**

Licenses shall automatically expire on December 31 of each year. Applications for renewal must be submitted at least 30 days prior to the expiration date.

**§ 206-5. Requirements for personal licensing.**

No person shall be licensed to practice massage or conduct an establishment for giving massage, vapor, pool, shower, or other baths unless they (male or female) meet the following requirements:

- A. Be 18 years of age or older with proof of birth certificate and two forms of positive identification.
- B. Be of good moral character.
- C. Submit to the Board of Health a complete application form containing all information requested on said form.
- D. Submit to the Board of Health the results of a physical examination, including Mantoux test completed within 45 days prior to application for licensing or relicensing.
- E. Submit evidence of having completed a course of study and/or training or experience evaluated as equivalent to a five-hundred-hour course of study in massage therapy; bodywork or movement education.

**§ 206-6. Requirements for licensing establishment.**

Every establishment for the giving of massage or vapor, pool, shower, or other baths shall meet the following standards:

- A. It shall be connected to a sewage system with the appropriate design flow.
- B. It shall be well-lighted, well-ventilated, and properly heated when seasonally indicated.
- C. No room used by the licensee in the conduct of his business shall be used as a bedroom.
- D. There shall be an adequate supply of hot and cold running water.
- E. There shall be approved toilet and washing facilities within the premises, readily available to the patrons and affording sufficient privacy. If shower facilities are not provided there shall be a sign which shall read:

**NOTICE TO MASSAGE CLIENTS**

This Establishment does not provide a shower for use after massage. If you believe you are allergic to lotions, oils or powders, please notify the massage therapists prior to the massage.

- F. Where patrons of both sexes are accommodated, adequate arrangements shall be made for separation

of rooms, toilets, and washing facilities used by each sex.

- G. All rooms of the establishments and furniture and equipment therein shall be kept clean at all times.
- H. The door of each room or enclosure used for massage purposes shall have a window large enough to permit visual observation of the entire room or enclosure from outside such room or enclosure.
- I. Each room or enclosure used for the giving of massage services shall have at least one artificial light.
- J. There shall be adequate facilities for the cleaning and sterilizing of all equipment.
- K. All equipment, instruments, devices, robes, sheets, blankets, pillowcases, wearing apparel, towels, or other materials, which may come in direct contact with the body, shall be properly cleaned, sterilized after each use. Single-service articles are acceptable and shall only be used once.
- L. No establishment for the practice of massage or baths as defined herein shall be kept open between the hours of 9:00 p.m. and 9:00 a.m. unless specifically authorized by the Board of Health in writing.

**§ 206-7. Direct application of instruments to skin prohibited.**

No instrument or device designed or used for direct application to the skin shall be applied directly to the skin, unless sterilized; the part of the body being treated shall be covered with a clean towel, or else the instrument shall be covered in a similar manner.

**§ 206-8. Treatment of wounds prohibited.**

No sponge, stick, alum, or other article liable to convey infection shall be used to make application directly to the skin or any cut or wound.

**§ 206-9. Treatment of persons with skin disease prohibited.**

No person licensed shall treat any person afflicted with any skin eruption or other disease unless such person shall have furnished a written certificate from a physician to the effect that the eruption or disease is not of a contagious or transmissible character.

**§ 206-10. Cleaning of hands.**

Every person licensed to practice massage shall thoroughly cleanse his hands by washing with soap and hot water immediately before and after serving a patron.

**§ 206-11. Display of license.**

Every licensed establishment must display in a conspicuous location the licenses of all the licensees operating in the establishment. Picture badge identification must be worn by all employees of the establishment. A list of names and addresses of all employees of the establishment shall be submitted to the Board of Health. Additions and/or deletions may be made on a monthly basis.

**§ 206-12. Designation of name.**

No licensed person shall operate under any name or conduct his or her business under any designation not specified on his or her license.



**§ 206-13. Use of x-ray prohibited.**

No licensee may operate an x-ray, fluoroscope, or similar equipment of radioactive material for any purpose unless already licensed by the Commonwealth of Massachusetts to practice a profession requiring the use of radiation equipment. No licensed establishment may contain an x-ray, fluoroscope, or similar equipment unless the equipment is operated only by persons properly licensed to practice a profession requiring the use of such equipment.

**§ 206-14. Change of address.**

Every licensee shall notify the Board of Health at least 14 days prior to any change of name or address, whether it is home or business. Any new license or amendment to an existing license required because of the foregoing may be issued without charge at the discretion of the Board of Health.

**§ 206-15. Inspection.**

Every licensee shall permit the Board of Health or its agent or other Town authorities acting in an official capacity to inspect his place of business and his work at any reasonable time.

**§ 206-16. Records.**

Records will be kept and made available to the Board of Health, specifying the patron's name and the name of the person performing the massage.

**§ 206-17. Penalties.**

Whoever violates any provisions of these regulations shall be punished by a fine of not more than \$100 or imprisonment for not more than six months, or both, in accordance with Section 53, Chapter 140 of the Massachusetts General Laws.

**§ 206-18. Hearings.**

A person whose license has been suspended or revoked may, within 10 days of the suspension or revocation of his license, request, in writing, a hearing upon the cause or causes of such suspension or revocation. The Board of Health may set a time and place for said hearing.

**§ 206-19. Permit required.**

No person shall practice as a student/apprentice practitioner of massage therapy for gaining practical experience and/or for hire or reward or advertise or hold him/herself as being engaged in the business of massage therapy unless first having been issued a permit pursuant to these regulations.

**Chapter 207****BOXFORD SANITARY LANDFILL**

**[HISTORY: Adopted by the Board of Health of the Town of Boxford 12-11-2017 as Regulation 1-2017. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Sanitary landfill — See Ch. 156, Art. I.

Solid waste — See Ch. 204.

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**§ 207-1. Background and justification.**

The Board of Health for the Town of Boxford, Commonwealth of Massachusetts, acting under the authority of MGL c. 111, § 31, as amended, hereby supplements 310 CMR 19.000: Solid Waste Management Regulations, in the interest of and for the protection of public health and the environment by establishing and adopting the following rules and regulations concerning the general use of lands within the closed Boxford Sanitary Landfill as defined by a plan of land filed at the Essex County Registry of Deeds in Book 34361, page 404. This regulation adopts requirements that must be met before any changes within the boundaries of the landfill are made, including but not limited to repairs, new construction, and the disturbance of soils in any manner.

**§ 207-2. Definitions.**

When used in this regulation or in communications, notices, orders or other references relative thereto, the following words and phrases shall have the meanings ascribed to them below and shall apply in the interpretation and enforcement of this regulation:

**APPLICANT** — The person, organization, Town department or body, private organization or company, or any other entity proposing a change, repair, or construction on any part of the Boxford Landfill.

**BOH** — Boxford Board of Health.

**BOXFORD BOARD OF HEALTH** — The responsible Town authority for any and all modifications, construction, and uses of the Boxford Landfill as defined by 310 CMR 19.006.

**BOXFORD BOARD OF HEALTH AGENT** — An agent of the BOH with the authority to act on the behalf of the BOH. The agent will normally be the Health Agent or a member of the BOH.

**BOXFORD LANDFILL** — Approximately 45.2 acres of land located north of Ipswich Road and east of Spofford Road in Boxford, and upon which are buildings, including the Boxford Town Hall, Police Station, and Department of Public Works; and the Recycling Center, five sports fields, and a solar array field; and as defined by the above-referenced deed in the Essex County Registry of Deeds.

**CONSTRUCTION** — Any activity that may change or disturb landfill soils and/or topography. Such activities include but are not limited to subsurface repairs of structures such as pipelines or electrical conduits, installation of utility poles or supports for structures such as fences, installation of new subsurface structures, regrading of areas such as athletic fields, regrading or construction of new roads, and construction of additions to existing structures and/or the building of new structures.

**CAPPED LANDFILL** — The two areas within the Boxford Landfill that contain known buried solid waste and have been capped under the direction of the Massachusetts Department of Environmental Protection:

the Johnson Field Athletic Field, and the landfill under the solar array field.

**CLOSED LANDFILL** — A landfill that the Massachusetts DEP has determined as having completed all closure requirements as described in 310 CMR 19.140.

**DEP** — Massachusetts Department of Environmental Protection.

**LANDFILL USERS** — Users of the Boxford Landfill include but are not limited to Town departments and committees, including the Department of Public Works, Recycling Committee, and Recreation Committee; private Town groups such as the Boxford Athletic Association; and the private companies leasing the capped landfill for generation of solar power.

**MCP** — Massachusetts Contingency Plan, 310 CMR 40.0000, the Massachusetts regulation defining the procedures necessary to remediate potential harm and health effects from hazardous wastes.

**PERSON IN CHARGE** — The individual identified by the applicant who has authority over all work proposed by the applicant at the Boxford Landfill.

**PLAN** — A detailed, to-scale drawing showing the location and changes proposed to a specific location on the landfill and a detailed description on how the changes will be carried out.

**WASTE** — All forms of discarded materials, including but not limited to agricultural, diverted, hazardous, leaf and yard, and solid wastes; garbage; recyclable materials; special waste such as demolition materials; tires; and white goods; as defined in § 204-2 of the Boxford Town Code and further as defined in 310 CMR 19.006.

### **§ 207-3. Changes, repairs and construction.**

- A. All proposed changes, repairs, or construction on any part of the Boxford Landfill shall be in full compliance and meet all requirements of Massachusetts 310 CMR 19.000.
- B. No changes, repairs or construction on any part of the Boxford Landfill shall be allowed without written authorization by the BOH and, if required, the DEP. Such written authorization shall detail any conditions required as part of the approval(s).
- C. Prior to or concurrent with the submission of any documentation to the DEP for changes, repairs, or construction at the Boxford Landfill, the applicant will submit two complete sets of plans detailing the proposed changes, repairs or construction at the Boxford Landfill to the BOH. The documentation to the BOH shall include:
  - (1) A detailed, to-scale, engineered plan of the proposed work.
  - (2) A site plan illustrating the location of the proposed work.
  - (3) A written description of the proposed work which shall include:
    - (a) A detailed description of the work to be carried out.
    - (b) Potential environmental hazards of the work and means to avoid such hazards or mitigate such hazards should they be encountered.
    - (c) The means to be used to protect the surrounding environment from the work done.
    - (d) The steps to be taken to clear and clean the work area after work completion.
    - (e) Details on any special considerations that must be taken into account for the proposed

work.

- (f) An approximate time line for start to finish for the work.
  - (g) A plan to close and secure the site should the work need to be suspended for more than two weeks.
- D. Any changes in plans approved by the BOH and, if required, the DEP, will be submitted to the BOH and, if required, the DEP for review and approval prior to the proposed changes being carried out.
  - E. The applicant will identify the person in charge of all work proposed at the Boxford Landfill and include a brief description of the person in charge's qualifications and experience, work address, and contact telephone numbers. The person in charge shall be present at the work site at all times that work is in progress.
  - F. During all work at the Boxford Landfill, any significant changes from the approved plan will be first reviewed and approved by the BOH or its agent and, if required, by the DEP.
  - G. In the event that solid or hazardous waste is encountered during work at the Boxford Landfill, all work shall cease immediately and the BOH notified as well as the DEP if required. No work shall resume until the BOH or its agent or, if required, the DEP, approves work resumption.
  - H. Upon work completion, a report detailing the work completed and any issues or problems encountered during the work will be submitted to the BOH and, if required, the DEP, within 30 days after work completion.

**§ 207-4. Review and approval of plan.**

- A. The applicant may submit a summary plan to the BOH describing the proposed work at the Boxford Landfill prior to submitting detailed plans as described in § 207-4C. The BOH will review the summary at an open meeting and advise the applicant regarding the plans necessary for the work within two weeks and whether the applicant will need to submit the proposed work and plans to the DEP.
- B. The BOH will respond to a submitted application containing the requirements detailed in part § 207-3 of this regulation within six weeks of receipt by the BOH office, 7A Spofford Road, Boxford, MA, 01921. Such response may be an approval, an approval with conditions, a request for more information, or a denial of the application. A decision to approve by the BOH is contingent upon approval by the DEP, if required.
- C. As part of the review process, the BOH may require the applicant to attend a posted BOH meeting to present and answer questions concerning the proposed work.
- D. As part of the review process, the BOH may require that the plans for the proposed work be reviewed by an independent, third-party engineering firm at the expense of the applicant.
- E. As part of the review process, and if the proposed work area, in the opinion of the BOH, may contain waste, the BOH may require analytical testing of soils according to methods described by but not limited to the MCP, 310 CMR 40.0017.
- F. Acceptance by the BOH for proposed work at the Boxford Landfill does not imply acceptance of the work by DEP. If the plans for the proposed work must also be submitted to the DEP, such submission is independent from any review and action by the BOH.

- G. No part of the BOH review process shall supersede or replace any actions, determinations and orders from DEP. No requirements, such as testing as described in § 201-4D of this regulation, shall be required if required by the DEP.

**§ 207-5. Violations and penalties.**

Any applicant who shall violate any provisions of this regulation for which penalty is not otherwise provided shall, upon conviction, be fined not less than \$10 nor more than \$500 per violation. Each separate incident of failing to comply with this regulation shall constitute a separate violation. Each day the incident continues shall constitute a separate violation.

**§ 207-6. Severability.**

So far as the BOH may provide, each section of these rules and regulations shall be construed as separate to the end that if any section, item, sentence, clause or phrase shall be held invalid for any reason, the remainder of these rules and regulations shall continue in full force and effect.

**§ 207-7. Appeals.**

Any applicant to whom an order has been served pursuant to this regulation may request a hearing before the BOH by filing a written petition within seven days. Upon receipt of such petition, the BOH shall schedule a hearing within 30 days. Anyone aggrieved by the decision of the BOH may seek relief therefrom within 30 days in a court of competent jurisdiction.

**§ 207-8. Effective date.**

This regulation shall take effect on December 12, 2017.

**Division 3: Miscellaneous Regulations**

**Chapter 295****STORMWATER MANAGEMENT REGULATIONS**

**[HISTORY: Adopted by the Conservation Commission of the Town of Boxford 9-20-2007. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Conservation Commission — See Ch. 7, Art. VIII.

Subsurface sanitary systems — See Ch. 201.

Water Resources and Drainage Committee — See Ch. 7, Art. IX.

Earth removal and earth filling projects — See Ch. 205.

Stormwater management — See Ch. 160.

Subdivision of land — See Ch. 300.

Wetlands protections — See Ch. 192.

Wetlands protection regulations — See Ch. 375.

Zoning — See Ch. 196.

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**§ 295-1. Introduction and purpose.**

- A. Introduction. These regulations are promulgated by the Boxford Conservation Commission ("Commission") pursuant to the authority granted to it under the Boxford Stormwater Management Bylaw (hereinafter referred to as the Bylaw).<sup>44</sup> These regulations shall complement the bylaw and provide additional detail on its implementation. Article I herein provides definitions and procedures. Article II herein provides standards for work within jurisdictional areas.
- B. Purpose. This regulation sets forth a public review and decision-making process to manage stormwater runoff and post-construction stormwater discharges resulting from the alteration of construction sites or hotspots, as defined herein, located within the NPDES Phase II Regulated Area, or for such sites which drain to the municipal separate storm sewer system within the NPDES Phase II Regulated Area.

**§ 295-2. Statement of jurisdiction.**

- A. This regulation applies only to the alteration of a construction site or hotspot located within the NPDES Phase II Regulated Area of Boxford, or which drains to the municipal separate storm sewer system within the NPDES Phase II Regulated Area, as defined herein.
- B. The following exemptions apply to the alteration of a construction site or hotspot: **[Amended 8-5-2021]**
- (1) Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04;
  - (2) Emergency activities necessary to protect public health and/or safety, so long as all necessary emergency permits or emergency certifications have been obtained or applied for; and
  - (3) Any work or projects for which all necessary municipal approvals and permits have been issued before the effective date of this chapter.

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44. Editor's Note: See Ch. 160, Stormwater Management.

**§ 295-3. Burden of proof; permission required for certain actions.**

- A. Burden of proof. The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the permit application will comply with the Massachusetts Stormwater Management Standards and will not have significant or cumulative adverse effect upon the hydrologic response of local watersheds, stormwater runoff rates or volumes, flooding, stream channel erosion, non-point-source pollution, sediment transport and deposition, groundwater recharge, public safety, public and private property, surface water, groundwater resources, drinking water supplies, recreation, aquatic habitats, fish and other aquatic life, property values and other uses of land and water. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions. **[Amended 8-5-2021]**
- B. No person shall perform any activity that alters a construction site or hotspot except as authorized by the Conservation Commission in a stormwater management permit or as otherwise provided in this chapter.

**§ 295-4. Definitions.**

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

**ALTERATION** — Any activity, which will measurably change the ability of a ground surface area to absorb water or will change existing surface drainage patterns. Examples include, but are not limited to, earthmoving, paving, and modification of existing vegetation.

**ABUTTER** — The owner of any property any portion of which lies within 500 feet radially from any lot line of the subject property, including owners of land directly opposite on any public or private street or way including any in another municipality or across a body of water. In the case of property that has frontage on a pond, abutters shall include all those properties with frontage on the pond or pond association if in existence.

**CONSTRUCTION SITE** — Any site where activity is proposed or occurs that involves the alteration of an area of one acre (43,560 square feet) or more during or post-construction, or that will alter less than one acre of land but is part of a larger, common plan of development or sale that will ultimately disturb one acre or more of land. A project with a limit of disturbance shown on a plan encompassing an acre or more is a construction site.

**HOTSPOT** — Land uses or activities, without regard to square footage, that have the potential for high stormwater runoff pollutant loadings, including, but not limited to, auto fueling facilities, fleet storage yards, municipal and commercial parking lots, road salt storage areas and designated snow disposal areas, long-term staging areas for construction or landscaping operations, and commercial outdoor maintenance, storage or loading areas.

**INFEASIBLE** — Not technologically possible, or not economically practicable and achievable in light of best industry practices. **[Added 6-17-2021]**

**MAJORITY VOTE** — A vote by a majority of the Commission for all actions taken under § 160-5 of the Stormwater Management Bylaw (Administration) and issuance of enforcement orders, and a vote by a majority of a quorum of the Commission for all other matters under the bylaw or under these regulations.

**MASSACHUSETTS STORMWATER MANAGEMENT STANDARDS** — The Standards issued by the Department of Environmental Protection, and as amended, that coordinate the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act, MGL c.

131, § 40, and Massachusetts Clean Waters Act, MGL c. 21, §§ 23-56, prevent or reduce pollutants from reaching water bodies and control the quantity of runoff from a site. **[Amended 8-5-2021]**

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)** — A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that are: (i) owned or operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under Section 208 of the Federal Clean Water Act that discharges to waters of the United States; (ii) designed or used for collecting or conveying stormwater; (iii) which is not a combined sewer; and (iv) which is not part of a publicly owned treatment works (POTW) as defined at 40 CFR 122.2.

**NPDES PHASE II REGULATED AREA** — The area within Boxford identified by the U.S. Environmental Protection Agency as "Designated MS4 Area" under the National Pollutant Discharge Elimination System (NPDES) Phase II Stormwater Program.

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

#### **§ 295-5. Procedures.**

- A. Application for permits. Written applications for permits shall be filed with the Commission to perform any activity that alters a construction site or hotspot within jurisdictional area. A permit application is not complete until all required application materials have been received by the Conservation Commission. No hearing or meeting for the proposed project will be scheduled until all required application materials have been received.
- B. All permit applications shall contain eight sets of the complete application package, including an original signed set. The applicant shall also submit to the Commission eight sets of any revised, amended, or supplemented information introduced or referred to by the applicant during the course of the public hearings on the application. The applicant must also provide a complete set of the application materials and any revisions, amendments or supplements to the Superintendent of Public Works. The Commission may, at any time during the review process, require the submission of extra copies, at cost, of the application and/or plans.
- C. The following application materials are required:
  - (1) Stormwater management plan. The following minimum requirements apply. At its sole discretion the Commission may relax these requirements for small projects. The Commission may also, at its sole discretion, relax the sheet size and scale requirements for projects involving land areas too large to be contained on a sheet meeting the size and scale requirements.
    - (a) Sheet size: maximum 30 inches by 42 inches.
    - (b) Scale: as needed to show all necessary details, but at a ratio no greater than 1:480 (e.g., one inch equals 40 feet).
    - (c) Title block: located at the right-hand lower corner:
      - [1] Name of owner of record, applicant, PLS/PE (if involved).



- [2] Lot number, street number, street, Tax Assessor's map, block and parcel/lot numbers.
  - [3] Original date.
  - [4] Revision area for dates and nature of revisions.
  - [5] Scale.
- (d) North arrow.
  - (e) Locus map.
  - (f) All existing topography and proposed contours at a contour interval no greater than two feet.
  - (g) Reference benchmark (vertical datum used).
  - (h) Property boundaries, rights-of-way, easements, restrictions.
  - (i) Conservancy district, if applicable (show as cross-hatched area, including all adjacent bordering vegetated wetlands).
  - (j) Existing site improvements, e.g., buildings, stone walls, trails, utilities.
  - (k) All proposed or completed site improvements.
  - (l) The boundary of all wetland resource areas, as identified at Town Code § 375-2 and defined at Town Code § 375-4, located on the site or within 100 feet of proposed construction activity, except for perennial streams, which shall be shown within 200 feet of the proposed construction activity. Boundaries shall be indicated by numbered points corresponding to flags placed in the field.
  - (m) The name of the person conducting the wetland resource field work.
  - (n) The boundary of all relevant buffer zones and setback distances as described or identified at Town Code § 375-98.
  - (o) Location of well and septic system with reserve area.
  - (p) All stormwater management measures shall be listed on the plan. Measures that can be shown graphically shall also be depicted on the plan.
  - (q) A limit of disturbance line enclosing and encompassing all areas of proposed work, including construction access to and from an existing paved surface.
  - (r) A calculation of the area within the limit of disturbance line.
  - (s) Construction details of proposed stormwater management measures, as applicable.
  - (t) All proposed discharge points.
  - (u) Stamp and signature of a registered professional land surveyor or a registered professional engineer. In circumstances where the Commission determines that no survey is required, the stamp and signature of a registered sanitarian may be acceptable.
- (2) Design Standards. The following minimum requirements apply: **[Amended 2-18-2021;**

**6-17-2021]**

- (a) At a minimum all projects subject to a stormwater management permit shall comply with the performance standards of the most-recent version of the Massachusetts Stormwater Standards and accompanying Stormwater Management Handbook (Handbook), with the following differences from the Handbook: **[Amended 8-5-2021]**
- (b) Unless indicated otherwise in these regulations, the analytical methodology, numerical values and assumptions provided in the Standards shall apply. **[Amended 8-5-2021]**
- (c) There shall be no increase in the peak rate of runoff from the two-, ten-, twenty-five-, fifty- and one-hundred-year storms.
- (d) There shall be no increase in the volume of runoff from the two-, ten-, twenty-five-, fifty- and one-hundred-year storms.
- (e) Runoff calculations for flood control shall be done according to the Rational Formula, the Natural Resource Conservation Service TR-20, or TR-55, as appropriate for the site. The appropriate methodology shall be determined from the restrictions on each method described in Hydrology Handbook for Conservation Commissioners (2002). The Rational Method cannot be used to determine volume.
- (f) The flow length for predevelopment sheet flow to determine the time of concentration (Tc) or travel time (Tt) shall not exceed 50 feet.
- (g) All stormwater-related calculations and management designs submitted to the Commission shall be based upon the following rainfall data:

<b>Storm Event in Years</b>	<b>Inches per 24 hours</b>
2	3.24
10	5.12
25	6.29
50	7.15
100	8.10

(Taken from NOAA Atlas 14 Point Precipitation Frequency Estimates, NOAA Hydrometeorological Design Studies Center, available at: [hdsc.nws.noaa.gov/hdsc/pfds/pfds\\_map\\_cont.html](https://hdsc.nws.noaa.gov/hdsc/pfds/pfds_map_cont.html); see also NOAA Atlas 14 Precipitation – Frequency Atlas of the United States, V.10, ver. 3.0: Northeastern States, Perica, et al, 2015, rev. 2019, U.S. Dept. of Commerce, Silver Spring, MD.)

- (h) For each predevelopment design point there shall be a corresponding post-development design point.
- (i) Estimated seasonal high groundwater elevation and infiltration rates in areas proposed for use as stormwater retention, detention, or infiltration measures, shall be determined by a professional engineer, registered sanitarian or certified soil scientist based upon one or more soil observation holes dug in the location of the proposed management measure.
- (j) Off-site areas shall be assessed based on their "predeveloped condition" for computing the water quality volume (i.e., treatment of only on-site areas is required). However, if an off-

site area drains to a proposed BMP, flow from that area must be accounted for in the sizing of a specific practice.

- (k) Off-site areas should be modeled as "present condition" for peak-flow attenuation requirements.
- (l) The standard for characterizing predevelopment land use for on-site areas is "good woods." Predevelopment Runoff Curve Numbers by NRCS hydrologic soil group (HSG) shall be:
  - [1] HSG A: 30.
  - [2] HSG B: 55.
  - [3] HSG C: 70.
  - [4] HSG D: 77.
- (m) The determination of flooding and channel erosion impacts to receiving streams due to land development projects shall be measured at each point of discharge from the development project, and such determination shall include any runoff from the balance of the watershed which also contributes to that point of discharge.
- (n) Stormwater management systems on new development sites shall be designed to meet an average annual pollutant removal equivalent to 90% of the average annual load of total suspended solids (TSS) related to the total post-construction impervious area on the site and 60% of the average annual load of total phosphorus (TP) related to the total post-construction impervious surface area on the site. Average annual pollutant removal requirements are achieved through one of the following methods:
  - [1] Installing BMPs that meet the pollutant removal percentages based on calculations developed consistent with EPA Region 1's BMP Accounting and Tracking Tool (2016) or other BMP performance evaluation tool provided by EPA Region 1, where available. If EPA Region 1 tools do not address the planned or installed BMP performance, then any federally or state-approved BMP design guidance or performance standards (see State Stormwater Handbook and design guidance manuals) may be used to calculate BMP performance; or
  - [2] Retaining the volume of runoff equivalent to, or greater than, one inch multiplied by the total post-construction impervious surface area on the new development site; or
  - [3] Meeting a combination of retention and treatment that achieves the above standards.
- (o) Stormwater management systems on redevelopment sites shall be designed to meet an average annual pollutant removal equivalent to 80% of the average annual post-construction load of total suspended solids (TSS) related to the total post-construction impervious area on the site AND 50% of the average annual load of total phosphorus (TP) related to the total post-construction impervious surface area on the site. Annual pollutant removal requirements are achieved through one of the following methods:
  - [1] Installing BMPs that meet the pollutant removal percentages based on calculations developed consistent with EPA Region 1's BMP Accounting and Tracking Tool (2016) or other BMP performance evaluation tool provided by EPA Region 1, where

available. If EPA Region 1 tools do not address the planned or installed BMP performance, then any federally or state-approved BMP design guidance or performance standards (see State Stormwater Handbook and design guidance manuals) may be used to calculate BMP performance; or

- [2] Retaining the volume of runoff equivalent to, or greater than, 0.8 inch multiplied by the total post-construction impervious surface area on the redeveloped site; or
  - [3] Meeting a combination of retention and treatment that achieves the above standards; or
  - [4] On redevelopment sites, stormwater management systems may utilize off-site mitigation that meets the above standards within the same USGS HUC12 as the redevelopment site to meet the equivalent retention or pollutant removal requirements.
- (p) All projects must implement, unless infeasible (see definition), low-impact development (LID) site planning and design strategies in order to reduce the discharge of stormwater from development sites.
- (3) Operation and management plan. The following minimum requirements apply. At its sole discretion the Commission may relax these requirements for small projects.
- (a) The name(s) of the owner(s) for all components of the proposed project.
  - (b) A map showing the location of all stormwater management measures, including catch basins, manholes/access lids, main, and stormwater devices.
  - (c) The names and addresses of the person(s) responsible for operation and maintenance.
  - (d) The person(s) responsible for financing maintenance and emergency repairs.
  - (e) An inspection and maintenance schedule for all stormwater management facilities, including routine and nonroutine maintenance tasks to be performed.
  - (f) A schedule for submitting written reports to the Conservation Commission describing inspection results, recommendations, and actions taken to ensure continued compliance with the Standards and permit requirements. At a minimum, the applicant shall provide for annual certification documenting the work that has been done over the prior 12 months to properly operate and maintain the stormwater control measures. The certification shall be signed by the person(s) or authorized agent of the person(s) named in the permit as being responsible for ongoing operation and management. **[Amended 6-17-2021; 8-5-2021]**
  - (g) Stormwater management easements in recordable form shall be provided by the property owner(s) as necessary to ensure access for facility inspections and maintenance. Stormwater management easements are required for all areas used for off-site stormwater control, unless a waiver is granted by the issuing authority. Easements shall be recorded with the Essex South Registry of Deeds prior to the preactivity meeting.
  - (h) The owner(s) of the stormwater management system must notify the Boxford Conservation Commission of changes in ownership.
  - (i) The operation and maintenance plan shall be recorded with the stormwater management permit (Subsection I). **[Added 6-17-2021]**

- (4) Abutters' list. An abutters' list listing the owner of any property that lies within 500 feet radially from any lot line of the subject property, including owners of land directly opposite on any public or private street or way including any in another municipality or across a body of water (e.g., lakes, ponds, rivers, streams and creeks). In the case of property that has frontage on a pond, abutters shall include all those properties with frontage on the pond, or pond association if in existence. The abutters' list must be certified by the Boxford Tax Assessor's office.
  - (5) Copies of the notice of intent submitted to the United States EPA under the National Pollutant Discharge Elimination System Construction General Permit, as well as a copy of the stormwater pollution prevention plan (SWPPP).
  - (6) Proof of delivery of a complete set of application materials to the Superintendent of Public Works.
  - (7) A filing fee of \$200 per quarter acre of proposed alteration.
- D. An applicant filing a permit application with the Commission shall at the same time give written notification thereof, by delivery in hand or certified mail, return receipt requested, to all abutters. Said notification shall be at the applicant's expense, and shall state where copies of the permit application may be examined and obtained and shall state a brief description of the proposed work, as well as the date, time and place of the public hearing. The Conservation Office of the Town of Boxford will type said notice and provide it to the applicant at time of permit filing. Proof of such notification, with a copy of the notice mailed or delivered, shall be submitted by the applicant to the Commission prior to the beginning of the public hearing. Failure to provide proof of mailing shall be cause to delay the opening the public hearing.
- E. The Conservation Office shall cause the notice of public hearing to be published in a newspaper of general circulation at least five days prior to the scheduled public hearing. The cost of publishing this notice shall be borne by the applicant.
- F. The Commission may require the applicant to file a performance bond or a deposit of money in an amount determined by the Commission to be sufficient to cover the cost of all or any part of the site alterations, monitoring, and maintenance specified in the permit and/or shown on the plans approved by the Commission. Bond amounts will be set so that funds will be adequate to comply with the order of conditions, repair damage to wetlands and to permanently stabilize the work site and all soils. Bonds shall be determined on a site-by-site basis. Bonds shall be funded prior to work commencing.
- G. Review of materials. The Commission will not accept any material from the applicant or his representative intended for discussion at subsequent meetings/hearings less than seven calendar days prior to that scheduled meeting/hearing. Late filed materials shall be excluded from the record and shall be considered irrelevant to the decision. However, the Commission reserves the right on a case-by-case basis to grant a waiver to this requirement. All public materials received or produced by the Conservation Commission pertinent to a permit application shall be placed in the applicable public file folder, and shall be available to the public for viewing at the Conservation Commission's office during regular business hours. Upon request, said materials will also be copied and provided by the Commission for a fee in accordance with the public records law, MGL 66, § 10, and its regulations at 950 CMR 32.00 et seq., as they may be amended from time to time.
- H. Public meeting and hearing procedures. The Conservation Commission shall comply fully with the Open Meeting Law, MGL c. 39, § 23. In addition, the Commission shall comply with the following procedures:

- (1) Presentation of materials after the close of a public hearing. After the close of a public hearing, no materials pertinent to a decision on a permit application may be submitted to or received by the Conservation Commission, with the following exception: Commission members may distribute documents to the Commission that they have produced which summarize all or part of the public information that was presented at prior public hearings or is contained in the Commission's public files. Said documents may also express a Commission member's opinions. No information shall be distributed or presented that constitutes new information, defined as substantive information concerning the project not previously presented at a public hearing or contained in the Commission's public files. A Commission member's opinions shall not constitute new information.
  - (2) Review and execution of stormwater management permits. After the close of a public hearing, the Conservation Commission will discuss one or more draft stormwater management permits for possible approval. Approval consists of a successful motion to approve the order, and the signatures of a majority of the Commission. Review and approval will take place at a public meeting, held either at the same meeting that the public hearing was closed, or at a subsequent meeting.
- I. No work proposed in any stormwater management permit shall be undertaken until the permit issued by the Commission with respect to such work has been recorded in the Registry of Deeds or, if the land affected is registered land, in the registry section of the Land Court for the district wherein the land lies and until the holder of the permit certifies in writing to the Commission that the permit has been recorded.
  - J. Project completion. A stormwater management certificate of compliance (SMCOC) is required for completion of all major stormwater management permits and for minor permits if required as a permit condition. Upon completion of the work and before an SMCOC is issued, the applicant shall submit as-built plans detailing the actual stormwater management systems, structures and devices as installed. As-built plans shall be stamped by a registered professional engineer (P.E.) indicating that the work has been completed in accordance with the conditions of the approved permit. Any discrepancies should be noted in a report to accompany the plans. **[Added 6-17-2021]**

#### **§ 295-6. Inspections. [Added 6-17-2021<sup>45</sup>]**

- A. Preconstruction inspection. The Conservation Commission may require a preconstruction meeting prior to starting clearing, excavation, construction or land-disturbing activity by the applicant. The applicant's technical representative, the general contractor, or any other person with authority to make changes to the project shall meet with the Conservation Commission or its representative to review construction sequencing and the permitted plans and their implementation.
- B. Construction inspections. The Conservation Commission or its designated agents shall be granted the right to enter the property at reasonable times and in reasonable manner for the purpose of inspections. The project site may be inspected at the following stages:
  - (1) Initial site inspection: An inspection may be made of erosion and sedimentation controls and signage prior to any land disturbance to assess overall effectiveness and functioning to protect resources.
  - (2) Stormwater management system inspection: An inspection may be made of the excavation for

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45. Editor's Note: This amendment also provided for the renumbering of former §§ 295-6 through 295-9 as §§ 295-7 through 295-10.

the stormwater management system to ensure adequate separation of the stormwater system from groundwater and presence of approved soil type.

- (3) Stormwater management system inspection: An inspection may be made of the completed stormwater management system, prior to backfilling of any underground drainage or stormwater conveyance structures.
- (4) The applicant shall also notify the Conservation Commission at least two working days prior to the following events to allow for inspection:
  - (a) Substantial completion of site clearing.
  - (b) Substantial completion of rough grading.
  - (c) Substantial completion of final grading.
  - (d) Final landscaping, permanent stabilization or final project completion.

- C. Applicant inspections. The Conservation Commission may require the submission of periodic inspections and reporting by the applicant as dictated by site conditions. Inspections must be completed by qualified persons as approved by the Conservation Commission or its representative. Reports may be required prior to and following anticipated storm events. The purpose of such inspections will be to determine the overall effectiveness of the erosion and sedimentation control plan and the need for maintenance or additional control measures

#### **§ 295-7. Amendments.**

An applicant wishing to amend a valid stormwater management permit may submit a written request for an amendment, along with an amendment fee of \$100, an updated abutters list certified by the Town of Boxford Assessor's Office, and any plans, narrative or other materials necessary to describe the requested amendment. All requests for amendment shall contain eight sets of any information submitted, including a signed original set. A copy shall also be provided by the applicant to the Superintendent of Public Works. The requirements and procedures described in § 295-5D through I shall also apply to requests for amendments.

#### **§ 295-8. Emergencies.**

The application and permit required by the bylaw shall not be required for emergency projects necessary for the protection of the health and safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the commonwealth or political subdivision thereof; provided that advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement; provided that the Commission or its agent certifies the work as an emergency project; provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency; and provided that within 21 days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided in the bylaw. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

#### **§ 295-9. Enforcement.**

- A. The Commission, its agents, officers, and employees shall have authority to enter upon privately

owned land for the purpose of performing their duties under this regulation and may make or cause to be made such examinations, surveys, or sampling as the Commission deems necessary, subject to the constitutions and laws of the United States and the commonwealth.

- B. The Commission shall have authority to enforce the bylaw, its regulations and permits issued thereunder by violation notices, enforcement orders, and civil and criminal court actions.
- C. Upon a request of a majority of the Commission, the Select Board and the Town Counsel may take legal action for enforcement under civil law. Upon the request of a majority of the Commission to the Select Board and the approval thereof, the Chief of Police shall take legal action for enforcement under criminal law. **[Amended 9-12-2020 ATM by Art. 19]**
- D. Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in the enforcement of the bylaw.
- E. Any person who violates any provision of the bylaw or regulations thereunder, or any permits, enforcement order or violation notice of the Commission or of the Conservation Administrator issued thereunder, shall be punished by a fine of not more than \$300. Each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the bylaw regulations or permit, enforcement order or violation notice violated shall constitute a separate offense.
- F. As an alternative to criminal prosecution in a specific case, the Commission may issue citations under the noncriminal disposition procedure set forth in MGL § 40, § 21D, as set forth in Chapter 1 of the General Bylaws.
- G. The specific penalties as listed here shall apply, and in addition to police officers, who shall in all cases be considered enforcing persons for the purpose of this provision, the municipal personnel listed shall also be enforcing persons for such penalties. Each day on which any violation exists shall be deemed to be a separate offense.

	<b>Unauthorized Activity Subject to the Stormwater Management Bylaw and Regulations</b>	<b>Noncompliance with a Stormwater Management Permit, Enforcement Order or Violation Notice</b>
First offense	\$100	\$200
Second offense	\$200	\$300
Third offense (and any subsequent offense)	\$300	\$300

- H. Municipal personnel authorized: Commission members, administrator or agent.

#### **§ 295-10. Severability.**

The invalidity of any section or provision of the Bylaw or these Regulations shall not invalidate any other section or provision thereof, nor shall it invalidate any order, certificate, or determination which previously has been issued.



SUBDIVISION OF LAND

**Chapter 300**

SUBDIVISION OF LAND

**[HISTORY: Adopted by the Planning Board of the Town of Boxford 12-18-1996. Amendments noted where applicable.]**

GENERAL REFERENCES

**Planning Board — See Ch. 7, Art. VII.**

**Wetlands protection — See Ch. 192.**

**Conservation Commission — See Ch. 7, Art. VIII.**

**Zoning — See Ch. 196.**

**Numbering of buildings — See Ch. 65.**

**Earth removal and filling projects — See Ch. 205.**

## ARTICLE I

**Purpose and Authority****§ 300-1. Purpose.**

These Subdivision Regulations are adopted under the provisions of MGL c. 41,<sup>46</sup> for the purpose of protecting the safety, convenience and welfare of the inhabitants of the Town of Boxford by "regulating the laying out and construction of ways in subdivisions providing access to the several lots therein, but which have not become public ways, and ensuring sanitary conditions in subdivisions and in proper cases parks and open areas. The powers of the Planning Board and of the Board of Appeals under the Subdivision Control Law shall be exercised with due regard for the provision of adequate access to all of the lots in a subdivisions by ways that will be safe and convenient for travel; for lessening congestion in such ways and in the adjacent public ways; for reducing danger of life and limb in the operation of motor vehicles; for securing safety in the case of fire, flood, panic and other emergencies; for insuring compliance with the Zoning Bylaw; for securing adequate provision for water, sewerage, drainage, underground utility services, fire, police and other similar town equipment, streetlighting and other requirements where necessary in a subdivision; and for coordinating the ways in a subdivision; and for coordinating the ways in a subdivision with each other and with the public ways in the town and with the ways in neighboring subdivisions."

**§ 300-2. Authority.**

Under the authority vested in the Planning Board of the Town of Boxford by MGL c. 41, § 81-Q, said Board has hereby adopted these Rules and Regulations Governing the Subdivision of Land in the Town of Boxford.

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46. Editor's Note: See MGL c. 41, §§ 81K to 81GG, inclusive.

ARTICLE II  
**General Provisions**

**§ 300-3. Definitions.**

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

AASHTO — American Association of State Highway and Transportation Officials.

ABUTTER — Property owner of any property having a common boundary line with the applicant's property, or any owner of any property located adjacent to the applicant's property on a public way or stream, or any property owner located within a distance of 500 feet of the property.

AVERAGE DAILY TRAFFIC (ADT) — The calculation of average daily traffic volumes in a time period greater than one day and less than one year.

APPLICANT — A person (as hereinafter defined) who applies for the approval of a plan of a subdivision or a person who applies under Article III. "Applicant" shall include an owner, or his agent or representative, or his assigns.

BENCH MARK — A mark made in a durable object of known position and elevation as a reference point.

BIKE PATH — A way designed to be used principally or exclusively by a bicycle or similar unpowered vehicle.

BOARD — The Planning Board of the Town of Boxford.

BRIDLE PATH — A way designed to be used principally or exclusively for equestrian purposes.

CERTIFIED BY — Certified by (or endorsed by) the Board, as applied to a plan or other instrument required or authorized by the Subdivision Control Law to be recorded, shall mean bearing a certification or endorsement signed by a majority of the members of the Board.

DEVELOP — To construct a street, install utilities, erect a house or other structure or in any way to improve a lot substantially.

DEVELOPER — A person (as hereinafter defined) who develops a subdivision under a plan of a subdivision approved pursuant to Article III of these rules and regulations.

EASEMENT — A right acquired by public authority or other person to use or control property for a utility or other designated private or public purpose.

MGL — The General Laws of Massachusetts, and as the same may be amended.

MONUMENT — A permanent marker to indicate a boundary.

MUNICIPAL SERVICES — Water drains, water pipes, gas pipes, electrical lines, telephone lines, fire alarm system or similar systems, and their respective appurtenances.

OWNER — As applies to real estate, the person holding the ultimate fee simple title to a parcel, tract or lot of land, as shown by the record in the Land Registration Office, Registry of Deeds or Registry of Probate.

PERSON — An individual, two or more individuals or a group or association of individuals, a partnership, trust or corporation, having a common or undivided interest in a tract of land.

PLAN, AS-BUILT — A plan of approved subdivision of land as duly submitted to the Board in accordance with § 300-11 and as constructed in accordance with Article V; all as distinguished from the definitive plan. Additional information required by the Board is listed in § 300-11J(2)(g).

PLAN, DEFINITIVE — A plan of proposed subdivision of land as duly submitted with appropriate

application to the Board for approval in accordance with § 300-11, to be recorded in the Registry of Deeds or filed with the Land Court when approved by the Board, and such plan when approved and recorded, all as distinguished from a preliminary plan.

**PLAN, PRELIMINARY** — A plan of proposed subdivision of land as duly submitted with appropriate application to the Board for approval prepared in accordance with § 300-10 to facilitate proper preparation of a definitive plan.

**PLANNING BOARD AGENT** — Town employee or consultant authorized by the Board to review plans of subdivisions, perform inspections and/or administer the regulations.

**PRIVATE UTILITIES** — Includes telephones, electric light and power, gas lines and cable television whether installed on, above or beneath the surface of the ground.

**PUBLIC UTILITIES** — Includes only electric light and power distribution systems, surface water drains and water pipes and their appurtenances, which may become the property or responsibility of the town.

**RECORDED** — Recorded in the Registry of Deeds of Essex County and, when appropriate, shall include the Land Court. (MGL c. 41, § 81-L)

**REGISTRY OF DEEDS** — The Registry of Deeds of Essex County and, when appropriate, shall include the Land Court. (MGL c. 41, § 81-L)

**ROADWAY** — That portion of a way which is designed and constructed for vehicular travel.

**SIDEWALK** — A way within the right-of-way of a street normally parallel to the street, designed for use by pedestrians.

**STANDARD SPECIFICATIONS** — The Commonwealth of Massachusetts, Department of Public Works, Standard Specifications for Highways and Bridges, 1988 Edition, as amended.

**STREET, MAJOR** — A street which satisfies one or more of the following criteria: serves as direct access for 50 or more house lots; connects two or more existing major streets; has an average weekday ADT of 400 vpd or more.

**STREET, MINOR** — A street which, in the opinion of the Board, is being used, or will be used primarily, to provide access to abutting lots and has an average weekday ADT of 400 vpd or less.

**SUBDIVISION** — The division of a tract of land into two or more lots and shall include resubdivision, and when appropriate to the context, shall relate to the process of subdivision of the land or territory subdivided; provided, however, that the division of a tract of land into two or more lots shall not be deemed to constitute a subdivision within the meaning of the Subdivision Control Law, if at the time when it is made, every lot within the tract so divided has frontage on a public way, or a way which the Town Clerk of the Town of Boxford certifies is maintained and used as a public way, or a way shown on a plan theretofore approved and endorsed in accordance with the Subdivision Control Law, or a way in existence when the Subdivision Control Law became effective in the town having, in the opinion of the Board, sufficient width, suitable grade and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon. Such frontage shall be of at least such distance as is then required by the Zoning Bylaws.<sup>47</sup> Conveyances or other instruments adding to, taking away from or changing the size and shape of lots in such a manner as to not leave any lot so affected without the frontage above set forth, or the division of a tract of land on which two or more buildings were standing when the Subdivision Control Law went into effect in the town into separate lots on each of which one of such buildings remains standing, shall not constitute a subdivision. (MGL c. 41, § 81L)

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47. Editor's Note: See Ch. 196, Zoning.

**SUBDIVISION CONTROL** — The power of regulating the subdivision of land granted by the Subdivision Control Law, MGL c. 41, §§ 81-K through GG, inclusive.

**TOWN** — Town of Boxford, Massachusetts.

**TRAIL** — A rustic way designed to be used for nonmotorized travel, including passage by foot, on skis, bicycles or horseback.

**WALKWAY** — A walkway designed for use by pedestrians, not necessarily parallel to a street.

**WAY** — Synonymous with the terms, road, street, highway and avenue and shall denote any such line or route for passage whether public or private; the width of the strip of land laid out, designated, acquired and/or dedicated for the use of such way. Such width includes the spaces for vehicular travel, sidewalks, edgestone and planting spaces where required.

#### **§ 300-4. Approved plan required.**

No person shall make a subdivision within the meaning of the Subdivision Control Law of any land within the town, or proceed with the improvement for sale of lots in a subdivision, or the construction of ways, or preparation therefor or the installation of utilities and municipal services therein, unless and until a definitive plan of such subdivision has been submitted and approved by the Board as hereinafter provided.

#### **§ 300-5. Source of information required.**

In those cases in which the land shown on the plan is abutted by land of an owner not the owner of the land as shown, the Board shall require a statement from the person who prepared the plan as to the source or sources of the information about the location of boundaries. A separate form for such statement will be furnished to the Board, see Form D (Land Surveyor's Certificate).

#### **§ 300-6. More than one building for dwelling purposes on a lot.**

Not more than one building designed or available for use for dwelling purposes shall be erected or placed or converted to use as such on any lot in a subdivision.

#### **§ 300-7. Fees.**

All expenses for advertising, publication of notices, engineering, professional planning review, plans, inspection of construction, recording and filing of documents and all other expenses in connection with a subdivision, including without limitation sampling and/or testing required by the Board or its agents, shall be borne solely by the applicant. The Board reserves the right to fund and use fees it establishes, pursuant to MGL c. 44, § 53G.

- A. When reviewing an application for, or when conducting, inspections in relation to subdivision approval, the Board may determine that the assistance of outside consultants is warranted due to the size, scale or complexity of a proposed project, because of a project's impact or because the town lacks the necessary expertise to perform the work related to the approval. The Board may require that applicants pay a project review fee consisting of the reasonable costs incurred by the Board for the employment of outside consultants engaged by the Board to assist in the review of a proposed project.
- B. In hiring outside consultants, the Board may engage engineers, planners, lawyers, urban designers or other appropriate professionals who can assist the Board in analyzing a project to ensure compliance with all relevant laws, bylaws and regulations. Such assistance may include, but not be limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the Board's

decision or regulations or inspecting a project during construction or implementation.

- C. Funds received by the Board pursuant to this section shall be deposited with the Town Treasurer who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Board without further appropriation. Expenditures from this special account shall be made only for services rendered in connection with a specific project or projects for which a project review fee has been or will be collected from the applicant. Accrued interest may also be spent for this purpose. Failure of an applicant to pay a review fee shall be grounds for denial of the approval sought.
- D. At the completion of the Board's review of a project, any excess amount in the account, including interest, attributable to a specific project shall be repaid to the applicant or the applicant's successor in interest. A final report of said account shall be made available to the applicant or the applicant's successor in interest. For the purpose of this regulation, any person or entity claiming to be an applicant's successor in interest shall provide the Board with documentation establishing such succession in interest.
- E. Any applicant may take an administrative appeal from the selection of the outside consultant to the Town Select Board. Such appeal must be made in writing and may be taken only within 20 days after the Planning Board has mailed or hand-delivered notice to the applicant of the selection. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum, required qualifications. The minimum qualifications shall consist either of an educational degree in, or related to, the field at issue or three or more years of practice in the field at issue or a related field. The required time limit for action upon an application by the Board shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Select Board within one month following the filing of the appeal, the selection made by the Board shall stand. **[Amended 9-12-2020ATM by Art. 19]**
- F. The fee associated with the engagement of an outside consultant shall not be a fixed amount, but will vary with the costs incurred by the Board.
- G. Fees. The Planning Board, from time to time, and following public hearings will set fees associated with various filings under these subdivision regulations. Such fees will be kept on file at the Planning Board office.

#### **§ 300-8. Zoning Bylaw.**

The Board will not approve or modify and approve any plan of a subdivision of land unless all buildings, structures and lots shown on said plan comply with the Zoning Bylaws<sup>48</sup> of the town or a variance and/or special permit from the terms thereof has been granted.

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48. Editor's Note: See Ch. 196, Zoning.

ARTICLE III  
**Procedure for the Submission and Approval of Plans**

**§ 300-9. Plan believed not to require approval.**

A. Submission of plan.

- (1) Any person who wishes to cause to be recorded in the Registry of Deeds or to be filed with the Land Court a plan of land and who believes that his plan does not require approval under the Subdivision Control Law (MGL c. 41) may submit his plan and six contact prints of his plan each folded to 8 1/2 inches by 11 inches maximum, with title side out thereof, along with the original Mylar or linen, and two copies of a properly executed Form A<sup>49</sup> to the Board at a designated regularly scheduled meeting of the Board accompanied by the necessary evidence to show that the plan does not require approval. Said person shall file, by delivery or registered mail, a notice with the Town Clerk stating the date of submission to the Board for such determination accompanied by a copy of said application receipted by the Board and describing the land to which the plan relates sufficiently for identification. If the notice is given by delivery, the Town Clerk shall, if requested, give a written receipt therefor.
- (2) Each submittal must be accompanied by a filing fee of \$50, plus \$100 per lot created. Make checks payable to the Town of Boxford. **[Amended 11-17-2004]**
- (3) The classification and precision of surveys shall conform to Class A or better of the most recent Land Court Manual of Instruction, Commonwealth of Massachusetts.
- (4) In the event that the requirements of Subsection B below are not fully complied with by the applicant, the submittal shall be considered null and void and returned for a future submittal.

B. Contents. Said plan shall be legibly drawn in accordance with the rules and regulations of the Registry of Deeds, MGL c. 36, § 13A, as amended, pertaining to plan size, material, lettering and related requirements and shall contain all required seals and signatures required by the Registry of Deeds prior to the recording of said plan. The plan shall bear the seal and signature of the registered land surveyor immediately responsible per MGL c. 112, §§ 8ID to 8IT. The plan scale shall preferably be 40 feet to the inch or such other scale as the Board may accept, and the plan documentation shall contain the following:

- (1) Identification of the plan by name of owner of record and location of the land in question, including the Assessors' Tax Map number and lot number, the scale, North arrow and date.
- (2) A locus map at a scale of 1,500 feet to the inch. Locus must show all existing town roads located within 4,500 feet of the site, both within Boxford and within adjacent towns with town boundaries shown.
- (3) The statement "Approval Under Subdivision Control Law Not Required" and sufficient space for the date and the signatures of all members of the Board.
- (4) Zoning classification and location of any zoning district boundaries that may lie within the locus of the plan.
- (5) In the case of the creation of a new lot, all the remaining abutting land area and frontage of the land in the ownership of the applicant shall be shown.

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49. Editor's Note: Form A is included at the end of these regulations.

- (6) Notice of any decisions by the Zoning Board of Appeals, including but not limited to variances and exceptions regarding the land or any buildings thereon.
- (7) Names of abutters from the most recent local tax list unless the applicant has knowledge of any changes subsequent to the latest available Assessor's records.
- (8) Names and status (private or public) of streets and ways shown on the plan.
- (9) Bearings and distances of all lines of the lot or lots shown on the plan and the bearings and distance to the nearest permanent monument. Frontage of each individual lot and total frontage shall be shown.
- (10) A representation of the fifty-foot depth along the frontage by dotted line. The length of said dotted line shall be indicated.
- (11) The total perimeter of the lot and the area of the lot, together with the area of a square lot of the same perimeter, expressed in the following ratio:

$$\frac{\text{Area of lot}}{\text{Area of square lot of same perimeter}} = \text{_____} \%$$

- (12) All parcels of land must show total acreage, acreage of contiguous buildable area, wetlands, conservancy contour lines and two-hundred-foot diameter circle in accordance with Boxford Zoning Bylaw.<sup>50</sup>
- (13) Accurate location of all existing structures including all wells, septic systems, surface and subsurface drainage, stump pits, and building setback, side yard and rear yard distances.
- (14) Location of all bounds, brooks, fences, trails, walls, easements and/or encumbrances. All predominant natural features (i.e. bodies of water, etc.) must be shown with appropriate areas if applicable.
- (15) Street numbers shall be shown within a rectangular box within the two-hundred-foot diameter circle of all buildable lots.
- (16) Assignment of house numbers.<sup>51</sup>
  - (a) Street addresses are required to be prominently shown on each lot prior to the Planning Board's approval of the definitive plan. Measurements are taken every 1/100 of a mile, or every 52.8 feet, from intersection of streets.
  - (b) Numbers are assigned based on the location of proposed driveway cuts.
  - (c) Assign even numbers to the left side of the street and odd numbers to the right side of the street. If the street is a through street, even numbers are on the left side when traveling from the town police station.
  - (d) All lots sharing a common driveway will be assigned the same numerical street number.

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50. Editor's Note: See Ch. 196, Zoning.

51. Editor's Note: See Ch. 65, Buildings, Numbering of.



The number assigned will be based on the location of the common driveway. Each lot will also be issued an additional letter designation, either "A," "B" or "C."

- (17) Scenic road requirement. All roads in the Town of Boxford are designated as "scenic roads" (MGL c. 40 § 15C) and as such any disturbances of a stone wall located adjacent to a road or the removal of trees located within the road dedication are prohibited without the written consent of the Planning Board.
- C. Endorsement of plan not requiring approval. If the Board determines that the plan does not require approval, it shall without a public hearing and within 21 days of a submission endorse the plan. The Board may add appropriate comments on areas of the plan to draw the attention of the Inspector of Buildings, i.e. identifying lots not complying with the minimum bylaw requirements for building lots. The original plan shall be returned to the applicant, and the Board shall also notify the Town Clerk in writing of its action.
- D. Determination that plan requires approval. If the Board determines that the plan does require approval under the Subdivision Control Law, it shall, within 21 days of the submission of the plan, so inform the applicant in writing and return the plan. The Board shall also notify the Town Clerk in writing of its action.
- E. Failure of Board to act. If the Board fails to act upon a plan submitted under this section or fails to notify Town Clerk and the person submitting the plan of its action within 21 days after its submission, unless an extension has been requested by the applicant and approved by the Board, it shall be deemed to have determined that approval under the Subdivision Control Law is not required, and it shall forthwith make such endorsement on said plan, and on its failure to do so forthwith, the Town Clerk shall issue a certificate to the same effect.

#### **§ 300-10. Preliminary plan.**

- A. Submission of a preliminary plan.
- (1) A preliminary plan of a subdivision may be submitted by the applicant. The preliminary plan, with 12 prints each folded to a maximum of 8 1/2 inches by 11 inches with title side out shall be filed with the Board, together with three copies each of a properly executed application Form B (Application for Approval of a Preliminary Plan) and Form D (Land Surveyor's Certificate)<sup>52</sup> at a designated regularly scheduled meeting of the Board. The applicant shall also file by delivery or registered mail a copy of Form B receipted by the Board with the Town Clerk stating the date of submission of a preliminary plan to the Board for such approval and describing the land to which the plan relates sufficiently for identification. If the notice is given by delivery, the Town Clerk shall, if requested, give a written receipt therefor.
  - (2) The submission of such a preliminary plan will enable the applicant, the Board, the Board of Health, the Conservation Commission, the Superintendent of Public Works, the Board of Assessors, the Police Department, the Fire Department and other town agencies and the owners of property abutting the subdivision to discuss and clarify the details of such subdivision before a definitive plan is prepared. Therefore, it is strongly recommended that a preliminary plan be filed in each case.
  - (3) Before approval of the preliminary plan, the Board will submit the plan to an independent engineering service for review at the applicant's expense. Prior to the initiation of this review,

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52. Editor's Note: Forms B and D are included at the end of these regulations.

an itemized budget estimate will be established and paid in advance by the applicant to a Planning Board escrow account. Failure to establish this escrow account will constitute grounds for denial of the preliminary plan.

- B. Contents. The preliminary plan shall be drawn on tracing paper or other reproducible substance at a suitable scale, preferably 40 feet to the inch or such other scale as the Board may accept. The plan shall be designated as a "preliminary plan," and to form a clear basis for discussion of the details of the subdivision and for preparation of the definitive plan, the plan shall contain the following:
- (1) The subdivision name, if any, boundaries, North arrow, date, scale, legend, title "preliminary plan," and an index of all pages and what information is to be found on each page of the plan.
  - (2) Title block requirement. Each page must contain a title running along the entire right-hand edge of each sheet (see Figure 14<sup>53</sup>) showing the name of the subdivision, if any, in the left-hand corner, the date, scale, the names, seals and signatures and addresses of the engineer and surveyor who made the plan, the page number and provisions for recording revision dates, including a written description of each revision.
  - (3) The names and addresses of all abutters within 500 feet of the parcel boundaries, as determined from the most recent local tax list, unless the applicant shall have more recent knowledge of such abutters, along with two sets of mailing labels.
  - (4) The locus of the land shown on the plan with sufficient information to accurately locate the plan (i.e., at least one intersection of at least two existing town roads, including Assessor's Tax Map numbers and lot numbers). The scale shall be 1,500 feet to the inch. The locus must show all existing town roads located within 4,500 feet of the site, both within Boxford and within adjacent towns, with town boundaries shown.
  - (5) The existing and proposed lines of streets, ways, easements and any public or common areas within the subdivision, in a general manner.
  - (6) Major features of the land, such as existing wells, septic systems, walls, fences, monuments, buildings, wood roads, paths, trails, wooded areas, outcroppings, ditches, swamps, water bodies and natural waterways. Where applicable, aerial photographs may be required.
  - (7) A general description of the type of systems of sewage disposal, water installation and surface drainage in a general manner, including adjacent existing natural waterways intended to receive sewage and drainage effluent.
  - (8) The approximate boundary lines of proposed lots, with numbers, approximate area dimensions, totaled frontage, two-hundred-foot diameter circle at the building site indicated and a dotted line indicating the fifty-foot depth from the frontage and the length of said dotted line.
  - (9) The names, approximate location and widths of adjacent streets and of streets approaching or within reasonable proximity of the subdivision.
  - (10) The topography of the land with a two-foot contour interval based on the Town Datum (National Geodetic Vertical Datum of 1929). Water bodies and their elevations shall be shown with the date of measurement, starting or reference bench marks shall be shown along with set bench marks.

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53. Editor's Note: Figure 14 is included at the end of these regulations.

- (11) Soil types and locations based on the Boxford Report of United States Department of Agriculture, Soil Conservation Service, "Soils and their Interpretations for Various Land Uses."
- (12) Letter designation of the proposed street in lieu of names, plus a list of proposed street names.
- (13) Existing profiles of the exterior grade at the edge of the shoulder and center line, assuming a pavement centered on the dedication, drawn in fine black line (dot dash for left, dot dot dash for right side and dash for center line); and proposed profile on the finished center line drawn in fine black solid line at a horizontal scale of one inch equals 40 feet and vertical scale of one inch equals four feet, or such other scales acceptable to the Board, together with a cross section of any open channel streams and drain and sewer utilities.
- (14) Area of contiguous land and water of the applicant not presently being subdivided, with a sketch plan showing a feasible future street layout for such contiguous land, if any.
- (15) The zoning classification of land shown on the plan and the location of any zoning district boundaries that may lie within the locus of the plan.
- (16) Easements and rights-of-way applicable to the area shown on the plan.
- (17) A document shall be filed containing information to provide a basis for general conclusions about the effect on the environment and on the community of the proposed plan compared to alternatives permitted under the Zoning Bylaw. See Schedule A.<sup>54</sup>
- (18) Notice of any decisions by the Zoning Board of Appeals, including but not limited to variances and special permits regarding the land or any buildings thereon.
- (19) For subdivisions greater than 10 lots, a phasing plan shall be submitted identifying the limits, sequencing and scheduling of roadway construction in conformance with § 300-24C.
- (20) Traffic analysis.
  - (a) For all subdivisions, the applicant shall be required to submit a technical memorandum prepared by a qualified traffic engineer to provide the following existing street information at proposed new street intersections:
    - [1] Representative daily traffic and peak hour volumes.
    - [2] Available horizontal and vertical sight distance.
    - [3] Travel speed measurements and calculation of 85th percentile speed.
  - (b) In addition, for all subdivisions over 25 lots, or where otherwise deemed necessary by the Board, the applicant shall furnish a traffic analysis of the impact of the additional traffic to be generated by the proposed development on the adjacent ways and intersections. The study shall be compiled in accordance with the criteria of the American Association of State Highway and Transportation Officials.
- (21) The applicant shall simultaneously apply for a request for determination from the Conservation Commission for any wetland impacts resulting from the subdivision and present this information as part of the preliminary plan process.

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54. Editor's Note: Schedule A is included at the end of these regulations.

- (22) To facilitate review of the preliminary plan by the appropriate authorities at the time of filing of the preliminary plan, the applicant shall stake the center line and approximate limits of grading on both sides of all proposed streets on fifty-foot center line stations. Cut or fill dimensions to road profile grade shall be marked on the stakes.
- C. Approval of a preliminary plan. The Board may, at the Board's option, hold an informal hearing of which abutters are given notice in order to solicit comment during the preliminary plan stage. The Board may give such preliminary plan approval, with or without modification or suggestion, after the Board's review, and at the Board's option, review with the Board of Health, the Conservation Commission, the Superintendent of Public Works, the Police Department, Fire Department and other Town agencies. Such approval does not constitute approval of the subdivision, but facilitates the preparation of the definitive plan and securing approval thereof. Approval shall be effective for seven months or until a definitive plan evolving from the preliminary plan is filed, whichever comes first.
- D. Disapproval of a preliminary plan. In the event of disapproval of a preliminary plan, the Board shall state the reasons for its disapproval in accordance with MGL c. 41, § 81-U.

### **§ 300-11. Definitive plan.**

- A. Submission of a definitive plan. Any person who submits a definitive plan of a subdivision to the Board for approval shall file with the Board all items required in Subsections A and B of this section and the applicable filing fee (see § 300-7) for a definitive plan to be duly submitted in accordance with these rules and regulations and the General Laws of Massachusetts. Such submission shall be made to the Board at a designated regularly scheduled meeting of the Board.
- (1) Twelve contact prints of the definitive plan, dark line on white background, each folded to a maximum of 8 1/2 inches by 11 inches with the title side out, shall be filed with the Board.
  - (2) Three copies of a properly executed Form C (Application for Approval of a Definitive Plan), Form D-1 (Engineer's Certificate) or Form D (Land Surveyor's Certificate), and Form E (Certified List of Abutters).<sup>55</sup> The applicant shall be responsible for obtaining a certified list of abutters from the Town Assessor's office and for notification of all certified abutters regarding the proposed definitive plan. Proof of notification shall be provided to the Board on or before the date of public hearing.
  - (3) The applicant shall also file by delivery or registered mail a notice with the Town Clerk stating the date of submission to the Board for such approval accompanied by two copies of the completed Form C (Application for Approval of a Definitive Plan) receipted by the Board.
  - (4) The applicant shall also file a letter with the Planning Board at the time of submission granting permission to the Planning Board to enter the property for necessary on-site walks and visits.
  - (5) The definitive plan shall be prepared by a professional engineer and a land surveyor registered in Massachusetts. All pages shall be recordable and shall be clearly and legibly drawn in accordance with the rules and regulations of the Registry of Deeds as amended pertaining to plan size, material, lettering and related requirements. In addition, it shall contain the following:
    - (a) The classification and precision of surveys shall conform to Class A or better of the most recent Land Court Manual of Instruction, Commonwealth of Massachusetts. The plan shall contain the latest Land Court certification requirements.

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55. Editor's Note: Forms C, D-1, D and E are included at the end of these regulations.

- (b) The plan shall be at a scale of one inch equals 40 feet or such other scale as the Board may accept to show details clearly and adequately.
- (c) Sheet sizes shall be 24 inches by 36 inches including a three-fourth-inch border.

B. Contents. The definitive plan shall contain the following information:

- (1) A title sheet containing the subdivision name, if any, North arrow, legend, title "definitive plan," an index or key of all pages and what information is to be found on each page of the plan, a locus map at a scale of one inch equals 1,500 feet, showing all existing town roads located within 4,500 feet of the site, both within Boxford and within adjacent towns with town boundaries shown, and a location plan at a scale of one inch to 400 feet depending on the size of the subdivision. The location plan shall show the entire subdivision layout, adjacent streets, if any, or streets within a reasonable distance, sufficient to identify the location and the access to the land.
- (2) Title block requirement. A title, appearing along the entire right-hand edge of each sheet (see Figure 14<sup>56</sup>), showing the name of the subdivision, if any, in the left-hand corner, the date, scale, the names, seals and signatures and addresses of the engineer and surveyor who made the plan, the name of the owner of record and the subdivider, the page number and provisions for recording revision dates, including a written description of each revision, and suitable space to record the action of the Board and the signatures of all members of the Board, including, where appropriate, the words "Deeds of Easements to be Recorded Herewith" or the words "Covenants to be Recorded Herewith" and "Conditions of Approval to be Recorded Herewith," at the same location on all pages.
- (3) North arrow, whether true, magnetic or grid and so indicated, and the boundaries of the subdivision indicated by shading. All bench marks set within the subdivision shall be shown, and the reference (starting) bench mark shall be included.
- (4) Location and ownership of abutting property as it appears on Form E (Certified List of Abutters)<sup>57</sup> unless the applicant shall have more recent knowledge of such abutters, so indicated, including all abutting land owned by the applicant not presently being subdivided, and all other land within 500 feet of the boundaries of the land shown in the subdivision.
- (5) Major features of the land, such as existing waterways, swamps and water bodies, natural drainage courses, walls, fences, trails, buildings, septic systems, wells, wooded areas, outcroppings and ditches which exist on or near the site at the time of the survey. Where applicable, aerial photographs may be required.
- (6) Lines of existing and proposed streets, ways, lots, lot numbers of each lot, the location on the frontage of the driveway accessing each lot sufficient to accommodate assignment of house numbers, easements and public areas within the subdivision. Each 1/100 of a mile along the center line of the dedication shall be marked. Letter designation of proposed streets shall be shown in pencil. In lieu of street names, a list of proposed street names, together with a listing with the street letter designation, shall be provided to the Board for review and/or tentative approval. (See § 300-12F.)
- (7) Sufficient data to determine the location, direction and length of every street and way line, lot

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56. Editor's Note: Figure 14 is included at the end of these regulations.

57. Editor's Note: Form E is included at the end of these regulations.

line and boundary line, and to establish these lines on the ground. This shall include the lengths and bearings of plan and boundary lines of all subdivision lot lines, including lot frontage on the streets, of the radii, tangents and central angles of all curves in lot lines and street lines. All roadways shall have center line baselines complete with bearings, distances, curve data and stations shown on both lot layout and construction plans. Points of curvature and tangency shall also be shown. All angle points, or intersections of tangents along the street lines, shall be shown. Areas of lots with lot numbers and the area and totaled frontage on public ways as set forth in MGL c. 41, § 81-L, of adjoining land of the applicant not included in the subdivision shall be shown. The engineer or surveyor shall have the mathematical computations available to present to the Board for a matter of record. It is recommended that traverse computations be placed on a separate or subsequent sheet.

- (8) Location of all permanent monuments properly identified as to whether existing or proposed.
- (9) Location, names and present widths of streets or private ways bounding, approaching or within reasonable proximity of the subdivision, showing both pavement widths and right-of-way widths.
- (10) The zoning classification of land shown on the plan and the location of any zoning district boundaries that lie within the locus of the plan. All parcels of land must show total acreage of contiguous buildable area, a street number, anticipated location of driveway curb cuts, a dotted line representation of the boundaries of the calculated contiguous buildable area, conservancy contour lines or boundary of wetland if there is no conservancy district involved, a two-hundred-foot diameter circle at the house site and the total perimeter of the lot and the area of the lot, together with the area of a square lot of the same perimeter, expressed in the following ratio:

$$\frac{\text{Area of lot}}{\text{Area of square lot of same perimeter}} = \text{_____} \%$$

All lots shown shall comply with the applicable zoning district requirements for the proposed land utilization, and any parcel which is not buildable under the current Zoning Bylaw shall state "Not a buildable lot." No parcels which do not meet the requirements of a buildable lot under the Zoning Bylaw<sup>58</sup> shall be created where they could otherwise be combined with a buildable lot of the same owner.

- (11) Indication of all existing and proposed easements and rights-of-way applying to the land and their purposes, whether or not within the subdivision, and any decision on appeal or any variances or special permits made by the Board of Appeals applicable to the subdivision of the land or any buildings thereon.
- (12) If the property that comprises the subdivision or any part or boundary thereof has been

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58. Editor's Note: See Ch. 196, Zoning.

examined, approved and confirmed by the Massachusetts Land Court, such information shall be noted on the plan with case numbers and other pertinent references to Land Court procedure, and the same requirement shall apply to any adjoining parcels of land of the applicant.

- (13) Existing profiles of the exterior grade at the edge of the shoulder and center line, assuming a pavement, centered on the dedication, drawn in fine black line (dot dash for left, dot dot dash for right side and dash for center line); and proposed profile on the finished center line drawn in fine black solid line at a horizontal scale of one inch equals 40 feet and vertical scale of one inch equals four feet, or such other scales acceptable to the Board. At least two bench marks are to be shown on the profile sheets along with grade elevations at every fifty-foot station except in vertical curves which shall be at every twenty-five-foot station. Bench marks shall be 50 feet to 100 feet from the right-of-way and shall be set approximately every 500 feet. The starting or reference bench mark shall also be shown. All existing and proposed intersections and sidewalks, bikeways and walkways shall be shown with all proposed grade elevations calculated. Elevations shall be referred to the Town Datum (National Geodetic Vertical Datum of 1929). Gradients shall be shown by figures expressed in percent.
- (14) Existing and proposed topography with two-foot contour intervals and the one-hundred-year flood elevation calculated according to 310 CMR 10.57. All bench marks shall be noted, as well as items required in § 300-11D. Conservancy Districts shall be shown in accordance with the latest Town Zoning Map. All flood hazard zones shall be shown in accordance with the latest HUD publication. The topography shall include a sufficient length of the land along existing streets to determine sight distances at proposed new street intersections, drainage runoff and utility locations.
- (15) Whenever possible, for the purpose of clarity, the utility plan should be on a separate page. Size and location of existing and proposed water supply mains and their appurtenances, hydrants or water supply sources for fire-fighting purposes, sewer pipes and their appurtenances, and/or sewage disposal systems, storm drains and their appurtenances, and easements pertinent thereto, and curbs and curb dimensions, including data on borings and soil test pits, and method of carrying water to the nearest watercourse or easements for drainage as needed, whether or not within the subdivision. If surface water drains will discharge onto adjacent existing street rights-of-way or onto adjacent properties not owned by the applicant, the applicant shall clearly indicate what course the discharge will take and shall present to the Board, and to the owner of adjacent property, evidence from an engineer that such discharge is satisfactory and permitted by public or private ownership of adjacent street or property.
- (16) Drainage calculations shall be submitted in a suitable form along with amplifying plans outlining drainage areas within and affecting the subdivision. A comparison of pre- and post-development stormwater runoff shall be contained in the calculations for peak rates of runoff. A plan shall also be submitted showing the route followed by all drainage discharging from the subdivision to the primary receiving watercourse or other large body of water. Drainage design shall be based on the rational formula ( $Q=CIA$ ). The runoff coefficient "C" shall be determined from the proposed use of land within the watershed with a minimum value of 0.30 to be used. The rainfall intensity shall be determined from the times of concentration and the Yarnell curves. A minimum ten-year storm frequency shall be used for street drainage, a minimum twenty-five-year storm frequency for cross culverts, and a one-hundred-year storm frequency for retention/detention facilities. The minimum time of concentration for street drainage shall be 10 minutes and for cross culverts shall be 10 minutes.
- (17) Location and species of all proposed street trees and location of all isolated existing trees

(located outside of wooded areas) with trunks over 12 inches in diameter measured four feet above the finished ground level within the road dedication as provided in § 300-15.

- (18) Typical cross sections of each street, roadway, drainage ditch and sidewalk to be constructed.
- (19) An environmental impact statement shall be submitted in accordance with Schedule A.<sup>59</sup> The document shall be filed with sufficient information to provide a basis for general conclusions about the effect on the environment and the community of the proposed plan compared to any other alternatives permitted under the Zoning Bylaw. In addition, it shall include a statement in writing concerning the status of the proposed project in relationship to the removal, fill or dredge of any bank, flat marsh, meadow or swamp bordering on any inland water (Wetlands Protection Act, MGL c.a 131, § 40).
- (20) The location of all open spaces as defined in § 300-14.
- (21) Traffic memorandum.
  - (a) For all subdivisions, the applicant shall be required to submit a technical memorandum prepared by a qualified traffic engineer to provide the following existing street information at proposed new street intersections:
    - [1] Representative daily traffic and peak hour volumes.
    - [2] Available horizontal and vertical sight distance.
    - [3] Travel speed measurements and calculation of 85th percentile speed.
  - (b) In addition, for all subdivisions over 25 lots, or where otherwise deemed necessary by the Board, the applicant shall furnish a traffic analysis of the impact of the additional traffic to be generated by the proposed development on the adjacent ways and intersections. The study shall be compiled in accordance with the criteria of the American Association of State Highway and Transportation Officials.
- (22) The applicant shall simultaneously apply for a request for determination or notice of intent and receive a determination or order of conditions from the Conservation Commission for any wetland impacts resulting from the subdivision and present this information as part of the definitive plan process.<sup>60</sup>
- (23) Stump burial pits are prohibited within a subdivision.
- (24) The full extent of cuts and fills necessary to construct the roadway, its shoulders and ditches, and drainage structures, shall be shown on the plan as dashed lines.
- (25) A list of requested waivers from the requirements of the rules and regulations, if any, shall be submitted with explanation, by the applicant, with the definitive plan, for Board review and consideration.

#### C. Staking.

- (1) To facilitate review of the definitive plan by the appropriate authorities, at the time of filing of the definitive plan, the applicant shall stake the center line and approximate limits of grading of

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59. Editor's Note: Schedule A is included at the end of these regulations.

60. Editor's Note: See Ch. 192, Wetlands Protection.



all proposed streets on fifty-foot center line stations. Cut or fill dimensions to finished grade profile shall be marked on the stakes. The developer shall also stake the center line of all trails at a minimum of every 100 feet.

- (2) If the road was staked in connection with a preliminary plan submittal, the stake out shall be updated to include any alignment or grade changes made.

D. Street soil survey and permeability tests.

- (1) The applicant shall provide soils information from test pits and/or borings at proposed fire protection water tank locations and determine soil strength and groundwater depth. The applicant shall prepare calculations and details to show the proposed tank will be adequately supported and protected from settling when full and from floating when empty.
- (2) The applicant shall also provide soils information from test pits or borings for all other underground structures. The applicant shall establish the suitability of the soil for the proposed storm drainage system and proposed street construction.
- (3) Depending on conditions, the Board or its agent may require test pits, borings or soundings to be taken along the center line of each street shown on the plan at intervals of at least every 200 feet and at other locations and areas of questionable foundation material where the subsurface conditions may, in the opinion of the Board or its agent, affect the quality and service life of the street or the stability of the graded shoulder. Test pits must be observed by the Board or its agent and a registered professional engineer. Where borings are used, samples shall be taken at five-foot vertical depth intervals and at each change in strata. Soundings shall be taken in areas of unsuitable material for the purpose of determining the hard bottom contours. Test pits and borings, where required, shall extend to a minimum depth of five feet below the street profile grade or to bedrock, whichever is less. The applicant shall indicate a proposed layout of the subsurface exploration program on the plan complete with location, spacing and type of exploration proposed.
- (4) Street soil surveys and permeability tests, when required by the Board or its agent, shall include a test excavation not less than seven feet below finished grade at a frequency of one per lot, location of which must be shown on the contour plan, and a report thereon. Permeability tests shall be conducted in the same manner as percolation tests outlined in Title 5 of the Commonwealth of Massachusetts State Environmental Code.
- (5) All information concerning the test pits, borings or soundings (location by station number, depth, soil strata, depth of water table) shall be submitted to the Board in a written report to be made, evaluated, stamped and signed by a registered professional engineer. (Note: "glacial till" is not considered an adequate soil description.)

E. Procedure.

- (1) Every proposed lot in a subdivision shall be tested in accordance with the provisions of Title 5 of the Massachusetts State Environmental Code, in the presence of a representative of the Board of Health, prior to the time of filing of a definitive plan. At the time of filing of the definitive plan, the applicant shall also file with the Board of Health and the Board two contact prints of the definitive plan, dark line on white background, indicating the location of test holes, soil logs, groundwater elevations, the results of percolation tests performed and location of proposed borrow pit areas. Every lot proposed within the subdivision shall include at least one test hole tested as prescribed above which will indicate a site meeting the requirements of Title 5 of the

Massachusetts State Environmental Code for construction of a subsurface sewage disposal system. The Board of Health shall, within 45 days after filing of the plan, report to the Board in writing its approval or disapproval of said plan, and it shall make specific findings as to which, if any, of the lots shown on such plan cannot be used for building sites without injury to the public health, and include such specific findings and the reasons therefor in such report, and where possible, shall make recommendations for the adjustment thereof. The Board of Health shall send a copy of such report, if any, to the person who submitted said plan.

(2) Transmittal of copies.

(a) The Board will transmit copies of the definitive plan to town officials as follows:

- [1] Conservation Commission.
- [2] Superintendent of Public Works.
- [3] Fire Department.
- [4] Police Department.
- [5] Inspector of Buildings.
- [6] Board of Assessors.
- [7] Board of Health.

(b) Before a definitive plan is approved, the Board will request written statements from the above officials with regard to the proposed improvements in the following respect:

- [1] Conservation Commission as to potential involvement with MGL c. 131, § 40, and the effects of the subdivision on streams, wildlife and similar considerations within the scope of the Conservation Commission.
- [2] The Superintendent of Public Works as to the design of the street system, location of easements, monuments, drainage system, water system and, if applicable, a sewage system and their appurtenances, and relationship to existing water and drainage systems.
- [3] The Fire Department as to location of hydrants or water sources for fire-fighting purposes, installation of the alarm system (if applicable) and emergency access.
- [4] Police Department as to street safety, both vehicular and pedestrian, and access for emergency vehicles.
- [5] Inspector of Buildings for compliance with the Boxford Zoning Bylaw.<sup>61</sup>
- [6] Assessors for information on any possible lot line conflicts and for proper recording of known easements and/or encumbrances on the land.

(3) Legal notice requirements. Before taking any action to approve, modify and approve or disapprove a definitive plan, the Board shall hold a public hearing at which parties interested shall have an opportunity to be heard, in person or by agent or attorney. Notice of the time and place of such hearing and of the subject matter, sufficient for identification, shall be published

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61. Editor's Note: See Ch. 196, Zoning.

in a newspaper of general circulation in the Town of Boxford once in each of two successive weeks, the first publication to be not less than 14 days before the date of the hearing and the second to be not less than seven days before the date of the hearing and by mailing a copy of such advertisement to the applicant. The applicant shall mail by certified mail copies of such advertisement to all owners of land abutting the proposed subdivision, and all owners of land within 500 feet of the property line of the proposed subdivision shown on the plan as shown on the most recent tax list, and submit proof of such mailing to the Board prior to the hearing. Mailing shall be posted no less than 10 days prior to the scheduled hearing. Failure to provide proof shall constitute cause to cancel the hearing.

(4) Approval, disapproval or modification of definitive plan.

- (a) The procedure that the Board will follow with regard to approval, disapproval or modification of the definitive plan submitted by the applicant will be that as set forth in MGL c. 41, § 81-U, as amended. In summary, the Board, after receiving the plan and profiles, will review the same to determine whether they are in compliance with its adopted rules and regulations.
- (b) The Board, in studying a proposed subdivision plan, will take into consideration the requirements of the town and the best use of the land being subdivided. Particular attention will be given to width, safety, arrangement and location of streets, sanitation, drainage, lot sizes and arrangement of lots, open spaces, trails, parks and other scenic and recreational resources. Adequate street connections will be required to ensure free and safe access to adjoining subdivisions and lands. Easements for future construction of roadways must be provided and shall be conveyed to the Town of Boxford prior to the endorsement of the subdivision plans. Where the street system within a subdivision does not connect with or have, in the opinion of the Board, adequate access from a town, county or state (public) way, the Board may require, as a condition of approval of a plan, that such adequate access be provided by the developer, and/or that the developer make physical improvements to and within such a way of access from the boundary of the subdivision to a town, county or state way which does provide such adequate access. Where the physical condition, contours, topography or width of a public way from which a subdivision has its access is considered by the Board to be inadequate to carry the traffic expected to be generated by such subdivision, the Board may require the subdivider to acquire and/or dedicate a strip of land for the purpose of widening the abutting or connecting public ways to a width at least commensurate with that required within the subdivision, and to make physical improvements to and within such public way to the same standards required within the subdivision. Any such dedication of land for the purpose of creating an adequate width of way and any such work performed within such public way shall be made only with permission of the governmental body having jurisdiction over such way, and all costs of any such acquisition, widening or construction shall be borne by the applicant.
- (c) If in the opinion of the Board additional information or modification of the plan is required, such information or modification shall be submitted to the Board or its agent at least 48 hours in advance of the next regularly scheduled meeting.
- (d) Before approval of the definitive plan, the Board will submit the plan to an independent engineering service for review at the applicant's expense. Prior to the initiation of this review, an itemized budget estimate will be established and paid in advance by the applicant to a Planning Board escrow account. Failure to establish this escrow account will constitute grounds for denial of the definitive plan. After this review, the Board shall

establish that the street pattern is safe and convenient, that proper provision is made for street extension and that all other purposes of the General Law are met. The Board may, as a condition of approval, impose reasonable requirements designed to promote the health, convenience, safety and general welfare of the community and to benefit the town. In such event, the Board shall endorse such conditions on the plan to which they relate, or set forth a separate instrument attached thereto, to which reference is made on such plan and which shall for the purpose of the Subdivision Control Law be deemed to be part of the plan.

- F. Performance guaranty. Before endorsement of the Board's approval of any definitive subdivision plan, the applicant shall agree to complete (except in the case of any portion of the subdivision for which a surety company performance bond or a performance bond secured by a deposit of money or negotiable securities shall have been filed pursuant to Subsection F(1) below the required improvements for the subdivision, specified in Article V, within three years of the date of such approval; to complete the required improvements for any portion of the subdivision, for which a surety company performance bond or a performance bond secured by a deposit of money or negotiable securities shall have been filed pursuant to Subsection F(1) below, within two years of the date of the performance bond or within three years of the date of the Board's approval of the definitive plan, whichever date shall occur the earlier; and that no structure will be occupied until at least the basic course of the bituminous concrete, as specified in Article V, has been applied to the streets which serve those structures. Such construction and installation shall be secured by one, or in part by one and in part by the other, of the following methods which may from time to time be varied by the applicant with the written consent of the Board.

(1) Bonding schedule.

- (a) Before endorsement of the Board's approval of any definitive subdivision plan, the applicant shall create a bonding schedule (see Form G-3)<sup>62</sup> to be reviewed and approved by the Town Superintendent of Public Works, and Planning Board agent and submitted to the Board for approval. The applicant shall file Forms G-1 and G-2<sup>63</sup> along with either a duly executed surety company performance bond, a duly executed performance bond secured by a deposit of money or negotiable securities, a tripartite agreement or letter of credit, in such form as the Board requires, in an amount determined by the Board to be sufficient to cover the cost not covered by a covenant under Subsection F(2) hereof. Such surety company performance bond, performance bond secured by a deposit of money or negotiable securities, tripartite agreement or letter of credit shall be approved as to form, manner of execution and, in the case of a surety company performance bond, as to the surety by Town Counsel and in the case of a performance bond secured by negotiable securities, as to the negotiable securities by the Town Treasurer; and shall be conditioned on the completion of such improvements within two years of the date of the performance bond.
- (b) Twenty percent of the amount of said surety company performance bond, performance bond secured by a deposit of money or negotiable securities, tripartite agreement or letter of credit shall be retained for one year following completion of the subdivision or until the town accepts the road, whichever occurs later. Guidelines for subdivision road bond releases are on file at the Planning Board office.
- (c) Applicants shall utilize the current Commonwealth of Massachusetts "Weighted Average

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62. Editor's Note: Form G-3 is included at the end of these regulations.

63. Editor's Note: Forms G-1 and G-2 are included at the end of these regulations.

Bid Prices Statewide and by Districts from Highway and Bridge Projects" for bond preparation or as otherwise directed by the Board.

- (2) The applicant shall file a duly executed covenant on Form F<sup>64</sup> or on such other form of covenant as the Board requires, which provides that no lot may be built upon or sold until the ways and municipal services necessary to serve adequately such lot have been constructed and installed. Such covenant shall be approved as to form and manner of execution by Town Counsel and shall be recorded in the Registry of Deeds by the owner of record and shall run with the land.
- G. Approval or disapproval. The action of the Board with respect to such plan shall be by vote, copies of which shall be filed with the Town Clerk and sent to the applicant. If the Board modifies or disapproves such a plan, it shall state in its vote the reasons for its action and shall rescind such disapproval when the plan has been amended to conform to the rules and regulations of the Board, and to the recommendations of the Board of Health. Final approval, if granted, shall be endorsed on the original drawing of the definitive plan by the signatures of a majority of the Board but not until the statutory twenty-day appeal period has elapsed following the filing of the Board's certificate of approval or disapproval, as the case may be (see Forms C-1 and C-2<sup>65</sup>), with the Town Clerk and said Clerk has notified the Board that no appeal has been filed. If appeal has been made, said endorsement shall be made after the entry of a final decree of the court sustaining the approval of such plan. Final approval shall be subject to the construction specifications contained herein, receipt of the estimated fees for construction inspection services described below and to the rules and regulations of all town boards. After the definitive plan has been approved and endorsed, the Board shall return the original to the applicant. The Board may extend the period permitted by statute between submission of a definitive plan and action thereon upon written request of the applicant. Approval of the definitive plan does not constitute the acceptance by the town of streets shown on the plan.
- (1) If the ways in any subdivision are not completed and the utilities aforesaid are not installed within the time so agreed to by the applicant, or so required by the Board, any such bond may be enforced and any such deposit may be applied by the Board for the benefit of the town. Ways or portions thereof not completed within the time required shall thereafter be completed in accordance with the design and construction standards of the Board in effect upon the expiration of such time, unless an extension of time is granted.
  - (2) The endorsement of the plan approval by the Board shall be valid for a period of three years from the date of filing by the Board of the approval with Town Clerk. Prior to the expiration of the three-year approval period, the developer and/or owner shall request in writing to the Board an extension of time, if necessary. Failure to request an extension of time prior to the expiration of the three-year approval period shall result in the Board's notifying the Inspector of Buildings that no additional building permits shall be issued in said development. The request for an extension shall state their reasons for the requested extension and also the length of time requested. The first extensions shall not exceed two years. Additional extensions after the first may be applied for only under extraordinary circumstances but shall not exceed one year.
- H. Recording. The applicant shall file all pages of the approved definitive plan, profile, topography and covenant, if any, at the Registry of Deeds, and shall notify the Board in writing presenting evidence of the recording of the plan and the covenant and easements, if any, as required by the Board's approval, within 45 days of the endorsement of the plan. The applicant shall deliver to the Board three copies of the approved and recorded definitive plan and a copy of an affidavit filed by the owner

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64. Editor's Note: Form F is included at the end of these regulations.

65. Editor's Note: Forms C-1 and C-2 are included at the end of these regulations.

stating that the title to the premises shown on said plan and appurtenances thereto are in the name of the applicant and are free of all encumbrances or with encumbrances as set forth, before any building permits in the subdivision may be issued.

- I. Conveyance of utilities and easements to the town. Prior to the release by the Board of any form of performance guaranty, or in the case of a covenant, the issuance of a release form, the applicant shall execute an instrument, on a form approved by the Board, (see Form H) transferring to the town, without cost, valid unencumbered title to all storm drains and water mains, and appurtenances thereto, constructed and installed in the subdivision or portion thereof to be approved, and conveying to the town without cost and free of all liens and encumbrances, perpetual rights to construct, inspect, repair, renew, replace, operate and forever maintain the aforesaid.
- J. Reduction or release of performance guaranty.
  - (1) The penal sum of any such bond or the amount of any deposit held under Subsection F(1)(a) above may from time to time be reduced by the Board and the obligations of the parties thereto released by said Board in whole or in part. If release is by reason of covenant, a new plan of the portion to be subject to the covenant may be required by the Board. The fire tank/pond shall be installed prior to release of any deposit/reduction in bond associated with subbase work [§ 300-24A(5)]. No release of any deposit/reduction in bond associated with fire tank/pond will be made until the fire tank/pond has been tested and approved by the Planning Board or its agent and the Boxford Fire Department.
  - (2) Upon completion of improvements required under Article V, security for the performance of which was given by bond, tripartite agreement, letter of credit, deposit or covenant, or upon the performance of any covenant with respect to any lot, the developer or owner, at his expense, will cause to be published in a newspaper of general circulation in the Town of Boxford, at least seven days prior to the releasing of the performance bond or surety, an announcement that such release is contemplated. He shall also send by registered mail to the Town Clerk and the Board a written statement that the said construction or installation in connection with which such performance guaranty has been secured has been completed in accordance with the requirements contained under Article V, such statement to contain:
    - (a) Name and address of the applicant.
    - (b) A compliance certificate signed under oath by the developer and his engineer that the development has been completed according to the rules and regulations of the Planning Board and the Town of Boxford's Zoning Bylaw.<sup>66</sup>
    - (c) Copies of or reference to the requisite number of inspection forms and reports.
    - (d) Written evidence from the Town Superintendent of Public Works as to construction of all ways and sidewalks, installation of monuments, street signs, pavement, lighting, gutters and curbs, required grading and drainage, adequate lot drainage, planting and seeding all in accordance with the definitive plan.
    - (e) Written evidence from the Board's agent as to installation of all electric power, poles, underground wiring, streetlighting and appurtenances, all in accordance with the definitive plan.

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66. Editor's Note: See Ch. 196, Zoning.

- (f) Written evidence from the Fire Department as to the installation of the fire alarm system or required water sources for fire-fighting purposes, all in accordance with the definitive plan.
- (g) The applicant shall submit recorded as-built plans which shall include the following:
  - [1] Actual bound locations.
  - [2] Profile of center line.
  - [3] Bench marks used.
  - [4] Actual location of all utilities, including inverts of all drains and culverts.
  - [5] The revised road pavement center line alignment shall be calculated, staked out and shown on the as-built plans.
  - [6] Any other changes authorized by the Boxford Board.
  - [7] Certification of accuracy to Land Court standards.
  - [8] Subdivision lot lines.
- (3) If the Board determines that said construction, installation or filing of as-built plans has not been completed, it shall specify to the Town Clerk and to the developer, in writing, by registered mail, the details wherein said construction and installation shall have failed to comply with requirements contained under Article V. Upon failure of the Board to act on such application within 45 days after the receipt of the application by the Town Clerk and the Board, all obligations under the bond shall cease and terminate by operation of law, and any deposit shall be returned and any such covenant shall become void. In the event that said forty-five-day period expires without such specification, or without the release and return of the deposit or release of the covenant as aforesaid, the Town Clerk shall issue a certificate to such effect, duly acknowledged, which may be recorded.
- (4) If the Board determines that said construction, installation or filing of as-built plans has been completed, it shall within 45 days release the interest of the town in such performance guaranty and return the same to the person or persons who furnished same, or, in the case of covenant, it shall issue a written release of the covenant on a properly executed release form.

ARTICLE IV  
**Design Requirements**

**§ 300-12. Streets.**

A. Location.

- (1) All streets in the subdivision shall be designed in conformance with Subsection B below. Their layout shall be designed so that, in the opinion of the Board, they will provide safe vehicular and pedestrian travel and an attractive street pattern through curvilinear street layout with minimum environmental intrusion, they will obtain the maximum safety and amenity for future residents of a residential subdivision and of future employees or visitors to a nonresidential subdivision, and they shall be in accord with the rules and regulations of the Board.
- (2) The proposed streets shall conform in location, so far as practicable, to any existing and proposed plans of the Board, to the Master Plan or parts thereof adopted by the Board and, where required by the Board, to the existing and proposed street system.
- (3) Provision satisfactory to the Board shall be made for the proper projection of streets, or for access to adjoining property, whether or not subdivided.
- (4) Reserve strips prohibiting access to streets or adjoining property shall not be permitted, except where, in the opinion of the Board, such strips shall be in the public interest or if the applicant conveys a dedicated right-of-way which connects to the adjacent public way in conformance with Subsections C(1) and B(5) of this § 300-12.
- (5) Each lot proposed for development shall have its entire required frontage in Boxford, the entire contiguous legally buildable area, as defined in the Boxford Zoning bylaw § 196-24B(3)(b), in Boxford, and accessed only from a public way in Boxford, with town services (municipal services as well as police, fire, and school transportation) provided only through roads located within Boxford. **[Added 11-17-2004]**
- (6) No cul-de-sac shall be laid out for the purpose of serving less than three houses. **[Added 11-17-2004]**

B. Alignment.

- (1) Street jogs with center-line offsets of less than 150 feet shall not be permitted.
- (2) The minimum center-line radii of curved streets shall be as follows:
  - (a) Major street: 500 feet.
  - (b) Minor street: 150 feet.
- (3) A tangent at least 150 feet in length shall separate all reverse curves on major and minor streets, except where at least one radius is 1,000 feet or more or where the radius of both the curves is in excess of two times the minimum specified in Subsection B(2) above.
- (4) Streets shall be laid out so as to intersect as nearly as possible at right angles. No street shall intersect any other street at less than 60°.
- (5) Property lines at street intersections shall be rounded or cut back to provide for a radius in conformance with Figure 1. Property lines at the intersection of a street with a turnaround shall



be rounded or cut back to provide for a radius of not less than 25 feet as shown on Figures 4 through 7.<sup>67</sup>

- (6) Streets shall be laid out so as to intersect with adjacent streets or adjacent unsubdivided land at intervals as determined suitable by the Board.

C. Width.

- (1) The minimum width of right-of-way shall be as follows:
- (a) Major streets: 60 feet.
  - (b) Minor streets: 50 feet.
- (2) When a minor street will provide the only access for lots fronting on a length in excess of 1,000 feet or where traffic volumes on a secondary street warrant, the Board may require a greater right-of-way than that specified above.
- (3) Under certain circumstances, the Board may require an increase in the right-of-way widths by up to 10 feet to accommodate walkway construction and preserve natural features.
- (4) Pavement widths shall be in conformance with Figure 3.<sup>68</sup> No roadway pavement shall be less than 20 feet wide.

D. Grade.

- (1) The minimum center line grade for any street shall not be less than 1%, except that short sections may be reduced to 6/10 of 1% with the approval of the Board.
- (2) The maximum center line grade for streets shall be as follows:

	<b>Low-Density Area*</b>	<b>High-Density and Nonresidential Area*</b>
Minor streets	7%	5%
Major streets	5%	3%

\* As determined by the Planning Board

- (3) Grades exceeding 0.8%.
- (a) Where changes in grade exceed 8/10 of 1%, a vertical curve shall be provided. The minimum length of vertical curves shall be designed in accordance with the following:

$$L = K(G1\% - G2\%)$$

G = Grade

L = Length

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67. Editor's Note: Figures 1 and 4 through 7 are included at the end of these regulations.

68. Editor's Note: Figure 3 is included at the end of these regulations.

The values for K are listed below:

	<b>Crests</b>	<b>Sags</b>
Minor streets (30 miles per hour)	28	35
Major streets and streets in a high- density or high- intensity area, as determined by the Board (40 miles per hour)	55	55

- (b) Roadways shall have a center line to side of road slope of 3/8 foot per foot as shown in Figure 3.<sup>69</sup>
- (4) Where horizontal and vertical curves combine to create potentially dangerous driving conditions, the Board may require a suitable amount of superelevation of the curves or other projections.
- (5) At approaches to intersections, the maximum allowable center-line profile grade shall be 2% for 75 feet as shown in Figure 2.<sup>70</sup>
- (6) The grade of any street, except in special instances, shall be so designed that the surface runoff of water shall be from the center line of the street to the edge of the street.
- (7) No cut or fill in excess of 10 feet of the natural topography shall be allowed within the limits of the roadway cross section.
- E. Dead-end streets.
- (1) For the purposes of this section, a dead-end street is a street, extension of a street or system of streets connected to a through way at a single point. Any proposed street which intersects only with a dead-end street shall be deemed to be an extension of the dead-end street.
- (2) Dead-end streets and their extensions, if any, shall not be longer than 1,500 feet from their origin to the furthest point and serve no more than 15 lots.
- (3) Dead-end streets shall be provided with a turnaround at the closed end, conforming to Figure 6 or 7 at the end of these rules and regulations. The radius of the inside of the paved circle shall be a minimum of 90 feet, and the radius of the outside line of the roadway dedication shall be a minimum of 125 feet. The turnaround shall have a center island at least 90 feet in radius with the natural vegetation left in place, unless the Planning Board deems it advisable to establish a new landscape. In that case the Planning Board must approve the landscape design and the applicant shall be responsible for its maintenance for one year following the completion of the island. The Planning Board may require a smaller turnaround, conforming to Figure 4 or 5, if it deems to be in the public interest.<sup>71</sup> **[Amended 11-17-2004]**

69. Editor's Note: Figure 3 is included at the end of these regulations.

70. Editor's Note: Figure 2 is included at the end of these regulations.

71. Editor's Note: Figures 4 through 7 are included at the end of these regulations.

- (4) The Board may require a roadway easement from the end of the dead-end street to adjacent property. If a dead-end street is subsequently extended beyond the required turnaround, any easement other than land required for the extension of the roadway may be relinquished to the adjacent properties. See Figures 4 and 5.<sup>72</sup>
  - (5) If a dead-end street is later extended, the turnaround pavement shall be removed and a uniform pavement width provided to match the extension pavement width.
- F. Street names. The applicant shall provide names in keeping with the character of the town, and the applicant shall have the proposed street names approved in writing from the Director of Communications prior to approval by the Board. Proposed street names shall not duplicate nor bear phonetic resemblance to the name of existing public ways, paper streets or any other way qualified to afford frontage under MGL c. 41, § 81-L. A proposed street which is in alignment with an existing street shall bear the same name as the existing street. See § 300-11B(6).
- G. Roadway drainage.
- (1) The majority of the Town of Boxford roadways can be described as rural, country lanes. Typically, berms and/or curbs are nonexistent, allowing roadways to drain naturally. Rainfall runoff flows off the pavement to a gravel/wooded shoulder area and follows a natural course as dictated by the topography.
  - (2) Proposed subdivision roadways, in general, must be designed and constructed in a manner that maintains the rural, aesthetic character of the town.
  - (3) For the majority of proposed subdivision roadways, the Board will require an open drainage system. The main feature of this design is an unpaved shoulder with a shallow six-inch ditch in cut conditions and flat slope in fill conditions. The open drainage system allows the roadway runoff to drain as a sheet flow without accumulation into erosive volumes or velocities. Bituminous concrete waterways which direct roadway runoff from the pavement or ditch down an embankment slope may be required to prevent erosion where a sufficient runoff is accumulated through the use of a berm or ditch.
  - (4) Closed drainage system.
    - (a) An open drainage system cannot be used for all conditions. A closed drainage system, including drainage collection structures, subsurface piping and bituminous concrete berm, will be required under the following conditions and as required by the Board:
      - [1] In an extended cut section where roadway slope exceeds 3% for a distance greater than 350 feet.
      - [2] At a low point in the roadway where runoff cannot be directed naturally to existing watercourses.
      - [3] Per Board discretion.
    - (b) Location of catch basins shall be in conformance with Figure No. 9. Bituminous concrete berm shall be in conformance with Figure No. 11 and § 300-29B. Construction of ditches shall be in conformance with Figure No. 10. Paved waterways shall be in conformance with Figure No. 16.<sup>73</sup>

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72. Editor's Note: Figures 4 and 5 are included at the end of these regulations.

- (5) Where closed drainage systems are needed, adequate disposal of surface and subsurface water shall be provided on both sides of the roadway at intervals not to exceed 350 feet unless otherwise approved by the Board and at such other places as deemed necessary by the Board to assure adequate drainage of all low points and to provide proper runoff of stormwater. In no case shall less than twelve-inch pipe be used for surface water drainage. Catch basins shall be provided with grates installed and designed according to the Standard Specifications and the Commonwealth of Massachusetts Department of Highways 1977 Construction Standards, as amended. Frames and grates shall conform to Town of Boxford standards as shown in Figure 9.<sup>74</sup>

### § 300-13. Easements/public access.

- A. Where utilities cross lots or are centered on rear or side lot lines, easements shall be provided of a width of at least 20 feet.
- B. Where a subdivision is traversed by a watercourse, drainageway, channel or stream, the Board shall require a stormwater easement or drainage right-of-way of adequate width and proper side slope to conform substantially to the lines of such watercourse, drainageway, channel or stream and to provide for the face flow of water in its natural course or for construction or other necessary purposes. In no case shall the width be less than 20 feet or the side slope be steeper than two horizontal to one vertical.
- C. Access easements or parcels to adjacent property shall be provided, if required by the Board, for use by emergency vehicles and for the benefit of the town. These may include pedestrianways and easements for trails, walkways, bridle paths or ways to connect open spaces or park areas. They shall be a minimum width of 20 feet. Where trails exist on the property, every effort shall be made to maintain them in their original position. Where this is deemed unfeasible by the Board, the developer shall provide alternate trails of similar character making connections to trails at the property boundaries.
- D. Wherever possible, easements along the rear lot lines shall be continuous to the street at the end of the block to connect with the adjoining blocks in the shortest direct line.
- E. Access shall be provided to adjacent parcels or landlocked property as required by the Board. Public access shall be provided via rights-of-way transferred in fee to the town. Rights-of-way shall conform to the requirements of § 300-12C for minor streets and § 300-12B(5).
- F. In all cases, rights-of-way or fee ownership of parcels may be required by the Board in lieu of easements if this is deemed by the Board to be in the best interest of the town.
- G. Wherever embankments are built in such a way as to require approval by the Board, the developer must furnish to the town duly recorded access easements free of encumbrances for maintenance of the slopes, terraces or retaining walls.
- H. When easements are required by the Planning Board pursuant to this section, the applicant shall provide a written instrument in a form suitable to the Board.

### § 300-14. Open space.

Before approval of a plan, the Board may also, in proper cases, require the plan to show a park or parks,

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73. Editor's Note: Figures 9, 10, 11 and 16 are included at the end of these regulations.

74. Editor's Note: Figure 9 is included at the end of these regulations.

suitably located for playground or recreation purposes or for providing light and air. The park or parks shall not be unreasonable in area in relation to the land being subdivided and to the prospective uses of such land and shall be at least equal to two acres of land for each 20 single-family dwelling units or fraction thereof shown on the plan. The area shall be equal to three times the floor area of all other dwelling units and 10% of the land area for all nonresidential subdivisions. The Board may, by appropriate endorsement on the plan, require that no building be erected upon such park or parks without its approval for a period of three years. Each area reserved for such purpose shall be of suitable area, dimensions, topography and natural character for the purposes of a park and/or playground. The area or areas shall be so located as to serve adequately all parts of the subdivision as approved by the Board. The Board may require that the area or areas reserved shall be located and laid out so as to be used in conjunction with similar areas of adjoining subdivisions or of probable subdivision. Land acquired in this manner shall be compensated as provided in MGL c. 41, § 81-Q.

#### **§ 300-15. Protection of natural features.**

Due regard shall be shown for all natural features, such as trees, wooded areas, watercourses, water sources, wetlands, recharge areas, scenic points, historic spots and similar community assets, which if preserved will add attractiveness and value to the community. Any cutting, backfilling, clearing, thinning or other disturbance to trees 12 inches or over in diameter measured four feet above finished ground level or to other natural vegetation, located within the road dedication, shall be prohibited unless deemed both proper by the Board and not in conflict or contradiction to the intent of § 300-16. Any such proposed clearing shall be shown on the plan and written reasons therefor may be requested by the Board. Tree wells or retaining walls should be installed when and as requested by the Board for suitable grading around trees. Tree wells or retaining walls shall be of such design to meet the standards as set forth in the Tree Experts Manual or some similar publication. The Board may specify plantings in order to revegetate areas disturbed by grading or to create screening where inadequate natural vegetation exists.

#### **§ 300-16. Lot drainage.**

Lots shall be prepared and graded in such a manner that development of one shall not cause detrimental drainage on another; if provision is necessary to carry drainage to or across a lot, an easement or drainage right-of-way of a minimum width of 20 feet and proper side slope shall be provided. Storm drainage shall be designed in accord with the specifications of the Board. Where required by the Board or the Board of Health, the applicant shall furnish evidence as to any lot or lots to either Board as necessary that adequate provision has been made for the proper drainage or surface and underground waters for such lot or lots.

#### **§ 300-17. Utilities.**

- A. All required utilities exclusive of transformers and telecommunications terminals shall be placed underground at the side of the roadway before the base course of bituminous concrete is laid. Required utilities may include water, sewer, storm drainage, telephone, electricity, gas, wiring for streetlights, fire alarm systems and cable television unless otherwise specified by the Board.
- B. Where adjacent property is not subdivided at the same time, provision shall be made for the extension of the utility system by continuing the mains the full length of streets and to the exterior limits of the subdivision at such grade and size which will, in the opinion of the Board, permit their proper extension at a later date.
- C. Connections for drain, water, gas, electric and telephone service from the main structure in the way to the exterior line of the way shall be constructed for each lot whether or not there is a building thereon, except that the Board may waive such requirement, in whole or in part, in the case of a lot to

be used for a park, playground or for any other purpose for which, in the opinion of the Board, such connections shall not be required.

- D. On-site sewerage disposal facilities shall be installed and constructed in conformity with the rules and regulations of the Board of Health and Title 5, Environmental Code.
- E. Gas mains shall be installed if gas connection is available.
- F. Closed drainage system shall be designed in accordance with § 300-12G, and all structures, pipes, detention ponds and appurtenances shall be shown on the plan.
- G. The Board may permit transformers, switches and other such equipment to be placed on the ground in approved locations, screened from view with evergreen shrubbery.
- H. Streetlighting shall be supplied at the request of the Board by the developer to provide sufficient light for pedestrian safety and guidance and guidance for vehicles traveling on the street, with due consideration given for costs of maintenance and electric power.
- I. The Board may permit telecommunications terminals and other such equipment to be placed on the ground in approved locations, provided that they are screened from view with natural vegetation.

**§ 300-18. Dry hydrant or water sources.**

- A. Dry hydrants or water sources for fire fighting shall be provided in all subdivisions, and they shall meet the specifications of the Boxford Fire Department Water Resource Guidelines for subdivisions to assure protection to residents of the town. The Planning Board may require the installation of one or more subsurface water tank(s) for fire protection in accordance with Fire Department requirements, unless another source satisfactory to the Planning Board is available. Design details and installation of tanks will be subject to review by the Planning Board's engineer. All dry hydrants and access to water sources shall be made available to the town through easements or other means to provide permanent access for fire-fighting use and maintenance. Provision of a dry hydrant is required in all cases where extensions are granted under § 300-12E(2). No lot shall be released until such time as the dry hydrant or water source serving such lots has been installed and has performed to the satisfaction of the Fire Chief.
- B. Town dry hydrant/water source maintenance account. When dry hydrants or water sources for fire fighting are required, the applicant shall pay into a town dry hydrant/water source maintenance account a one-time fee for each dry hydrant/water source required. Such fees will be kept on file at the Planning Board office. This account shall be used to maintain the town's fire protection structures.

**§ 300-19. Fire alarm system.<sup>75</sup>**

Where deemed appropriate by the Board, one fire alarm box shall be provided for each 1,000 linear feet or fraction thereof of street within the subdivision. Exact location of boxes shall be recommended by the Fire Department and indicated on the plan. The circuit shall be installed to connect with the town fire alarm system.

**§ 300-20. Sidewalk, grass plots and trees; ramps and stairs.**

- A. Where the Board deems appropriate, it may require sidewalks, grass plots, ground cover and trees be

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75. Editor's Note: See Ch. 45, Alarm Systems.

provided as determined appropriate and necessary. Where sidewalks are proposed or deemed necessary, their design shall be in conformance with the latest Massachusetts Architectural Access Board standards.

- B. Where appropriate, the Board may require ramps and/or stairs be provided.

**§ 300-21. Bikeways, walkways and trails.**

- A. Requirements for bikeways, walkways and trails. Public bikeways or pedestrian walkways may be required by the Board to provide circulation or access to schools, playgrounds, parks, shopping, transportation, open space and/or community facilities or for such other reason as the Board may determine. These may or may not be part of normal sidewalk provisions, but they shall not be a part of any lot in the subdivision. All public bikeways shall conform to Federal Highway Administration guidelines. Where trails need to be relocated, the developer shall make every effort to locate them as far as possible from the area where homes are likely to be built and preferably outside the two-hundred-foot circles. Where this is impractical the developer shall provide screening to protect the homeowner's privacy. The developer shall also attempt to keep trails as far as possible from roadways and, where this is impossible, shall minimize the safety hazards through careful attention to sight distances and other design characteristics.
- B. Design standards.
- (1) The minimum right-of-way width for bikeways, trails and pedestrian walkways shall be 20 feet unless sufficient planting, fencing or other buffering between the way and adjacent property is provided so that, in the opinion of the Board, the right-of-way may be reduced to a minimum of 15 feet.
  - (2) The minimum pavement width shall be six feet.
  - (3) The maximum gradient shall be 8% for segments less than 100 feet in length; 5% elsewhere or otherwise approved by the Board.

**§ 300-22. Markers for common driveways.**

Where a common driveway is used to serve more than one dwelling, a granite bollard shall be placed in the public way at the entrance to the common drive indicating the street addresses and the distance to each dwelling. Granite markers shall be eight inches by eight inches by 72 inches long and shall have 40 inches exposed and 32 inches buried. Lettering and numbers shall be four inches in height and shall be clearly engraved in the granite on all four sides. Design of bollard shall be subject to the approval of the Planning Board.

ARTICLE V  
**Construction Requirements**

**§ 300-23. General.**

- A. It is the intent that no street or way through private property shall be accepted by the town unless the same be previously constructed and completed in accordance with the approved definitive subdivision plan and the following specifications.
- B. To ensure high quality and uniformity of construction and unless otherwise specified, all the work and the materials used in the work to be done shall conform to the requirements of the Commonwealth of Massachusetts, Department of Highways, Standard Specifications for Highways and Bridges, 1988 Edition, as amended; hereinafter referred to as the "Standard Specifications" and the special provisions included hereinafter. Appropriate illustrations are found in Commonwealth of Massachusetts, Department of Highways, 1977 Construction Standards, as amended.
- C. Supplementing the aforesaid Standard Specifications, certain specifications or special provisions shall apply particularly to the work to be done hereunder. References in the aforesaid Standard Specifications, amendments or addenda. These specifications and special provisions shall take precedence and shall govern when they are stricter. All references in the Standard Specifications, amendments or addenda to Commission, Department of Public Works, engineer, party of the first part, etc., shall be construed to mean the Planning Board of the Town of Boxford or its duly authorized representative.
- D. To facilitate reference where appropriate, each paragraph in this specification is noted with the paragraph number of the particular section as contained in the Standard Specifications.
- E. The extent of work required shall be completed as shown upon approved definitive subdivision plans.
- F. Offset stakes shall be set under the direction of a registered land surveyor at fifty-foot intervals and at each drainage structure and at each hydrant to indicate the location and the exact amount of cut, fill or grade.
- G. Improvements to minimize adverse environmental impact, if required, shall be installed in accordance with all details as shown on the approved definitive plan, and all possible measures shall be taken during construction to minimize erosion and tree removal.
- H. No earth shall be removed from the area shown on a definitive plan except in accordance with the approved plan, and the soil stripping provision of the Zoning Bylaw of The Town of Boxford.<sup>76</sup>
- I. Requirements prior to any road construction. Immediately prior to any clearing for road construction, the location of the pavement within the road dedication and the extent of clearing shall be approved by the Board during a site visit. Under no circumstances shall the clearing for road construction exceed what is necessary to construct the road surface, shoulders, drainage ditches (if required) and cut and fill slopes. If the Board authorizes the movement of the road's center line off the center line of the road dedication to save specific trees, the trees to be saved shall be prominently banded so that they may be observed during road construction.
- J. Driveway stub requirement. Prior to placing the binder course, a driveway stub built to roadway specifications not less than 20 feet in length (with drainage structures, if required, installed to

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76. Editor's Note: See Ch. 196, Zoning, § 196-33, Soil stripping.



facilitate ditch drainage) shall be installed on each lot.

**§ 300-24. Streets and roadways.**

A. Grading and preparation for pavement. The roadway shall be graded and prepared as follows:

- (1) Clearing and grubbing (Section 101 of the Standard Specifications). The paved area and shoulders of each street or way shall be cleared and grubbed to remove all trees not intended for preservation, stumps, brush, roots, rocks or boulders and other unsuitable material which may exist upon the surface.
- (2) Excavation (Section 120 of the Standard Specifications). The entire area of the roadway shall be excavated to remove all materials encountered within the paved area and shoulders down to the true surface of the subgrade, or to suitable material in the areas where unsuitable materials exist, in preparation for foundations of roadway, sidewalks, driveways and berms. Materials obtained from the excavation may be used in fills as needed if they are sampled and tested by an independent testing laboratory acceptable to the Board or its agent and, in the opinion of the Board or its agent, the material satisfies the requirements of Section 150 of the Standard Specifications. Necessary laboratory testing to determine the suitability of the excavated soil shall be arranged for and paid for by the applicant.
- (3) Embankment (Section 150 of the Standard Specifications). When in the opinion of the Board or its agent, suitable material is not available within the limits of the roadway location to form the subgrade or subbase, the developer shall obtain suitable additional material from other sources in accordance with this section, and as may be approved by the Board or its agent. A certificate of compliance along with information on the source of the material being used shall be submitted to the Board or its agent for approval prior to use.
- (4) Grading (Section 170 of the Standard Specifications). The subgrade surface, 16 1/2 inches below the finished surface grade in minor streets and 18 inches below the finished surface grade in major streets, shall be prepared true to the lines, grades and cross sections given and compacted with a vibratory roller to achieve 95% compaction. The prepared subgrade shall then be proof rolled with a combined weight of 70,000 pounds to determine that the subgrade does not contain weak or unsuitable soil. All soft or spongy material below the subgrade surface shall be removed to a depth determined by the Board or its agent, and the space thus made shall be filled with suitable material conforming to Section M 1.02.0. of the Standard Specifications. Material used shall contain no stones over six inches in their largest diameter or any other material detrimental to the subgrade.
- (5) Subbase. (Sections 401 and 402 of the Standard Specifications).
  - (a) Final compacted thickness for subbase materials shall be as follows: Subbase shall be eight inches of gravel borrow, Type b (M 1.03.0) overlaid by four inches of dense graded crushed stone (M 1.01.7). Gravel borrow material shall be placed in two four-inch courses on the prepared subgrade and each lift compacted to 95% of maximum dry density as determined by Standard AASHTO Test Designation T99 compaction test Method C at optimum moisture content. Depressions that appear during compaction rolling shall be filled with gravel borrow and rerolled. The surface of the gravel borrow shall be graded to the road lines and grades in preparation for the placement of the dense graded crushed stone material.
  - (b) Dense graded crushed stone shall be placed in one course and compacted as required for

the gravel borrow courses. Final grading, rolling and finishing, including the shaping, trimming, rolling and finishing of the surface of the subbase prior to placement of the bituminous concrete pavement, shall be in accordance with the Standard Specifications and as directed by the Board or its agent.

- (c) At the conclusion of paving, all permanent monument locations shall be staked as provided in Section 5.11, Monuments.
- B. Pavement. Roadway pavement shall be constructed for the full length of all streets within the subdivision and shall have the radii required in § 300-12B(5) above. The center line of all roadways shall coincide with the center line of the street right-of-way unless a deviation is approved by the Board. The widths of the roadway and pavement shall be in accordance with the approved plan.
- C. Pavement materials.
  - (1) Pavement material for all roadways in a subdivision shall be Class 1, bituminous concrete pavement Type 1-1 (Section 460). The material and construction methods for laying pavement shall conform in every way to the Standard Specifications, and no such construction shall be undertaken before March 30 of any year nor after November 1 of any year without written permission of the Board, and shall be applied only in dry weather.
  - (2) Final compacted pavement thickness for major and minor subdivision roadways shall conform to the following:
    - (a) Minor road.
      - [1] Base course: three inches of Class I bituminous concrete Type I-1 binder course material in one lift.
      - [2] Surface course: 1 1/2 inches of Class I bituminous concrete Type I-1 top course material.
    - (b) Minor road.
      - [1] Base course: 4 1/2 inches of Class I bituminous concrete Type I-1 in two lifts: two inches dense binder course material over 2 1/2 inches binder course material.
      - [2] Surface course: 1 1/2 inches of Class I bituminous concrete Type I-1 top course material.
  - (3) Once the roadway base course has been placed, the developer shall maintain this surface until the roadway surface course is placed and accepted. If the surface course is not placed within 12 months from the date of placing the base course, the developer shall be responsible for applying a single course surface treatment consisting of an emulsified asphalt product covered with 3/8 inch crushed stone. Application rates shall be as follows:
    - (a) Emulsion: 0.4 gallons per square yard.
    - (b) Cover stone: 22 to 26 pounds per square yard. Use pretreated stone at the rate of 1.5 to two gallons of MC 70 per ton. Also use antistripping latex additive. The developer shall be responsible for ensuring that the roadway is swept between five and 10 days after the application of the emulsion layer.
  - (4) The developer shall be responsible for maintaining this process until the surface course of

bituminous concrete is placed.

- (5) Under no circumstances will the base course be permitted to winter more than one season without the application of a single surface course treatment. For subdivisions containing greater than 10 house lots, phasing of the subdivision roadway construction may be considered by the Board. The applicant shall submit a detailed plan identifying the proposed phases of roadway construction along with the preliminary plan for approval by the Planning Board or its agent.
- (6) Surface courses damaged by the developer or his contractors, following its acceptance by the Planning Board or its agent, shall be restored or resurfaced by the developer at his expense.
- (7) The contractor shall place a tack coat consisting of bitumen applied at a rate of 0.05 gallons per square yard, directly to the base course or emulsified asphalt treatment.

D. Side slopes, shoulders and ditches.

- (1) Slide slopes.
  - (a) Embankment slopes within or adjoining the right-of-way shall be evenly graded and pitched at a slope of not greater than four horizontal to one vertical (4:1). Where steeper slopes are required, the slope may be increased to a maximum of 2:1 with the approval of the Planning Board.
  - (b) Cut slopes in earth shall be graded at a maximum slope of 2:1. Where cuts are made in ledge, other slopes may be determined with the approval of the Board.
  - (c) Where terrain necessitates greater embankment or cut slopes, retaining walls, terracing, fencing or riprap may be used either alone or in combination to provide safety and freedom from maintenance, but must be done in accordance with plans filed and approved by the Board. Guardrails shall be furnished wherever the slope is or greater than two horizontal to one vertical downhill with a vertical drop in grade of four feet or greater, or wherever the slope is three horizontal to one vertical downhill with a vertical drop in grade of 15 feet or greater. Wherever embankments are built in such a way as to require approval by the Board, the developer must furnish to the town duly recorded access easements free of encumbrances for maintenance of the slopes, terraces or retaining walls. All slopes shall be graded, covered with four inches of screened loam and seeded using materials in accordance with Roadside Development Materials (Section M6) of the Standard Specifications and § 300-32 of these rules and regulations.
- (2) Shoulder. Shoulders shall be constructed of dense graded crushed stone in accordance with the approved plan. Shoulders shall be a minimum width of three feet as measured from the back of the berm or edge of pavement. Where trails are to be located adjacent to the subdivision roadway, the shoulder width shall be extended to five feet in width and covered with no more than two inches of loam on the dense graded crushed stone.
- (3) Ditches. Ditches shall be constructed adjacent to the roadway whenever the center-line profile grade of the roadway is six inches or more lower than the adjacent topography or when required to intercept or redirect runoff when construction of the roadway results in runoff being directed onto the pavement. Ditches shall be constructed in accordance with the approved plan.

E. Areas disturbed by construction.

- (1) Loam and suitable vegetative cover approved by the Board shall be placed on all side slopes and

other areas disturbed by construction in accordance with § 300-32 unless other types of vegetative or inorganic cover are approved for use or are determined by the Board to be necessary for erosion control. (See § 300-32.)

- (2) Erosion control plan. Before approval of a subdivision, the developer shall prepare and submit for approval of the Board or its agent an erosion control plan covering all phases of construction for the area in which he intends to perform work. This area shall be specified and may include the portion of work within the right-of-way or may include all or part of the lots depending on the extent of work and location of wetlands. The following factors shall be considered in such a program:
  - (a) Construction activities shall be phased so that construction can be completed rapidly and large areas are not left bare and exposed for long periods.
  - (b) Grading shall be kept at a minimum. Where possible, existing trees and vegetation shall be protected and retained. Only undesirable trees shall be removed.
  - (c) Drainage shall be maintained by the contractor during construction. Runoff shall be controlled and conveyed into storm sewers or other outlets so it will not erode the land or cause off-site damage.
  - (d) Critical areas, including embankments and slopes, exposed for periods in excess of one month, shall be protected during construction with mulch or temporary crop covers and with mechanical measures, such as diversions and prepared outlets.
  - (e) Sediment basins, temporary and permanent, shall be constructed where necessary to detain runoff and to trap sediment during construction.
  - (f) Safe off-site disposal of runoff shall be provided, including the increased runoff resulting from construction.
  - (g) Permanent vegetation and erosion control structures where necessary shall be installed as soon as possible. In all cases where riprap is utilized, riprap shall be of a size specified by the Board or its agent and placed, rather than dumped.

#### **§ 300-25. Utilities.**

##### **A. Materials and installation methods.**

- (1) Utilities shall be installed in accordance with the approved plan. No utility mains shall be installed under the pavement except at intersections, and stubs crossing the street shall be installed prior to paving. Utility main installation after placement of pavement shall be approved by the Board and shall conform to Figure 17.<sup>77</sup> Unless otherwise specified, all materials and installation methods shall conform to the standards of the town.
- (2) All underground utilities and other structures located within the right-of-way shall be installed in the right-of-way before completion of the roadway subgrade and before placing of the subbase, pavement and sidewalk. If the pavement is broken for underground installation of structures or utilities, pavement repair shall be in conformance with Figure 17.
- (3) Excavation for structures (Section 140 of the Standard Specifications). Excavation for

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77. Editor's Note: Figure 17 is included at the end of these regulations.

structures, including foundations for drains, sewers, gas and water pipes, walls and other structures shall be made to the depth indicated on the definitive plan or established by the Planning Board or its agent as appropriate. Rocks encountered in trench excavation determined to be Class B rock shall be removed as directed by the Planning Board or its agent.

- B. Sewerage. On-site sewerage disposal facilities shall be installed and constructed in conformity with the rules and regulations of the Board of Health and Title 5, Massachusetts State Environmental Code. Due consideration should be given to surface and subsurface soil conditions, drainage and topography in the location of such on-site facilities.<sup>78</sup>
- C. Gas. If gas is to be installed within a proposed subdivision, the gas company shall be notified by the developer upon approval of the definitive plan so that installation of gas mains may be completed without undue delay and prior to placement of pavement. If excavation is made after the pavement is completed and inspected, the gas mains shall be put in a saw-cut trench, backfilled with approved material and patched in accordance with Figure 17<sup>79</sup> and to the lines, grades and dimensions approved by the Superintendent of Public Works.
- D. Electric. Electric lines shall be installed underground in accordance with the regulations of the electric company. The Board may permit transformers, switches and other such equipment to be placed on the ground in approved locations, screened from view with evergreen shrubbery. Service shall be supplied to each lot and each streetlight, if any, before the subgrade is prepared.
- E. Other utilities. Other utilities shall be installed in underground conduits in accordance with the method outlined for traffic control devices (Section 800) or as required by the utility company or department. Fire alarm, telephone and, if any, cable television shall be installed underground and may be in the same trench with vertical and/or horizontal separation as approved by the Board. Service shall be provided to each lot before the subgrade is prepared.

**§ 300-26. Drainage (Section 400) of surface and subsurface water.**

Adequate disposal of surface and subsurface water shall be provided. Where pipes, manholes and catch basins are required, they shall be shown on the definitive plan and shall be in accordance with the following:

- A. Basins, manholes and inlets (Section 201 of the Standard Specifications). All basins, manholes and inlet structures shall be constructed in conformance with the latest Massachusetts Department of Public Works Construction Standards. The standard depth of catch basins shall be 2 1/2 feet below the invert of the lowest drain. Manholes shall be constructed to the required depth at each junction point and shall be as shown on the plan. Basin and inlet grates shall be of a type approved the Superintendent of Public Works. Inlet structures susceptible to erosion shall have concrete collars constructed in conformance with the Standard Specifications. Frames and grates shall be temporarily set at base course grade and subsequently raised to finished grade prior to finished paving. Berms shall be installed, as necessary, to direct the runoff toward the basin. All changes of direction shall be located off the pavement, and all drain lines, where possible, shall be located off the pavement.
- B. Culvert, storm drains and sewer pipes. All pipes except subdrain shall be reinforced concrete pipe Type III and shall be selected in conformity with the requirements of the Standard Specifications. All pipe shall be installed in accordance with the size and location on the approved definitive plan. No

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78. Editor's Note: See Ch. 201, Subsurface Sanitary Systems.

79. Editor's Note: Figure 17 is included at the end of these regulations.

backfilling of pipes shall be done until the installation has been inspected by the Board or its agent. All drainage trenches shall be filled with clean gravel borrow, Type b, in accordance with Section 150.

- C. Subdrain. Where subdrains are required, they shall be designed and constructed in conformance with Section 260 of the Standard Specifications.

#### **§ 300-27. Sidewalks.**

- A. Requirements for sidewalks. Where sidewalks are required, they shall be constructed within the subdivision as shown on the approved definitive plan, except as provided in § 300-20 of these rules and regulations.
- B. Width. All sidewalks shall be a minimum width of five feet. Sidewalks shall be provided with handicapped ramps where required by the Board and meet the current Massachusetts Architectural Access Board Standards.
- C. Sidewalks adjacent to street. Within a subdivision sidewalks shall be separated from the road pavement by a seeded grass plot a minimum of three feet in width and may be made of either cement concrete or bituminous concrete.
- D. Reference to Standard Specification. All sidewalk construction shall be in accordance with the requirements of Section 701, SIDEWALKS AND BITUMINOUS CONCRETE DRIVEWAYS, of the Standard Specifications, except the cross slope shall be 3/16 of an inch per foot of width to conform to Massachusetts Architectural Access Board requirements.

#### **§ 300-28. Bikeways, walkways and trails.**

Where bikeways and walkways are required, they shall be constructed in accordance with the specifications for sidewalks above, except for the design standard requirement of § 300-21 above. Where bikeways and walkways intersect with sidewalks, leveling areas shall be provided. These leveling areas shall be shown in detail on the definitive plan for the subdivision. All bikeways shall conform to current Federal Highway Administration standards. Where trails have been relocated or otherwise disturbed, the developer shall ensure that they are readily passable on foot or horseback. They shall have solid footing, be level from side to side, neither ascend nor descend at an excessive slope and be clear of obstructions and other hazards.

#### **§ 300-29. Curbs.**

- A. Granite curbing. The board may specify that battered granite curbs with a five-inch face set in concrete with the dimensions given for granite curb (Section M9.04.1) Type VB4 in the Standard Specifications be provided in the following locations and be installed in accordance with the construction methods outlined under Section 501, CURB, CURB INLETS, CURB CORNERS AND EDGING, of the Standard Specifications.
  - (1) Intersections - subdivisions. Granite curbing shall be provided at intersections along the paving edge the distance of arcs of the curves plus a straight section at each end of six feet, in accordance with the approved plan.
  - (2) Intersections - major roads. Granite curbing shall be provided at intersections where the Planning Board or its agents deem it necessary.
  - (3) Traffic islands and medians. Granite curbing shall be provided at raised traffic islands and

medians.

- B. Bituminous concrete berm. Where required to control surface runoff and granite curbing has not been required, the Board may require the edges of all minor and major streets to be provided with a bituminous concrete berm. Bituminous concrete berms shall be constructed in conformance with the dimensions and at the locations shown on the plans. Bituminous concrete berms shall be constructed monolithically in conjunction with top course paving operations, by means of an approved attachment to the paving machine, designed specifically for that purpose. Upon formation, bituminous concrete berms shall be hand rolled for compaction. Bituminous concrete berms formed by extrusion machines will not be approved or accepted. The bituminous concrete berm shall be constructed in accordance with the approved plan and in accordance with the requirements of Section 500, CURB AND EDGING, of the Standard Specifications.

**§ 300-30. Highway guards, fences and walls.**

- A. Guard fences, rails and walls shall be installed wherever determined necessary by the Board or its agent to provide needed protection to the public and when slopes are three to one (3:1) or greater or have a vertical drop in excess of four feet. When provided, they shall be constructed in accordance with the approved plans and the current standards of the American Association of State Highway and Transportation Officials (AASHTO) Roadside Design Guide. Construction details of all fences, rails and walls shall be shown on the definitive plan for the subdivision. Whenever possible, such fences, rails and walls shall be of a rustic nature to blend with the character of the town.
- B. Stone wall appearance.
- (1) Stone walls in New England and in Boxford are a proud hallmark of our heritage and are a fundamental quality of the charm and special nature of Boxford.
  - (2) Stone walls shall be simple and modest. They are usually three feet in height and give the viewer the impression that they are almost naturally part of the landscape.
  - (3) Boxford stone walls are part of a rural farming community. They are not to be suggestive of a formal massive estate entrance constructed in such a manner so that they look as if they are finished works with uniform dimensions and surfaces and smooth lines.
  - (4) Stone walls shall be constructed (or at least appear so) by carefully piling the stones without visible mortar. Here again the element of simplicity is present, in fact properly piling the stone requires careful planning, especially if the wall is to have the necessary amount of structural integrity to withstand the pressure of plowed snow. Boxford stone walls shall not have bronze or metallic plaques embedded in the surface.
  - (5) The ends of a stone wall should be as simple and natural as the wall itself. Importantly, at openings for driveways or roads, the stone wall should not be perfectly curved to parallel the road flair, which would be characteristic of a suburban development.

**§ 300-31. Stone retaining walls.**

Retaining walls when required shall be constructed of field stone and mortar and shall be finished with a concrete cap to prevent deterioration. See Figure No. 15.<sup>80</sup>

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80. Editor's Note: Figure 15 is included at the end of these regulations.

**§ 300-32. Trees, shrubs and ground cover.**

- A. Street trees of nursery stock conforming to current standards of the American Association of Nurserymen of the species approved by the Tree Warden and/or the Board shall be planted on each side of each street in a subdivision, except where the definitive plan shows trees to be retained which are healthy and adequate, which shall be retained. Street trees shall be located outside of the right-of-way or at the discretion of the Board within the unpaved portion of the right-of-way approximately at forty-foot intervals; shall be at least 12 feet in height; two inches in caliper measured four feet above the approved grade, unless otherwise required by the Tree Warden and/or the Board; and be not closer than five feet nor more than 20 feet to said right-of-way line unless otherwise approved by the Board.
- B. All retained street trees shall be clear of any branches protruding into the shoulder and road area from the approved grade level to a point seven feet above ground level.
- C. Except as otherwise provided, all side slopes shall be planted with a low-growing shrub or vine, and wood chipped to a minimum depth of six inches or, at the Board's option, seeded with a deep-rooted perennial grass to prevent erosion. (See §§ 300-24D and E and 300-32.)
- D. Planting methods, including wrapping, staking and guying, shall be in accordance with Section 771, PLANTING TREES, SHRUBS AND GROUND COVER, of the Standard Specifications.
- E. All reasonable care shall be exercised to preserve the trees in the subdivision in accordance with § 300-15.
- F. The developer will be liable for all trees so planted as to their erectness and good health after planting and until the release of all guaranties.

**§ 300-33. Monuments.**

- A. Monuments shall be installed on the street right-of-way lines at all points of intersections of streets lines and at all points of curvature and at all points of change in direction. Iron rods shall be placed where lot lines intersect the street right-of-way line.
- B. Monuments shall be a standard permanent granite conforming to granite bounds (M9.04.9) and of not less than four feet in length and not less than six inches in width and breadth and shall have a hole 1/2 inch in diameter and 1 1/2 inches deep, drilled in the center of the top surface.
- C. Monuments shall be installed in accordance with Section 710, BOUNDS, of the Standard Specifications at the time of final surface grading with the top six inches above final grade surface.
- D. The placement and accurate location of these monuments and markers shall be certified by a registered land surveyor and properly located on the as-built acceptance plans.

**§ 300-34. Street signs.**

- A. From the time of rough grading until such time as each street is accepted by the town as a public way, the sign posts at the intersection of such street with any other street shall have affixed thereto a sign designating such street as a private way.
- B. Street signs for each intersecting street shall be installed at each intersection to conform to those used the Boxford Department of Public Works.
- C. No street sign, temporary or permanent, shall be installed showing a name other than the one



approved by the Board.

- D. Subdivision signs may be temporarily posted for a period not to exceed two years from the sale of the first lot within that subdivision. After that period, the sign must be removed. The Inspector of Buildings will police such action.

**§ 300-35. Streetlights.**

- A. Where required by the Board, street and pedestrian lighting shall be installed to conform to the type and style in general use in the Town of Boxford unless otherwise specified by the Board, and no lighting shall be installed except as approved by the Board. It shall be located on a suitable post, which may be a concrete, aluminum or square section of creosote-treated wood having a height of 25 feet or more as approved by the Board.
- B. Street and pedestrian light stanchions shall be located in the grass plot at such intervals as required by the Board and shall be installed in accord with the procedure required by the Massachusetts Electric Company.
- C. All luminaries shall be of the indirect, shielded type.

**§ 300-36. Fire alarm system.**

Where required by the Board, a fire alarm system shall be installed within the subdivision to conform with the specifications of the Fire Department and shall be located as specified on the definitive plan unless otherwise specified by the Board. (See § 300-19.)

**§ 300-37. Cleanup.**

No lot shall be considered complete until all stumps, brush, roots and like material and all trees, rocks and boulders not intended for preservation by the applicant shall have been removed and disposed of in a manner and place satisfactory to the Board. Any fire hazard shall be removed promptly to the satisfaction of the Fire Chief. This section does not authorize violation of the soil stripping provision of the Zoning Bylaw,<sup>81</sup> as it does not authorize the removal, including severing and stripping of soil loam, sand or gravel on such lot.

**§ 300-38. Flood hazard avoidance.**

Any subdivision located in any part within an area subject to flooding shall comply with the following:

- A. Subdivision design shall be consistent with the need to minimize flood damage within the flood-prone area, through use of open space reservation, street profile design and drainage.
- B. All public utilities and facilities, such as sewer, gas, electrical and water systems, shall be located and constructed to minimize or eliminate flood damage.
- C. No increase in off-site discharge shall be permitted.

**§ 300-39. Maintenance of improvements.**

For the purpose of protecting the safety, convenience and welfare of the town's inhabitants, for the provision of adequate access to all of the lots in a subdivision by means that will be safe and convenient for

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81. Editor's Note: See Ch. 196, Zoning, § 196-33, Soil stripping.

travel, for reducing the danger to life and limb in the operation of motor vehicles, for securing safety in the case of fire, flood, panic and other emergencies, under the authority of MGL c. 41, § 81-M, as amended, the applicant or his successor shall provide for the proper maintenance and repair of improvements during the period of construction and until the town votes to accept such improvements.

**§ 300-40. Provision for competent supervision.**

The applicant shall provide competent supervision during the development of his subdivision. If at any time it becomes apparent to the Superintendent of Public Works that the supervision is not satisfactory, he may request of the Board that it order the discontinuance of the development until competent supervision is provided.

**§ 300-41. Site contamination.**

If the proposed development contains hazardous materials or underground storage tank(s),<sup>82</sup> the location and extent shall be shown on the subdivision plans. All remedial work required shall be performed in compliance with all local, state and federal laws.

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**82. Editor's Note: See Ch. 176, Underground Storage Tanks.**

ARTICLE VI  
**Administration**

**§ 300-42. Variation.**

Strict compliance with the requirements of these rules and regulations may be waived when in the judgment of the Board such action is in the public interest and not inconsistent with the Subdivision Control Law. Any such waiver must be made in writing by the Board as a part of its approval or amendment thereof, otherwise all requirements contained herein are deemed applicable.

**§ 300-43. Reference to statute.**

For matters not covered by these rules and regulations reference is made to MGL c. 41, §§ 81-K to 81-GG, inclusive, as amended.

**§ 300-44. Building permit.**

- A. No building shall be erected on any lot within a subdivision without written permission for each lot from the Board by Form G Release Form.<sup>83</sup> This permission is in addition to any other permits required for building, such as a permit from the Building Inspector required by other town bylaws.
- B. The Building Inspector shall not issue any permit for the erection of a building until he is first satisfied that the lot on which the building is to be erected is not within a subdivision or that a way furnishing the access to such lot as required by the Subdivision Control Law is shown on a plan recorded or entitled to be recorded under MGL c. 41, § 81-X, as amended, and that any condition endorsed thereon limiting the right to erect or maintain buildings on such lot have been satisfied or waived by the Board, and in the event that more than one building for dwelling purposes be erected or placed or converted to use as such on any lot, that the Building Inspector is satisfied that consent has been obtained from the Board in accord with § 300-8 of these rules and regulations, MGL c. 41, § 81-Y, and amendments thereto.
- C. No structure shall be occupied until at least the base course of bituminous concrete as specified in Article V has been applied to streets which serve the structure.

**§ 300-45. Inspections.**

- A. Inspections shall be arranged by the developer with the Board or its agent at specified stages of the construction of streets and installation of utilities.
- B. The developer shall be responsible for notifying the Board or its agent at least 72 hours in advance of each stage of work.
- C. The Board will establish the order of the required inspections and will require satisfactory completion of each individual step before the developer proceeds to the next. In order to verify conformance with specifications, the Board or its agent may require tests to be done by an independent testing lab at the applicant's expense as a condition for approval. Before approval of the definitive plan, the Board will prepare an estimated fee for construction inspection services and will hire an independent inspector at the applicant's expense for inspection of predetermined phases of roadway construction, inspection testing, paving and final inspection as deemed appropriate by the Board. This itemized budget estimate will be established and paid in advance by the applicant to a Planning Board escrow account.

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83. Editor's Note: Form G is included at the end of these regulations.

Failure to establish this escrow account will constitute grounds for denial of the definitive plan or rescission of an approved plan. At a minimum, inspections will take place after or during, as applicable, each of the following:

Inspection #1	Clearing and grubbing operations
Inspection #2	Earthwork operations, fire ponds and detention ponds
Inspection #3	Storm drainage systems, fire tanks and public utilities
Inspection #4	Retaining wall construction
Inspection #5	Roadway subgrade operations
Inspection #6	Subbase courses
Inspection #7	Base course
Inspection #8	Stone seal (may be required)
Inspection #9	Surface course
Inspection #10	Final inspection

- D. At the time of laying the base or top course of bituminous concrete, the developer shall, with at least 72 hours advance notice to the Board, arrange for continuous inspection of the pavement laying by an inspector acceptable to the Board and shall be responsible for all expenses of such inspection.
- E. It shall be the responsibility of the developer to see that all the proper forms and certifications are properly filled out and properly signed and returned to the Board subsequent to each inspection.
- F. Failure by the applicant or his contractors to comply with the inspection procedure may necessitate removal of improvements at the expense of the applicant or rescission of the approval of the plan in accord with MGL c. 41, § 81-W.

#### **§ 300-46. Validity.**

If, in any respect, any provision of these rules and regulations, in whole or in part, shall prove to be invalid for any reason, such invalidity shall only affect the part of such provision which shall be invalid, and in all other respects these rules and regulations shall stand as if such invalid provision had not been made, and they shall fail to the extent, and only to the extent, of such invalid provision, and no other provision of these rules and regulations shall be invalidated, impaired or affected thereby.

#### **§ 300-47. Effective date.**

These regulations become effective after approval by the Board (December 18, 1996), certification by the Town Clerk and filing with the Registry of Deeds on December 23, 1996.



BOXFORD CODE

**Chapter 375**

**WETLANDS PROTECTION REGULATIONS**

**[HISTORY: Adopted by the Conservation Commission of the Town of Boxford 5-19-1994; amended in its entirety 8-2-2002. Subsequent amendments noted where applicable.]**

**GENERAL REFERENCES**

**Wetlands protection — See Ch. 192.**

**Zoning — See Ch. 196.**

ARTICLE I  
**General Regulations**

**§ 375-1. Introduction and purpose.**

- A. Introduction. These regulations are promulgated by the Boxford Conservation Commission ("Commission") pursuant to the authority granted to it under the Boxford Wetlands Protection Bylaw (hereinafter referred to as "the Bylaw").<sup>84</sup> These regulations shall complement the Bylaw and provide additional detail on its implementation. Article I herein provides definitions and procedures. Article II herein provides standards for work within protected resource areas. Although the Bylaw and these regulations are adopted under home rule and are independent of the Massachusetts Wetlands Protection Act and implementing regulations, these regulations have been generally arranged in the same subject order as 310 CMR 10.00 for convenient cross reference.
- B. Purpose. The Bylaw sets forth a public review and decision-making process by which activities affecting resource areas, which are set forth in § 375-2A(1) through (18) below as areas subject to protection under the Bylaw and subject to jurisdiction under the Bylaw, are to be regulated to protect the resource area values set forth below.
- (1) Public or private water supply.
  - (2) Groundwater.
  - (3) Flood control.
  - (4) Erosion and sedimentation control.
  - (5) Storm damage prevention.
  - (6) Water quality.
  - (7) Water pollution control.
  - (8) Fisheries.
  - (9) Wildlife habitat.
  - (10) Rare species habitat including rare plant species.
  - (11) Agriculture.
  - (12) Recreation areas deemed important to the community.
  - (13) Riverfront area values.

**§ 375-2. Statement of Jurisdiction.**

- A. Areas subject to protection under the Bylaw. Resource areas are jurisdictional whether or not they border surface water. The following resource areas are subject to protection under the Bylaw:
- (1) Freshwater wetlands;
  - (2) Marshes;

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84. Editor's Note: See Ch. 192, Wetlands Protection.

- (3) Wet meadows;
- (4) Bogs;
- (5) Swamps;
- (6) Lakes;
- (7) Ponds;
- (8) Rivers;
- (9) Streams;
- (10) Creeks;
- (11) Banks;
- (12) Beaches;
- (13) Vernal pools;
- (14) Large isolated wetlands;
- (15) Land under water in the above resource areas (1 through 14);
- (16) Buffer zone;
- (17) Riverfront area; and
- (18) Bordering and isolated land subject to flooding.

B. Activities subject to regulation under the Bylaw.

- (1) Any activity proposed or undertaken which will remove, fill, dredge, build upon, or alter a resource area is subject to regulation under the Bylaw and requires the filing of a permit application.
- (2) In the event the Commission determines that an activity will alter or has altered a resource area, it shall impose such conditions on the activity or any portion thereof as it deems necessary to achieve the protection of one or more of the resource area values protected by the Bylaw.

**§ 375-3. General provisions.**

- A. Burden of proof. The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the permit application will not have significant or cumulative effect upon the resource area values protected by the Bylaw. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.
- B. Presumption concerning Title 5 of the State Environmental Code. Presumption of the Bylaw shall be in accordance with 310 CMR 10.03.3 as it may be amended, except the following additional restrictions apply:
  - (1) None of the components of the subsurface disposal system may be located within 50 feet of the following resource areas: freshwater wetlands, marshes, wet meadows, bogs, swamps, lakes,



ponds, streams, creeks, banks, beaches, vernal pools, or large isolated wetlands.

- (2) The soil absorption system (leaching facility) of said system, including the reserve area, shall be set back at least 100 feet from any resource area identified in Subsection B(1) and outside of any riverfront area.
  - (3) The setback distances specified in Subsection B(1) and (2) shall not be required for the renovation or replacement (but shall be required for the enlargement) of septic systems constructed prior to May 19, 1994, provided such work has been approved by the Boxford Board of Health, as required by law.
- C. Deviations for hardship. Consistent with § 192-6B of the Bylaw, in acting on an application for a permit under the Bylaw and these regulations, the Commission may grant, at its sole discretion, permission for work closer than the tabulated minimum distances set forth in the Minimum Setback Table, § 375-98 of these regulations. Deviations from other sections of these regulations shall not be allowed. Additionally, the Commission shall only grant deviations that are allowable pursuant to the Bylaw, as well as the Massachusetts Wetlands Protection Act, MGL c. 131 § 40, and 310 C.M.R. 10.00 et seq. In considering a deviation for hardship or request for same, the Commission shall give due consideration to any hardship on the applicant that would be caused by a denial of the application, as demonstrated by the applicant by a preponderance of the credible evidence presented at the public hearing; provided, however, that no deviation from the regulations shall be allowed except:
- (1) In the case of a single-family dwelling or structure for seasonal use legally in existence as of May 19, 1994 (the original date of issuance of these regulations); **[Amended 5-2-2019]**
  - (2) When a wetlands permit application was filed for said single-family dwelling or structure for seasonal use on or before May 19, 1994, and said wetlands permit was subsequently granted; and provided further that no deviation from the regulations shall be allowed for any lot shown on a subdivision plan or approval not required plan endorsed by the Boxford Planning Board under MGL c. 41, § 81L et seq., after May 19, 1994, not otherwise allowed by Subsection C(1) and (2); or **[Amended 5-2-2019]**
  - (3) When the Commission finds that denial of proposed work could constitute a regulatory taking.
- D. The Conservation Commission and all permit applicants shall consider all practicable and substantially equivalent economic alternatives to a proposed project. Only the alternative with the least adverse impacts on resource area values as specified in § 375-1B of these regulations shall be permitted. Alternatives to avoid, minimize or mitigate alterations of resource areas protected by the Bylaw may include, but are not limited to, redesigning or scaling back the project, relocating roads or structures or other work, using best available technologies, or choosing another project/land use.

#### § 375-4. Definitions.

- A. The definitions as set forth in the Wetlands Protection Act, MGL c. 131, § 40, and regulations 310 CMR 10.00 as they may be amended, are incorporated by reference. The definitions in the Boxford Wetlands Protection Bylaw<sup>85</sup> and these regulations in some cases are stricter or expanded and shall take precedence in the event of conflict or inconsistency with the definitions in MGL c. 131, § 40, and regulations 310 CMR 10.00. The following definitions apply to the interpretation of the bylaw and these regulations:

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85. Editor's Note: See Ch 192, Wetlands Protection.

**ABUTTER** — The owner of any property, any portion of which lies within 250 feet radially from any lot line of the subject property, including owners of land directly opposite on any public or private street or way including any in another municipality or across a body of water. In the case of property that has frontage on a pond, abutters shall include all those properties with frontage on the pond or pond association if in existence. **[Amended 1-7-2010]**

**ADMINISTRATIVE ORDERS** — Include but not be limited to enforcement orders, violation notices, orders of conditions and orders of resource area delineation.

**ALTER** — Shall include, without limitation, the following activities when undertaken to, upon, within or affecting resource areas protected by the Bylaw:

- (1) Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind;
- (2) Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics;
- (3) Drainage or other disturbance 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 (including docks and piers) in water;
- (8) Destruction of plant life, including the cutting of trees;
- (9) Changing water temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of water;
- (10) Any activities, changes, or work which may cause or tend to contribute to pollution of any body of water or groundwater;
- (11) Incremental activities which have, or may have a cumulative adverse impact on the resource areas protected by this Bylaw;
- (12) Application of pesticides or herbicides.

**BANK** — Includes the land area which normally abuts and confines a water body; the lower boundary being the mean annual low flow level, and the upper boundary being the first observable break in the slope or the mean annual flood level, whichever is higher.

**BEACH** — A naturally or man-made unvegetated bank which normally abuts and confines a water body.

**BOGS** — Areas where standing or slowly running water is near or at the surface during a normal growing season and where a vegetational community has a significant portion of the ground or water surface covered with sphagnum moss (*Sphagnum*), and where the vegetational community is made up of a significant portion of one or more of, but not limited to nor necessarily including all of the following plants or groups of plants: aster (*Aster nemoralis*), azaleas (*Rhododendron canadense* and *R. viscosum*), black spruce (*Picea mariana*), bog cotton (*Eriophorum*), cranberry (*Vaccinium macrocarpon*), highbush blueberry (*Vaccinium corymbosum*), larch (*Larix laricina*), laurels (*Kalmia angustifolia* and *K. polifolia*), leatherleaf (*Chamaedaphne calyculata*), orchids (*Arethusa*, *Calopogon*, *Pogonia*), pitcher plants (*Sarracenia purpurea*), sedges (*Cyperaceae*), sundews (*Droseraceae*), sweet

gale (*Myrica gale*), white cedar (*Chamaecyparis thyoides*).

**BORDERING LAND SUBJECT TO FLOODING** — An area with low, flat topography adjacent to and inundated by floodwaters rising from creeks, streams, rivers, ponds or lakes. The boundary of bordering land subject to flooding is the one-hundred-year floodplain. It extends from the outer edge of a bank or bordering vegetated wetland.

**BORDERING VEGETATED WETLANDS** — Freshwater wetlands which border on creeks, streams, rivers, ponds and lakes. Bordering vegetated wetlands are areas where the soils are saturated and/or inundated such that they support a predominance (50% or greater) of wetland indicator plants. Wetlands and their boundaries shall be identified in the manner designated in the Massachusetts DEP Handbook "Delineating Bordering Vegetated Wetlands under Massachusetts Wetlands Protection Act," March 1995, and future amendments, or other DEP guidance documents generally accepted by Conservation Commissions for purposes of bordering vegetated wetland delineation.

**BUFFER ZONE** — That area of land extending 100 feet horizontally outward from the boundary of the following resource areas: freshwater wetlands, marshes, wet meadows, bogs, swamps, lakes, ponds, rivers, streams, creeks, banks, beaches, vernal pools, large isolated wetlands, lands under water bodies, lands subject to flooding or inundation by groundwater or surface water.

**CLEAR-CUT** — The removal of all or substantially all overstory trees within a prescribed area, such as within the footprint of a proposed structure or portion thereof.

**CONSERVANCY DISTRICT** — As defined in the Zoning Bylaw of the Town of Boxford, Chapter 196, § 196-17 of the Town Code, as it may be amended.

**CREEK** — The same as a stream.

**DEPARTMENT** — The Department of Environmental Protection.

**DETERMINATION OF NEGLIGIBLE IMPACT (DNI)** — Pursuant to § 192-4E of the Bylaw, may be issued by the Boxford Conservation Commission (BCC) when a proposed project or activity would have a negligible or no impact on the resource areas or resource area values protected under the Bylaw and regulations. Issuance of a DNI is strictly at the discretion of the BCC, and is reserved for truly minor projects having a negligible or no impact on such resource areas or resource area values. The DNI process is a way to avoid the more formal permitting procedures required for most projects within a wetland resource area or buffer zone. Application instructions are available from the Conservation Office. A DNI, when issued, takes the form of a letter to the applicant, which may or may not contain conditions, and does not need to be recorded at the Registry of Deeds. Denial of a DNI by the Commission may be appealed to Superior Court.

**DISCRETIONARY CUTTING AREA** — The area of any buffer zone located between the applicable no-disturb zone and the one-hundred-foot limit of the buffer zone as measured horizontally from the boundary of the wetland resource area.

**DREDGE** — To deepen, widen, or excavate, either temporarily or permanently.

**EXTENDED DROUGHT** — Shall be defined at 310 CMR 10.58.2 as it may be amended.

**FRESHWATER WETLANDS** — Wet meadows, marshes, swamps and bogs.

**ISOLATED LAND SUBJECT TO FLOODING** — Any isolated depression without an inlet or outlet which at least once a year confines standing water to a volume of at least one-fourth-acre-foot of water with an average depth of at least six inches. The boundary is the perimeter of the largest observed or recorded volume of water confined in the basin.

**LAKE** — Any open body of fresh water with a surface area of 10 acres or more, and shall include

**Great Ponds.**

**LARGE ISOLATED WETLANDS** — Isolated wetlands 5,000 square feet or larger.

**MAJORITY VOTE** — A vote by a majority of the Commission for all actions taken under § 192-6 of the Bylaw (permit-related actions) and issuance of enforcement orders, and a vote by a majority of a quorum of the Commission as defined by § 192-5J of the Bylaw for all other matters under the Bylaw or under these regulations.

**MARSHES** — Areas where a plant community exists in standing or running water during the growing season and where a significant part of the vegetational community is composed of, but not limited to nor necessarily including all, of the following plants or groups of plants: arums (Araceae), bladder worts (Utricularia), burr reeds (Sparganiaceae), button bush (*Cephalanthus occidentalis*), cattails (Typha), duck weeds (Lemnaceae), eelgrass (Vallisneria), frog bits (Hydrocharitaceae), horsetails (Equisetaceae), hydrophilic grasses (Gramineae), leatherleaf (*Chamaedaphne calyculata*), pickerel weeds (Pontederiaceae), pipeworts (Eriocaulon), pond weeds (Potamogeton), rushes (Juncaceae), sedges (Cyperaceae), smartweeds (Polygonum), sweet gale (*Myrica gale*), water milfoil (Haloragaceae), water lilies (Nymphaeaceae), water starworts (Callitrichaceae), water willow (*Decodon verticillatus*).

**MEAN ANNUAL HIGH-WATER LINE** — Shall be defined in the Wetlands Protection Act Regulations 310 CMR 10.58.2, as they may be amended.

**OVERSTORY TREES** — Trees that measure 4 inches or greater in diameter at breast height (4.5 feet above ground level).

**PERMIT APPLICATION** — Any application for a permit or other action under the Massachusetts Wetlands Protection Act, MGL c. 131 § 40, or the Boxford Wetlands Protection Bylaw, Town Code Chapter 192. Examples include, but are not limited to, notices of intent, abbreviated notices of resource area delineation, requests for determination of applicability, requests for a determination of negligible impact, requests for an extension to an order of conditions, requests for an amended order of conditions, requests for a certificate of compliance, and requests for an amended order of resource area delineation.

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

**PONDS** —

- (1) Shall include any substantially open body of fresh water with a surface area observed or recorded, within ten years prior to the date of application, of at least 5,000 square feet. Ponds may be either naturally occurring or man-made by impoundment, excavation, or otherwise. Ponds shall contain standing water except for periods of extended drought. For purposes of this definition, "extended drought" shall be defined in the Wetlands Protection Bylaw Regulations.
- (2) Notwithstanding the above, the following man-made bodies of open water shall not be considered ponds: swimming pools or other impervious man-made basins, fire ponds for approved subdivisions, approved stormwater management structures, irrigation ponds for agricultural purposes, golf courses, and individual gravel pits or quarries excavated from upland areas unless such gravel pit or quarry has been inactive for five or more consecutive years.

**RARE SPECIES** — Include, without limitation, all vertebrate and invertebrate animal and plant species listed as endangered, threatened, or of special concern by the Massachusetts Department

of Fisheries and Wildlife, regardless of whether the site in which they occur has been previously identified by the Department.

**RESOURCE AREAS** — Include any freshwater wetlands, marshes, wet meadows, bogs, swamps, lakes, ponds, rivers, streams, creeks, banks, beaches, vernal pools, large isolated wetlands, land under water in each resource area, riverfront area, land subject to flooding or inundation by groundwater or surface waters, and buffer zones as defined in the Bylaw.

**RESOURCE AREA VALUES** — Include, but are not limited to the following: public or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention, water quality, water pollution control, fisheries, wildlife habitat, rare species habitat including rare plant species, agriculture, riverfront area values and recreation values deemed important to the community.

**RIVER** — Shall be defined as a natural flowing body of water of any size that empties to any ocean, lake or other river and which flows throughout the year.

**RIVERFRONT AREA** — Shall be defined by 310 CMR 10.58.2 as amended, and as amended in the Town of Boxford's Wetlands Protection Bylaw Regulations § 375-58.

**STREAM** — A body of running water, and the land under the water, including brooks, creeks, and man-made watercourses, which moves in a definite channel in the ground due to hydraulic gradient. A portion of a stream may flow through a culvert, or beneath a bridge or beneath the surface of the ground. Such a body of running water which does not flow throughout the year (i.e., which is intermittent) is a stream except for that portion upgradient of all wetland resource areas including freshwater wetlands, marshes, wet meadows, bogs, swamps, lakes, ponds, rivers, streams, creeks, banks, beaches, vernal pools, and large isolated wetlands.

**STRUCTURE FOR SEASONAL USE** — Structures intended for intensive use for no more than 18 consecutive weeks per year (e.g., summer camps), in addition to incidental use other times of year. **[Added 5-2-2019]**

**SWAMPS** — Areas where groundwater is at or near the surface of the ground for a significant part of the growing season or where runoff water from surface drainage frequently collects above the soil surface, and where a significant part of the vegetational community is made up of, but not limited to nor necessarily including all of the following plants or groups of plants: alders (*Alnus*), ashes (*Fraxinus*), azaleas (*Rhododendron canadense* and *R. viscosum*), black alder (*Ilex verticillata*), black spruce (*Picea mariana*), buttonbush (*Cephalanthus occidentalis*), American or white elm (*Ulmus americana*), white Hellebore (*Veratrum viride*), hemlock (*Tsuga canadensis*), highbush blueberry (*Vaccinium corymbosum*), larch (*Larix laricina*), cowslip (*Caltha palustris*), poison sumac (*Toxicodendron vernix*), red maple (*Acer rubrum*), skunk cabbage (*Symplocarpus foetidus*), sphagnum mosses (*Sphagnum*), spice bush (*Lindera benzoin*), black gum tupelo (*Nyssa sylvatica*), sweet pepperbush (*Clethra alnifolia*), white cedar (*Chamaecyparis thyoides*), willow (*Salicaceae*), common reed (*Phragmites communis*), and jewelweed (*Impatiens capensis*).

**SWIMMING POOL PATIO** — Any impervious surface located within 15 feet of a swimming pool and utilized primarily for swimming-pool-related activities. **[Added 10-6-2005]**

**UNDERSTORY VEGETATION** — All saplings, shrubs and other vegetation that measures less than four inches in diameter at 4.5 feet above ground level.

**VERNAL POOL** — Includes a confined basin depression of any size which is free of naturally occurring fish populations and which contains evidence of breeding by obligate vernal pool species as recognized by the Massachusetts Natural Heritage and Endangered Species Program.

**VISTA PRUNING** — The selective thinning of tree branches or understory shrubs to establish a specific "window" to improve visibility. Vista pruning does not include the cutting of trees nor the mowing or removal of understory brush.

**WETLAND RESOURCE AREA** — Any resource area other than the buffer zone.

**WET MEADOWS** — Areas where groundwater is at the surface for the significant part of the growing season and near the surface throughout the year and where a significant part of the vegetational community is composed of various grasses, sedges, and rushes, made up of, but not limited to nor necessarily including all of the following plants or groups of plants: blue flag (Iris), vervain (Verbena), thoroughwort (Eupatorium), dock (Rumex), false loosestrife (Ludwigia), hydrophilic grasses (Gramineae), loosestrife (Lythrum), marsh fern (Dryopteris thelypteris), rushes (Juncaceae), sedges (Cyperaceae), sensitive fern (Onoclea sensibilis), and smartweed (Polygonum).

B. List of abbreviations:

ANRAD	—	Abbreviated notice of resource area delineation.
BVW	—	Bordering vegetated wetland.
CoC	—	Certificate of compliance.
CMR	—	As in 310 CMR 10.00 is "Code of Massachusetts Regulations."
DEP	—	Department of Environmental Protection.
DNI	—	Determination of negligible impact.
LIW	—	Large isolated wetland.
LUW	—	Land under water.
MGL	—	Massachusetts General Laws.
NoI	—	Notice of intent.
OoC	—	Order of conditions.
ORAD	—	Order of resource area delineation.
PE	—	Professional engineer.
RDA	—	Request for determination of applicability.

PLS	—	Professional land surveyor.
SFH	—	Single-family house.

### § 375-5. Procedures.

A. Application for permits. Written applications shall be filed with the Commission to officially determine the boundaries of resource areas and / or to perform activities altering resource areas protected by the Bylaw. The permit application, (notice of intent, abbreviated notice of intent, abbreviated notice of resource area delineation, request for certificate of compliance, request for a determination of negligible impact, request for an amended order of conditions, or request for determination of applicability) shall include such information and plans and completed DEP Field Data Forms, Stormwater Management Form, and Riverfront Area Form as are deemed necessary by the Commission to determine resource area boundaries, to describe proposed activities and their effects on the resource areas and areas protected by the Bylaw, or to determine whether completed work was in compliance with the all applicable permits, laws and regulations.

(1) A permit application is not complete until all required application materials have been received by the Conservation Commission. No hearing or meeting for the proposed project will be scheduled until all required application materials have been received. Required application materials are specified in the applicable permit application instructions. In addition, the following requirements must be met for a permit application to be considered complete:

- (a) Copies: All permit applications, except for requests for a determination of negligible impact, shall contain one set of the complete filing and seven copies of the application plan(s). The applicant shall also submit to the Commission eight sets of any revised, amended, or supplemented information introduced or referred to by the applicant during the course of the public hearings on the application, unless directed otherwise by the Commission. The Commission may, at any time during the review process, require the submission of additional copies of any material submitted to the Commission by the applicant. **[Amended 2-23-2009]**
- (b) Plan requirements. The following minimum requirements apply to plans submitted with a notice of intent, request for an amended order of conditions, request for a certificate of compliance, or abbreviated notice of resource area delineation. At its sole discretion the Commission may relax these requirements for small projects. The Commission may also, at its sole discretion, relax the sheet size and scale requirements for projects involving land areas too large to be contained on a sheet meeting the size and scale requirements.

[1] Sheet size: maximum 30 inches by 42 inches.

[2] As needed to show all necessary details, but at a ratio no greater than 1:480 (e.g., one inch = 40 feet). **[Amended 1-22-2004]**

[3] Title block: located at the right hand lower corner.

[a] Name of owner of record, applicant, PLS/PE (if involved).

[b] Lot number, street number, street, Tax Assessor's Map, block and parcel/lot numbers.

[c] Original date.

- [d] Revision area for dates and nature of revisions.
- [e] Scale.
- [f] Description of project purpose. **[Added 2-23-2009]**
- [4] North arrow.
- [5] Locus map.
- [6] Nearest utility pole number, if applicable.
- [7] Reference benchmark (vertical datum used).
- [8] Legend depicting all natural resources and significant site features.
- [9] All resource areas.
- [10] Wetland boundaries indicated by numbered points corresponding to flags placed in the field with elevation of flags.
- [11] Buffer zone boundary lines:
  - [a] One hundred feet to bordering vegetated wetlands.
  - [b] One hundred feet to vernal pools.
  - [c] One hundred feet to large isolated wetlands.
  - [d] One hundred feet to ponds and lakes.
  - [e] One hundred feet to banks.
  - [f] One hundred feet to beaches.
  - [g] One hundred feet to intermittent creeks and streams.
  - [h] One hundred feet to one-hundred-year floodplain.
- [12] Resource areas per § 375-2A(1) through (14) within 100 feet of proposed work (or in the case of a perennial river or a river, stream, or creek with designated riverfront area, within 200 feet), regardless of property boundaries.
- [13] Existing improvements, e.g. buildings, stone walls, trails.
- [14] All existing topography and proposed contours at a contour interval no greater than two feet.
- [15] Cross sections.
- [16] All proposed or completed alterations.
- [17] Location of well and septic system with reserve area.
- [18] Erosion/sedimentation control measures.
- [19] Replication areas.



- [20] All discharge points.
  - [21] Property boundaries, rights-of-way, easements, restrictions.
  - [22] Conservancy district, if applicable (show as cross-hatched area, including all adjacent bordering vegetated wetlands).
  - [23] Applicable no disturb zone.
  - [24] Pre- and post-development overstory tree canopy line within buffer zone. [See § 375-98D(2)(a).]
  - [25] Record the person(s) and firm that delineated the resource areas.
  - [26] Placement of underground utilities.
  - [27] Applicable zone where no structures requiring a building permit are allowed.
  - [28] Stamp and signature of a registered professional land surveyor or a registered professional engineer. In circumstances where the Commission determines that no survey is required, the stamp and signature of a registered sanitarian may be acceptable.
- (c) Abutters list. An abutters list listing the owner of any property that lies within 250 feet radially from any lot line of the subject property, including owners of land directly opposite on any public or private street or way including any in another municipality or across a body of water (e.g., lakes, ponds, rivers, streams and creeks). In the case of property that has frontage on a pond, abutters shall include all those properties with frontage on the pond, or pond association if in existence. The abutters list must be certified by the Boxford Tax Assessor's office, and must be included with all notices of intent, abbreviated notice of resource area delineation, request for determination of applicability, and request for amendment to the order of conditions or order of resource area delineation permit application. **[Amended 1-7-2010]**
- (d) Review of stormwater management plans and structures. Applicants proposing any work that includes the management of stormwater must submit information to the Superintendent of the Boxford Department of Public Works (DPW) on the same day the permit application is submitted to the Conservation Commission. The information shall consist of one copy of the site plan submitted with the permit application, with each stormwater structure highlighted in a color different from others on the plan, and one copy of a concise written report detailing all stormwater operation and maintenance requirements. The report must specifically describe both the type and frequency of maintenance that will be required for each stormwater structure, as well as general maintenance, such as street sweeping, after road acceptance by the Town. One copy of the plan and report specified in this section shall also be submitted to the Conservation Commission.
- (2) An applicant filing a permit application (including any request for amendment to an order of conditions or order of resource area delineation) with the Commission shall at the same time give written notification thereof, by delivery in hand or certified mail, return receipt requested or certificates of mailing, to all abutters as defined in § 375-4A of these regulations. Said notification shall be at the applicant's expense, and shall state where copies of the permit application may be examined and obtained and shall state a brief description of the proposed

work, as well as the date, time and place of the public hearing. The Conservation Commission's Secretary will automatically type said notice and provide it to the applicant at time of permit filing. Proof of such notification, with a copy of the notice mailed or delivered, shall be filed with the Commission. **[Amended 2-21-2008]**

- B. Consultant fee. Upon receipt of a permit application, the Commission is authorized to require an applicant to pay a fee for the reasonable costs and expenses borne by the Commission for specific expert engineering and other consultant services deemed necessary by the Commission to come to a final decision on the application. The applicant shall pay the fee to be put into a revolving fund, which may be drawn upon by the Commission for specific consultant services approved by the Commission at one of its public hearings or meetings. This fee is called the consultant fee. The specific consultant services may include but are not limited to resource area survey and delineation, analysis of resource area values, including wildlife habitat evaluations, hydrogeologic and drainage analysis, and environmental or land use law. No such costs or expenses shall be incurred by the applicant if the application or request is withdrawn within five days of the date of the public hearing or meeting wherein the Commission declared its intention to seek expert consultation. The consultant shall be chosen by, and report only to, the Commission and/or its Administrator.
- (1) Prior to the initiation of consultation services, the Conservation Commission shall submit to the applicant or his or her designated representative a request for payment of the anticipated consultant fee. The Commission may also request additional consultant fees if necessary review requires a larger expenditure than originally anticipated. Failure by the applicant to pay the consultant fee specified by the Commission within five business days of the request for payment shall be cause for the Commission to deny the issuance of a permit or other requested action.
  - (2) The Commission shall make proper provision to continue the hearing until all information is received, but in no case shall this procedure be used so as to cause unreasonable delay to the applicant.
  - (3) No activities shall commence without receiving and complying with a permit, issued pursuant to the Bylaw and regulations.
- C. Security. The Commission may require the applicant to file a performance bond or a deposit of money in an amount determined by the Commission to be sufficient to cover the cost of all or any part of the site alterations, monitoring, and maintenance specified in the permit and/or shown on the plans approved by the Commission. Bond amounts will be set so that funds will be adequate to comply with the order of conditions, repair damage to wetlands and to permanently stabilize the work site and all soils. Bonds shall be determined on a site-by-site basis. Bonds shall be funded prior to work commencing.
- D. Recording.
- (1) No work proposed in any NoI shall be undertaken until the OoC issued by the Commission with respect to such work has been recorded in the Registry of Deeds or, if the land affected is registered land, in the registry section of the Land Court for the district wherein the land lies, and until the holder of the permit provides evidence (book and page number or certificate number) in writing to the Commission that the permit has been recorded.
  - (2) Extension permits, amendments, and certificates of compliance issued by the Conservation Commission must be recorded in the Registry of Deeds or, if the land affected is registered land, in the registry section of the Land Court for the district wherein the land lies, before any activity covered by the OoC resumes.

- E. Review of materials. The Commission will not accept any material from the applicant or his representative intended for discussion at subsequent meetings/hearings less than seven calendar days prior to that scheduled meeting/hearing. Late filed materials shall be excluded from the record and shall be considered irrelevant to the decision. However, the Commission reserves the right on a case-by-case basis to grant a waiver to this requirement. All public materials received or produced by the Conservation Commission pertinent to a permit application shall be placed in the applicable public file folder, and shall be available to the public for viewing at the Conservation Commission's office during regular business hours. Upon request, said materials will also be copied and provided by the Commission for a fee in accordance with the Public Records Law, MGL c. 66, § 10, and its regulations at 950 C.M.R. 32.00 et seq., as they may be amended from time to time.
- F. Public meeting and hearing procedures. The Conservation Commission shall comply fully with the Open Meeting Law, MGL c. 39, § 23. In addition, the Commission shall comply with the following procedures:
- (1) Presentation of materials after the close of a public hearing. After the close of a public hearing, no materials pertinent to a decision on a permit application may be submitted to or received by the Conservation Commission, with the following exception: Commission members may distribute documents to the Commission that they have produced which summarize all or part of the public information that was presented at prior public hearings or is contained in the Commission's public files. Said documents may also express a Commission member's opinions. No information shall be distributed or presented that constitutes new information, defined as substantive information concerning the project not previously presented at a public hearing or contained in the Commission's public files. A Commission member's opinions shall not constitute new information.
  - (2) Review and execution of orders of conditions. After the close of a public hearing, the Conservation Commission will discuss one or more draft orders of conditions for possible approval. Approval consists of a successful motion to approve the order and the signatures of a majority of the Commission. Review and approval will take place at a public meeting, held either at the same meeting that the public hearing was closed, or at a subsequent meeting.
- G. Fee schedule. **[Amended 10-6-2005; 8-4-2011; 3-23-2023]**

Type of Permit/Service			Fee
(1)	Request for determination of applicability		\$350
(2)	Notice of intent		
	(a)	Category 1 (e.g., addition/alteration)	\$475
	(b)	Category 2 (e.g., new single-family house)	\$1,475
	(c)	Category 3 (e.g., site development without a house, road construction)	\$1,475
	(d)	Category 4 (e.g., subdivisions)	\$3,975 plus \$2 per linear foot after first 1,500 feet of road
	(e)	Category 5 (work on docks)	\$475

Type of Permit/Service			Fee
	(f)	Additional fees for stream crossings	\$400 for driveway crossing of intermittent stream \$1,000 for driveway crossing of perennial stream \$1,000 for road crossing of intermittent stream \$2,000 for road crossing of perennial stream
	(g)	Additional fee for wetland resource area alteration other than buffer zone	\$0.50 per square foot
	(h)	Additional fee for bank alteration	\$0.50 per linear foot
(3)	Boundary verification for resource areas		
	(a)	First 100 feet	Free
	(b)	Per 100 linear feet or any portion thereof	\$50
(4)	Abbreviated Notice of Resource Area Delineation (ANRAD)		\$475 plus \$50 per 100 feet after the first 100 feet
(5)	Certificate of compliance (within 1 year of expiration of order)		\$50
(6)	Certificate of compliance (after 1 year of expiration of order)		\$100
(7)	Partial certificate of compliance		\$50
(8)	Amended order of conditions		\$725
(9)	Extension permit		\$150
(10)	Request for written project status review*		
	(a)	Standard review	\$100
	(b)	Expedited review (within 10 business days, Monday to Friday, excluding state holidays)	\$200
(11)	Affidavit for any Conservation Commission document		\$200
(12)	Request for determination of negligible impact		\$50

Type of Permit/Service		Fee
(13)	Emergency certification	\$50
(14)	Site visit without application (nonowner)	\$50
(15)	Site visit without application (owner)	\$50
(16)	Sign-off in reliance upon soil policy	\$50

**NOTES:**

\* Service to be provided at Conservation Commission discretion only.

\* Charge may be pro-rated higher (at sole discretion of Conservation Commission or its Administrator) if other than one single-family house lot is to be reviewed.

**NOTES:**

1. The fees listed above are in addition to the filing fees charged under the Massachusetts Wetlands Protection Act, MGL c. 131, § 40, as amended.
2. The payment of any fee does not guarantee approval of a project.
3. Town, county, state, federal and legal nonprofit organizations may be exempted from fees at the discretion of the Conservation Commission.
4. If the activity is within riverfront area as well as another resource area or a buffer zone, add 50% to the total Subsection G(2) (notice of intent) fee (i.e., multiply the fee by 1.5).
5. If a project triggers more than one category [e.g., a new single-family house (Subsection G(2)(b) requiring a boundary delineation for resource areas (Subsection G(3))], the fees for each category shall be added separately to the total permit fee.
6. The boundary verification for resource areas fee listed at Subsection G(3) applies whenever the Conservation Commission is asked to verify delineation of resource areas. This fee applies regardless of the type of permit application (i.e., the fee is payable under a notice of intent, abbreviated notice of resource area delineation, and determination of negligible impact). The Commission does not review wetland delineations under requests for determination of applicability.

**NOTES:**

7. Permit filing fees shall not be refunded by the Commission even if an applicant withdraws his application or the permit request is denied, with the following exception: the fees specified at Subsection G(2)(h) and (i) (wetland resource area and bank alteration) may be partially or fully refunded, at the Commission's sole discretion, if the applicant amends his permit application to reduce or eliminate wetland resource area or bank alteration. Also, application fees may be refunded, at the Commission's sole discretion, if the applicant withdraws his application prior to the first public hearing or meeting.
- H. Rainfall data. All stormwater-related calculations and management designs submitted to the Commission under the Boxford Wetlands Protection Bylaw<sup>86</sup> shall be based upon the following rainfall data: **[Amended 3-5-2020]**

Storm Event in Years	Inches per 24 Hours
2	3.24
10	5.12
25	6.29
50	7.15
100	8.10

(Taken from NOAA Atlas 14 Point Precipitation Frequency Estimates, NOAA Hydrometeorological Design Studies Center, available at: [hdsc.nws.noaa.gov/hdsc/pfds/pfds\\_map\\_cont.html](http://hdsc.nws.noaa.gov/hdsc/pfds/pfds_map_cont.html), see also NOAA Atlas 14 Precipitation – Frequency Atlas of the United States, V.10, ver. 3.0: Northeastern States, Perica, et al, 2015, rev. 2019, U.S. Dept. of Commerce, Silver Spring, MD.)

**§ 375-6. Emergencies.**

The application and permit required by the Bylaw shall not be required for emergency projects necessary for the protection of the health and safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the commonwealth or political subdivision thereof; provided that advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement; provided that the Commission or its agent certifies the work as an emergency project; provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency; and provided that within 21 days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided in the Bylaw. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval

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86. Editor's Note: See Ch.192, Wetlands Protection.

and order restoration and mitigation measures.

**§ 375-7. Exceptions.**

Other than stated in the Boxford Wetlands Protection Bylaw and in this section, the exceptions provided in the Wetlands Protection Act, MGL c. 131, § 40, and Regulations, 310 CMR 10.00, shall not apply under the Bylaw.

**§ 375-8. Enforcement.**

- A. No person shall remove, fill, dredge, build upon, degrade or otherwise alter resource areas protected by the Bylaw, 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 a permit or an enforcement order issued pursuant to the Bylaw.
- B. The Commission, its agents, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under the Bylaw and may make or cause to be made such examinations, surveys, or sampling as the Commission deems necessary, subject to the constitutions and laws of the United States and the commonwealth.
- C. The Commission shall have authority to enforce the Bylaw, its regulations and permits issued thereunder by violation notices, administrative orders and civil and criminal court actions.
- D. Upon request of a majority of the Commission, the Select Board and the Town Counsel may take legal action for enforcement under civil law. Upon the request of a majority of the Commission to the Select Board and the approval thereof, the Chief of Police shall take legal action for enforcement under criminal law. **[Amended 9-12-2020ATM by Art. 19]**
- E. Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in the enforcement of the Bylaw.
- F. Any person who violates any provision of the Bylaw or regulations thereunder, or any permits, enforcement order or violation notice of the Commission or of the Conservation Administrator issued thereunder, shall be punished by a fine of not more than \$300.00. Each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the Bylaw, regulations or permit, enforcement order or violation notice violated shall constitute a separate offense.
- G. As an alternative to criminal prosecution in a specific case, the Commission may issue citations under the noncriminal disposition procedure set forth in MGL c. 40, § 21D, as set forth in Chapter 1 of the General Bylaws.
- H. The specific penalties as listed here shall apply, and in addition to police officers, who shall in all cases be considered enforcing persons for the purpose of this provision, the municipal personnel listed shall also be enforcing persons for such penalties. Each day on which any violation exists shall be deemed to be a separate offense.

	<b>Unauthorized Activity in Buffer Zone</b>	<b>Unauthorized in Wetlands Resource Area</b>	<b>Noncompliance with an Order of Conditions or Enforcement Order or Violation Notice</b>
First offense	\$25	\$50	\$50
Second offense	\$50	\$150	\$200
Third offense (and any subsequent offense)	\$300	\$300	\$300

I. Municipal personnel authorized: Commission members, administrator or agent.

**§ 375-9. Severability.**

The invalidity of any section or provision of the Bylaw or these regulations shall not invalidate any other section or provision thereof, nor shall it invalidate any order, certificate, or determination which previously has been issued.



## ARTICLE II

**Regulations for Resource Areas and Buffer Zones**

**§ 375-10. through § 375-54. (Reserved).**

**§ 375-55. Freshwater wetlands (wet meadows, marshes, swamps, bogs, and large isolated wetlands).**

**A. Preamble.**

- (1) Freshwater wetlands are likely to be significant to public or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention, water quality, water pollution control, fisheries, wildlife habitat, rare species habitat including rare plant species, agriculture, and recreation values deemed important to the community and riverfront area values.
- (2) The plant communities, soil, and associated low topography of freshwater wetlands remove or detain sediments, nutrients (such as nitrogen and phosphorus) and toxic substances (such as heavy metal compounds) that occur in runoff and floodwaters.
- (3) Some nutrients and toxic substances are detained for years in plant root systems or in the soils. Others are held by plants during the growing season and released as the plants decay in the fall and winter. This latter phenomenon delays the impacts of nutrients and toxins until the cold weather period, when such impacts are less likely to reduce water quality.
- (4) Freshwater wetlands are areas where groundwater discharges to the surface and where, under some circumstances, surface water discharges to the groundwater. The profusion of vegetation and the low topography of freshwater wetlands slow down and reduce the passage of floodwaters during periods of peak flows by providing temporary floodwater storage, and by facilitating water removal through evaporation and transpiration. This reduces downstream flood crests and resulting flood damage to private and public property. During dry periods the water retained in freshwater wetlands is essential to the maintenance of base flow levels in rivers and streams, which, in turn, is important to the protection of water quality and water supplies.
- (5) Wetland vegetation provides shade that moderates water temperatures important to fish life. Wetlands flooded by adjacent water bodies and waterways provide food, breeding habitat and cover for fish. Fish populations are particularly dependent on food provided by over-bank flooding which occurs during peak flow periods (extreme storms), because most river and stream channels do not provide sufficient quantities of the microscopic plant and animal life required.
- (6) Freshwater wetlands are probably Boxford's most important habitat for wildlife. The hydrologic regime, plant community composition and structure, soil composition and structure, topography and water chemistry of freshwater wetlands provide important food, shelter, migratory and overwintering areas, and breeding areas for many birds, mammals, amphibians, and reptiles. A wide variety of vegetative wetland plants, the nature of which are determined in large part by the depth and duration of water, as well as soil and water composition, are utilized by varied species as important areas for mating, nesting, brood rearing, shelter, and (directly and indirectly) food. The diversity and interspersed nature of the vegetative structure is also important in determining the nature of its wildlife habitat. Different habitat characteristics are used by different wildlife species during summer, winter, and migratory seasons.

**B. Identification.** Where appropriate, the Commission may use additional criteria for the identification

of wetlands and other resource areas and their boundaries, including, but not limited to, soil type.

- C. Review period. Resource area boundary delineations shall be reviewed only between April 1 and December 1 of each year. Delineations may be reviewed at the sole discretion of the Commission or its agents between December 1 and April 1, and shall be reviewed only when site conditions are such that the Commission or its agents believe they can adequately review the relevant resource area indicators (e.g., soils, vegetation, topography, hydrology).
- D. Presumption. Where a proposed activity involves the removing, filling, dredging, or altering of a resource area, the Commission shall presume that such area is significant to the interests specified in § 375-55A herein.
- E. General performance standards. Any proposed work in a freshwater wetland shall not destroy or otherwise impair any portion of said area. The cutting of vegetation within a freshwater wetland in order to maintain a specific successional stage, such as a wet meadow, may be permitted at the Conservation Commission's sole discretion through the filing of a notice of intent and subsequent order of conditions, or as part of a management plan approved by the Commission for a Town-owned conservation property. In addition, and at its sole discretion, the Commission may issue an order of conditions allowing work which results in the loss of up to 5000 square feet of freshwater wetlands when said area is replaced in accordance with the following conditions and any additional, specific conditions the Commission deems necessary to ensure that the replacement area will function in a manner similar to the area that will be lost:
  - (1) The surface of the replacement area to be created (the "replacement area") shall generally be at least 1.5 times the size of the area which will be lost (the "lost area"). At the discretion of the Commission, the replacement area may be smaller, but in no case, smaller than one (replacement) to one (lost area).
  - (2) The groundwater and surface water elevation of the replacement area shall be approximately equal to that of the lost area.
  - (3) The overall horizontal configuration and location of the replacement area with respect to the bank shall be similar to that of the lost area.
  - (4) The replacement area shall have an unrestricted hydraulic connection to the same water body or waterway associated with the lost area.
  - (5) The replacement area shall be located within the same general area of the water body or reach of the waterway as the lost area.
  - (6) At least 75% of the surface of the replacement area shall be reestablished with indigenous wetland plant species within two growing seasons, and prior to said vegetative establishment any exposed soil in the replacement area shall be temporarily stabilized to prevent erosion in accordance with U.S. Department of Agriculture Natural Resources Conservation Service methods.
  - (7) The replacement area shall be provided in a manner which is consistent with all other general performance standards for each resource area described in these regulations.
  - (8) The upper layer of soil from the wetland area to be disturbed shall be excavated, stockpiled separately from other earthen material, and placed in the replacement wetland area as a preferred growing medium and seed/root bank unless otherwise authorized by the Commission. The applicant shall specify the proposed depth of the upper layer to be so excavated, and detail the

location and management of the soil stockpile. **[Amended 3-23-2023]**

- F. Limited projects in wetlands. Notwithstanding the provisions of § 375-55D and E herein, the Commission, at its sole discretion, may issue an order of conditions for the limited range of projects identified in 310 CMR 10.53, as they may be amended. Proposed activities that qualify as limited projects per 310 CMR 10.53, as amended, (e.g. construction of boardwalks, boathouses, docks, or similar structures) must be reviewed by the Conservation Commission, which has the discretion to permit with conditions or deny such activities to ensure that the interests of the Wetlands Protection Bylaw<sup>87</sup> are protected.
- G. Notwithstanding the provisions of § 375-55E(1) through (7) and § 375-55F, no project may be permitted which will have any adverse effect on specified habitat sites of rare vertebrate or invertebrate species as identified on the Natural Heritage and Endangered Species Program "Estimated Habitat Maps" on file with the Commission and identified under Section 10.59 of 310 CMR 10.00, as they may be amended.

**§ 375-56. through § 375-57. (Reserved).**

**§ 375-58. Riverfront area.**

A. Preamble.

- (1) Riverfront areas are likely to be significant to protect private or public water supply; to protect groundwater; to provide flood control; to prevent storm damage; to prevent pollution; to protect land containing shellfish; to protect wildlife habitat; to protect rare species; and to protect fisheries. Land adjacent to rivers and streams can protect the natural integrity of these water bodies.
- (2) Rivers, streams and brooks in Boxford are small high-order (first and second) or headwater streams that feed into larger rivers within or beyond Town boundaries. The fragility of riparian areas is often accentuated in small headwater stream reaches. These small streams are the most vulnerable to human disturbance because they respond dramatically and rapidly to alterations on adjacent lands and are the most sensitive to changes in riparian vegetation in the surrounding watershed. Most of the streams in Boxford can also be characterized as low gradient streams (not much change in elevation), with most of the annual flow provided by groundwater that, in turn, is replenished by rainwater falling onto and infiltrating the soil under vegetated areas. With few exceptions, all residents rely on private wells for water supply, and many areas are subject to flooding.
- (3) The presence of natural vegetation within riverfront areas is critical to sustaining rivers as ecosystems and providing these public values. The riverfront area can prevent degradation of water quality by filtering sediments, toxic substances (such as heavy metals), and nutrients (such as phosphorus and nitrogen) from stormwater, nonpoint pollution sources, and the river itself. Sediments are trapped by vegetation before reaching the river. Nutrients and toxic substances may be detained in plant root systems or broken down by soil bacteria. Riverfront areas can trap and remove disease-causing bacteria that otherwise would reach rivers and coastal estuaries where they can contaminate shellfish beds and prohibit safe human consumption. Natural vegetation within the riverfront area also maintains water quality for fish and wildlife.

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87. Editor's Note: See Ch. 192, Wetlands Protection.

- (4) Where rivers serve as water supplies or provide induced recharge to wells, the riverfront area can be important to the maintenance of drinking water quality and quantity. Land along rivers in its natural state with a high infiltration capacity increases the yield of a water supply well. When riverfront areas lack the capacity to filter pollutants, contaminants can reach human populations served by wells near rivers or by direct river intakes.
- (5) Within riverfront areas, surface water interaction with groundwater significantly influences the stream ecosystem. The interaction between surface and ground water at or near a river, known as the "hyporheic zone," sustains communities of aquatic organisms which regulate the flow of nutrients, biomass and the productivity of organisms, including fish within the stream itself. The hyporheic zone extends to greater distances horizontally from the channel in large, higher order streams with alluvial floodplains, but the interaction within this zone is important in smaller streams as well.
- (6) By providing recharge and retaining natural flood storage, as well as by slowing surface water runoff, riverfront areas can mitigate flooding and damage from storms. The root systems of riverfront vegetation keep soils porous, increasing infiltration capacity. Vegetation also removes excess water through evaporation and transpiration. This removal of water from the soil allows for more infiltration when flooding occurs. Increases in storage of floodwaters can decrease peak discharges and reduce storm damage. Vegetated riverfronts also dissipate the energy of storm flows, reducing damage to public and private property. All other things being equal, the same development is likely to have a relatively greater negative impact on flooding conditions in an adjacent small stream than the same project along a larger river.
- (7) Riverfront areas are critical to maintaining thriving fisheries. Maintaining vegetation along rivers promotes fish cover, increases food and oxygen availability, decreases sedimentation, and provides spawning habitat. Maintenance of water temperatures and depths is critical to many important fish species. Where groundwater recharges surface water, loss of recharge as a result of impervious surfaces within the riverfront area may aggravate low flow conditions and increase water temperatures. In some cases, summer stream flows are maintained almost exclusively from groundwater recharge. Small streams are most readily impacted by removal of trees and other vegetation along the shore.
- (8) It is particularly important from a fisheries protection perspective to preserve corridors of natural vegetation along the smaller brooks and streams. Most of the annual flow in the smaller headwater streams is provided by groundwater that, in turn, is replenished by rainwater falling onto and infiltrating the soil under vegetated areas. This regular, continuous seepage of groundwater, or baseflow, is critical to stream life and water quality. Groundwater discharge has a particularly beneficial effect on both the quantity and quality of water in smaller headwater streams. Because of their small ratio of stream bottom width to shoreline, small headwater streams are especially vulnerable to harmful increases in temperature due to removal of shading from streamside forests. Fish often retreat to these cooler tributaries when the mainstems get too warm for them. An increase in water temperature in headwater streams may result in a decrease in fish reproduction and useable habitat. Headwater streams serve as critical ecological anchors for riverine systems and important refuges for biodiversity. Failure to maintain vegetative cover on or keep impervious surfaces out of riparian areas adjacent to smaller brooks and streams is likely to result in a significant loss of groundwater recharge and increase the frequency, duration, and severity of low flow conditions.
- (9) Riverfront areas are important wildlife habitat, providing food, shelter, breeding, migratory, and overwintering areas. Even some predominantly upland species use and may be seasonally

dependent on riverfront areas. riverfront areas promote biological diversity by providing habitats for an unusually wide variety of upland and wetland species, including bald eagles, osprey, and kingfishers. Large dead trees provide nesting sites for bird species that typically use the same nest from year to year. Sandy areas along rivers may serve as nesting sites for turtles and water snakes. Riverfront areas provide food for species such as wood turtles which feed and nest in uplands but use rivers as nesting and overwintering areas. Riverfront areas provide corridors for the migration of wildlife for feeding or breeding. Loss of this connective function, from activities that create barriers to wildlife movement within riverfront areas, results in habitat fragmentation and causes declines in wildlife populations. Wildlife must also be able to move across riverfront areas, between uplands and the river.

- (10) Vernal pools are frequently found in depressions in riverfront areas. These pools are essential breeding sites for certain amphibians that require isolated, seasonally wet areas without predator fish. Most of these amphibians require areas of undisturbed woodlands as habitat during the nonbreeding seasons. Some species require continuous woody vegetation between woodland habitat and the breeding pools. Depending on the species, during nonbreeding seasons, these amphibians may remain near the pools or travel one-fourth mile or more from the pools. Reptiles, especially turtles, often require areas along rivers to lay their eggs. Since amphibians and reptiles are less mobile than mammals and birds, maintaining integrity of their habitat is critical.
- (11) Rivers provide critical habitat for many of Boxford's rare and endangered species. Boxford's streams and associated wetlands provide vital habitat for freshwater mussels, dragonflies, state-listed rare species including Spotted turtles (*Clemmys guttata*), Blanding's turtles (*Emydoidea blandingi*), Wood turtles (*Clemmys insculpta*), the Blue-Spotted salamander (*Ambystoma laterale*), Bridle Shiner (*Notropis bifrenatus*), and the Mystic Valley amphipod (*Crangonyx aberrans*) as determined by the Massachusetts Natural Heritage and Endangered Species Program. Boxford's wetlands also provide habitat for two state-listed plants, alternate-flowered water-milfoil (*Myriophyllum alterniflorum*) and small bur-reed (*Sparganium chlorocarpum*). State-threatened bird species such as the least bittern (*Lixobrychus exilis*), the American bittern (*Bolotaurus lentiginosus*), and the pied-billed grebe (*Podilymbus podiceps*), also inhabit wetlands within river corridors in Boxford. Some types of riparian habitats that Boxford's rare species depend upon are floodplain forests, river sandbars, clay banks, and extensive marshes dominated by emergent vegetation.

B. Definitions, critical characteristics, and boundaries

- (1) A riverfront area is the area of land between a river, stream, or brook's mean annual high water line and a parallel line measured 200 feet horizontally out from the river. The riverfront area may include or overlap other resources areas or their buffer zones. The riverfront area does not have a buffer zone. A river, stream, or brook with designated riverfront area normally remains a river, stream, or brook, except when interrupted by a lake or pond.
- (2) In Boxford, the list of rivers, streams, and brooks that are presumed to have riverfront area includes, but is not limited to the following. (See also the map Town of Boxford riverfront areas located at the end of these regulations.)
  - (a) Fish Brook, from Stiles Pond to the Ipswich River, including:
    - [1] The first order stream flowing from the wetland north of Lawrence Road and parallel to Main Street;

- [2] The first order stream flowing from the large wetland north of Main Street halfway between Towne Road and Middleton Road;
  - [3] The stream flowing from Crooked Pond;
  - [4] The stream flowing east from Middleton Road and joining the stream flowing from Crooked Pond south of Lockwood Lane;
  - [5] Excluding Howes Pond.
- (b) Pye Brook, from Fourmile Pond to the Boxford/Topsfield Town line (excluding Lowe Pond).
  - (c) The Ipswich River.
  - (d) The stream locally known as "Alderbrook Stream," from Hovey's Pond to Johnson's Pond.
  - (e) The stream locally known as "West Brook," from Oak Ridge Road to the Haverhill Town line.
  - (f) The Parker River, including:
    - [1] The first order stream (Porter Brook) that flows south from Sperry's Pond;
    - [2] The second order stream flowing west from the fire pond north of Ipswich Road and west of Porter Road at Boxford Tax Assessor's Map 13, Block 2, Lot 11 (excluding Cole Pond).
- C. Presumption of significance. When a proposed activity involves the removing, filling, dredging or altering of riverfront area, the Commission shall presume that the riverfront area is significant to the resource area values specified in § 375-1B of these regulations.
- D. Performance standards. Riverfront areas in Boxford are regulated by the same performance standards as those listed in the Massachusetts Wetlands Protection Act Regulations 310 CMR 10.58.4 through .6. In determining whether a river, stream, or brook should have riverfront area, no single criterion shall rule. The Conservation Commission shall weigh all criteria when designating riverfront area. The Conservation Commission has determined that riverfront areas can be designated and can be significant on rivers, streams or brooks even if water does not flow in said rivers, streams, or brooks throughout every year.

**§ 375-59. through § 375-97. (Reserved).**

**§ 375-98. Buffer zones.**

A. Preamble.

- (1) Buffer zones are essential for wetlands protection. A buffer zone adjacent to a wetland resource area reduces adverse impacts to the wetland functions and values from nearby activities. A naturally vegetated buffer zone functions to protect the wetland resource area values included in the Bylaw. The elements of a buffer zone include setback distance, amount and type of vegetation, soils composition, and slope of the land. Interaction of all of these elements determines the effectiveness of the buffer zone. It has been the Commission's experience that any project undertaken within a buffer zone has a high likelihood of resulting in some alteration of the adjoining wetland resource area, either immediately, as a consequence of construction, or

over a longer period of time, as a consequence of daily operation of the completed project. Accordingly, these regulations require that any person intending to alter a buffer zone must submit an appropriate permit application to the Commission. This way, the Commission has an opportunity to review the proposed project to determine whether any alteration of the wetland resource area will occur, and whether any resulting alteration is in compliance with applicable performance standards.

- (2) Of special importance within the category of "other wetland resource areas" in the Minimum Setback Distance Chart at § 375-98B herein is the resource area incorporating land within 100 feet of bordering land subject to flooding. This resource area prevents pollution of both surface and ground water by protecting the quality and quantity of groundwater recharge and surface water runoff, and therefore protects both private and public water supplies. This resource area also provides flood protection, prevents storm damage, and provides protection of wildlife habitat and fisheries.
- (3) Naturally vegetated riparian areas, including 100 feet from bordering land subject to flooding, act as a filter to intercept and absorb nutrients, sediment and other pollutants carried by runoff from adjacent land, roads and rooftops. Much, if not most of the runoff infiltrates into the soil. Without the protection afforded by the riparian areas, rivers, streams and groundwater are subjected to increased levels of pollution, and the quality of private and public water supplies can be degraded.
- (4) As noted in § 375-58A(2), most of the annual flow in the smaller headwater streams is provided by groundwater that, in turn, is replenished by rainwater falling onto and infiltrating the soil under vegetated areas. This regular continuous seepage of groundwater, or baseflow, is critical to stream life and water quality. By protecting the resource area 100 feet from bordering land subject to flooding, more area for infiltration is available, groundwater is recharged, and healthier levels of baseflow in streams are maintained, thus maintaining habitat for aquatic species.
- (5) The land within 100 feet of bordering land subject to flooding serves many beneficial functions for flood and storm damage prevention. An undeveloped vegetated floodplain reduces the force, height and volume of floodwaters and helps to maintain the extent of the existing bordering land subject to flooding (one-hundred-year floodplain). Protecting areas that can infiltrate precipitation and runoff adjacent to this resource area will help to protect downstream areas from additional flooding. In contrast, increasing the impervious surface in this area will adversely affect bordering land subject to flooding by shedding water to the floodplain that otherwise would have infiltrated to the groundwater.
- (6) Minimizing impervious surfaces such as roads and roofs within the one-hundred-foot buffer zone to bordering land subject to flooding will help to maintain natural stream flows and avoid channel instability, stream bank erosion, and habitat degradation. Protection of 100 feet from bordering land subject to flooding helps to protect water quality, water quantity, and habitat and food supply for fisheries.
- (7) Land within 100 feet of bordering land subject to flooding provides critical habitat for many mammals, birds, amphibians, reptiles and rare and endangered species, and also provides corridors for movement for other wildlife. Loss of these corridors will result in habitat fragmentation and may dramatically reduce the number and diversity of wildlife species in an area. A number of migratory species depend on undeveloped river corridors, which include the one-hundred-foot buffer zone to bordering land subject to flooding, as migration routes, as

resting areas, and as a source of food.

B. Presumption.

- (1) Based on experience to-date with projects in the buffer zone, the Commission presumes that alterations listed in the Minimum Setback Distance Chart below and closer than the stated setbacks, will result in alteration of the wetland resource area. Therefore, all proposed buffer zone alterations must comply with the stated minimum setbacks. These regulations consist of more than a single chart, and greater setbacks than the stated minimums can be and often are required for a project to comply with all sections of these regulations. For this reason, permit applicants are strongly encouraged to review all regulations contained herein prior to designing a project.
- (2) This presumption is rebuttable and may be overcome only for the conversion of lawn or other significantly altered land to a structure requiring a building permit when said structure is accessory to an existing single-family dwelling or a structure for seasonal use legally in existence as of May 19, 1994 (the original issue date of these regulations), or when a wetlands permit application was filed for said single-family dwelling or a structure for seasonal use on or before May 19, 1994, provided mitigation would be sufficient to protect resource area values, by a finding by the Commission, supported by a preponderance of the credible evidence, showing that the work proposed within the buffer zone, closer than the tabulated minimum setback distances, will not result in the alteration of any wetlands resource area. The burden for overcoming this presumption is upon the applicant; however, the Commission may include consideration of credible evidence from any source presented at a public meeting or public hearing in weighing the preponderance of the credible evidence. The proposed design shall comply as much as possible with the minimum setback distances specified in the Minimum Setback Distance Chart. **[Amended 2-23-2009; 5-2-2019]**
- (3) In addition, an applicant attempting to overcome this presumption shall have the burden of demonstrating by a preponderance of the credible evidence that construction and continued use of said accessory structure will not have a significant or cumulative adverse effect upon the ability of the buffer zone to protect all applicable wetland resource area values identified in § 376-1B(1) through (13) of these regulations. No alteration shall be allowed within a naturally vegetated no-disturb zone, except as specified in § 375-98D(1).
- (4) The Commission may place additional conditions on the project to provide impact mitigation for locating accessory structures closer than the minimum setback distances (e.g. by requiring applicants to establish no-disturb zones adjacent to wetland resource areas, by requiring plantings of indigenous shrubs and/or trees in the buffer zone, or by restoring altered buffer zone and/or wetland resource areas to a natural condition). Accessory structures include but are not necessarily limited to additions, decks, porches, sheds, garages, patios, gazebos, and pools.
- (5) In the event that this presumption is deemed by the Commission to have been overcome, the Commission shall make a written determination to this effect in the "Findings" section of the order of conditions, setting forth its grounds.



<b>Minimum Setback Distance Chart (in feet)<sup>1,2,3</sup> N.B. Setbacks are based on impact [Amended 10-6-2005; 5-2-2019]</b>				
<b>Type of Project</b>	<b>Vernal Pool</b>	<b>Hovey's Baldpate, &amp; Stiles Ponds</b>	<b>Other Wetland Resource Areas</b>	<b>River</b>
Underground storage tanks containing any hazardous materials	100	100	100	200
Animal paddocks	100	100	100	200
Commercial, institutional, industrial, and municipal structures and associated parking facilities	100	100	100	200
Soil absorption system of a sanitary disposal	100	100	100	200
Swimming pool dry wells	100	100	100	200
Swimming pool patios	100	100	75	100
Other structures requiring a building permit (e.g., house, garage, deck, pool, structures for seasonable use, etc.)	100	100	75	100
Driveways and utilities	100	100	30	100
Retaining walls, other solid/ impervious construction	100	100	30	100
Roadways	100	100	50	100

<b>Minimum Setback Distance Chart (in feet)<sup>1,2,3</sup> N.B. Setbacks are based on impact [Amended 10-6-2005; 5-2-2019]</b>				
<b>Type of Project</b>	<b>Vernal Pool</b>	<b>Hovey's Baldpate, &amp; Stiles Ponds</b>	<b>Other Wetland Resource Areas</b>	<b>River</b>
Other alterations of naturally vegetated buffer zone	100	100	25	100

**NOTES:**

1 All distances in the above chart are measured radially on a horizontal plane from the wetland resource area boundary.

2 The Commission, at its sole discretion, may require greater than the minimum setback distances specified in the above chart when the Commission determines by majority vote that the type of work proposed and/or the conditions specific to the site require greater setback distances in order to protect wetland resource area values. In the event that the Commission determines that greater setback distances are required, the Commission shall make a written determination to this effect in the "Findings" section of the order of conditions, setting forth its reasons for doing so.

3 Structures and other alterations are not automatically allowable at the minimum setback distances. The setback distances specified in the above chart are minimum distances allowable under these regulations assuming compliance with all other applicable regulations. Other state and local regulations may also result effectively in the imposition of setbacks greater than those specified in the above chart. Applicants are advised to carefully review all applicable regulations, consider alternatives, and to seek input from the Conservation Commission, prior to finalizing development plans.

- C. Discretionary exemptions for minor activities. Notwithstanding Subsection A above, the following minor activities proposed exclusively within the buffer zone and/or riverfront area may be exempt from formal application requirements, provided the activity complies with all other provisions of § 375-98B, D, E and F of these regulations, (Note: Pay particular attention to compliance with the Minimum Setback Distance Chart found at § 375-98B above) and provided that the Commission or its Administrator approves the exemption in writing:

- (1) Unpaved pedestrian trails or walkways not to exceed five feet in width for nonmotorized private use, provided the activity does not involve the removal of overstory trees;
- (2) Installation of fencing where no filling, grading, or substantial vegetation cutting is involved, provided it will not constitute a barrier to wildlife; uncemented stone walls up to four feet in height; stacks of cordwood;
- (3) Vista pruning, provided the activity is located more than 50 feet from the mean annual high water line within a riverfront area or from a wetland resource area, whichever is farther;
- (4) Plantings of native species of trees, shrubs, or groundcover, but excluding turf lawns (No invasive species shall be introduced);

- (5) The conversion of impervious to vegetated surfaces, provided erosion and sedimentation controls (satisfactory to the Conservation Commission or its Administrator) are implemented during construction; and
- (6) Activities that are temporary in nature, have negligible impacts, and are necessary for planning and design purposes (e.g. installation of monitoring wells, exploratory borings, soil testing for septic systems; sediment sampling and surveying, provided erosion controls satisfactory to the Conservation Commission or its Administrator are first installed).

D. Cutting of vegetation.

- (1) No-disturb zone.
  - (a) There shall be a no-disturb zone with a minimum depth of 25 feet measured horizontally from the border of the protected wetland resource area (with the exception of riverfront areas, which do not have buffer zones, vernal pools, which have a one-hundred-foot no-disturb zone, and Hovey's, Baldpate, and Stiles Ponds, which have a minimum of one-hundred-foot no-disturb zones). The Commission, at its sole discretion, may require a no-disturb zone of greater than the minimum where there are site specific conditions which would if altered result in resource area degradation. **[Amended 1-22-2004]**
  - (b) Vegetation in this zone shall not be cut or trimmed in any manner except to remove dead or damaged trees which are safety hazards. A single path to the wetland resource area per lot may be created and maintained if limited to a maximum of five feet in width. Paths on adjacent lots shall be separated by at least 25 feet.
- (2) Overstory. To protect resource area values, the following requirements apply to the removal of overstory trees within the buffer zone.
  - (a) The limits of pre-development overstory trees (the tree line) shall be located in the field and shown and labeled on all site plans as the "Overstory Tree Line." The total pre-development overstory trees shall be calculated by measuring the area of overstory trees that is located within the discretionary cutting area.<sup>1</sup> The site plans shall show all proposed removal of overstory trees within the discretionary cutting area. The applicant shall calculate and include on the site plan the pre- and post-development overstory tree areas as well as the total post development percent loss of overstory trees.

NOTE:

<sup>1</sup> See § 375-4 for a definition of the discretionary cutting area. The Commission, at its sole discretion, may require the applicant to perform all calculations using overstory tree basal area instead of overstory tree coverage.

- (b) Not more than 50% of the total predevelopment overstory trees shall be removed from the discretionary cutting area.<sup>88</sup> No part of the discretionary cutting area shall be clear-cut of overstory trees unless the following limited exception is granted by the Conservation Commission: The Commission may permit clear-cutting of overstory trees within the footprint of any permanent fixture (e.g. structures, driveways, stormwater BMPs, and swimming pools) and up to 25 feet surrounding structures requiring a building permit, provided that said structures were approved by the Conservation Commission under an

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88. Editor's Note: See Ch. 192, Wetlands Protection.

order of conditions or negative conditional determination of applicability, and provided that all minimum setbacks in the Minimum Setback Distance Chart are met. Notwithstanding the exception above, all other overstory tree removal within the discretionary cutting area must leave an evenly distributed stand of overstory trees. In other words, overstory trees within the discretionary cutting area may be evenly thinned so long as the total thinning (and permitted clear-cutting within and around structure footprints) does not exceed 50% of the total pre-development overstory tree coverage.

NOTE:

<sup>2</sup> This limitation applies to all properties cumulatively, over time and across all wetlands permit applications commencing with the original effective date of these regulations, May 19, 1994. The Commission will review past applications (if any) and other credible information to ensure that overstory tree removal does not incrementally exceed the 50% limit.

- (3) Preexisting use. Landscaping in a buffer zone in existence on May 19, 1994, as well as landscaping approved pursuant to an order of conditions, determination of applicability, or determination of negligible impact, may be maintained. However, landowners are required to comply with these regulations in order to protect the values identified in the Bylaw.
- E. Limited projects in the buffer zone. Notwithstanding the provisions of Subsections B through D herein, the Commission, at its sole discretion, may issue an order of conditions for execution in the buffer zone of the limited range of projects identified in 310 CMR 10.53, as they may be amended. Proposed activities that qualify as limited projects per 310 CMR 10.53 as amended, (e.g. construction of walkways, observation decks, or similar structures) must be reviewed by the Conservation Commission, which has the discretion to permit with conditions or deny such activities to ensure that the interests of the Wetlands Protection Bylaw are protected.<sup>89</sup>
- F. Prohibited activities in the buffer zone.
  - (1) Manure storage or spreading, unless stored in a dry, covered enclosure that prevents contact with rainwater and prevents runoff.
  - (2) Stump pits or burial of any other type of construction refuse.

**§ 375-99. (Reserved)**

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89. Editor's Note: See Ch. 4, Wetland protection.

ARTICLE III  
**Regulations for Outside Consultants**  
**[Added 2-21-2008]**

**§ 375-100. Purpose.**

As provided by MGL c. 44 § 53G, and the Town of Boxford Wetlands Protection Bylaw (Boxford Town Code Chapter 192), the Town of Boxford Conservation Commission may impose reasonable fees for the employment of outside consultants, engaged by the Conservation Commission, for specific expert services deemed necessary by the Commission to come to a final decision on an application submitted to the Conservation Commission pursuant to the requirements of the Wetlands Protection Act (MGL c. 131, § 40), the Town of Boxford Wetlands Protection Bylaw (Boxford Town Code Chapter 192), Conservation Commission Act (MGL c. 40, § 8C), or any other state or municipal statute, bylaw or regulation, as they may be amended or enacted from time to time. The Conservation Commission may also impose fees for other consultant services related to application review, permit conditioning, construction monitoring, and/or post construction monitoring, under any of the above-referenced laws or regulations.

**§ 375-101. Special account.**

Funds received pursuant to these rules shall be deposited with the Town of Boxford Treasurer, who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Conservation Commission without further appropriation as provided in MGL c. 44, § 53G. Expenditures from this account shall be made only in connection with a specific project or projects for which a consultant fee has been collected from the applicant. Expenditures of accrued interest may also be made for these purposes.

**§ 375-102. Consultant services.**

Specific consultant services may include, but are not limited to, peer review, resource area survey and delineation, analysis of resource area values, hydrogeologic, stormwater and drainage analysis, wildlife studies, impacts on municipal conservation lands, and environmental or land use law. Services may also include on-site monitoring during construction or other services related to the project deemed necessary by the Commission. The applicant may make recommendations on the selection of consultant, however the Commission may disregard such recommendations. The consultant shall be chosen by, and report only to, the Commission and/or its Administrator.

**§ 375-103. Notice.**

The Conservation Commission shall give written notice to the applicant of the selection of an independent consultant. Such notice shall state the identity of the consultant, the scope of services to be procured, the amount of the fee to be charged to the applicant, and a request for payment of said fee in its entirety. Such notice shall be deemed to have been given on the date it is mailed or delivered. No such costs or expenses shall be incurred by the applicant if the application or request is withdrawn within five days of the date notice is given.

**§ 375-104. Payment of fee.**

The fee must be received in its entirety prior to the initiation of consulting services. The Commission may request additional consultant fees if necessary review requires a larger expenditure than originally anticipated or new information requires additional consultant services. Failure by the applicant to pay

the consultant fee specified by the Commission within 10 business days of the request for payment, or refusal of payment, shall be cause for the Commission to deny the application based on lack of sufficient information to evaluate whether the project meets applicable performance standards and other criteria of any of the relevant laws and regulations referenced herein. An appeal stops the clock on the above deadline; the countdown resumes on the first business day after the appeal is either denied or upheld. A denial for lack of information may be based solely on the lack of the third-party consultant services identified as necessary by the Commission. The Commission shall specify in its denial the nature of the information lacking that its chosen consultant would provide, e.g., the questions it needs answered.

**§ 375-105. Appeals. [Amended 9-12-2020ATM by Art. 19]**

The applicant may appeal the selection of the independent consultant only to the Boxford Select Board, who may disqualify the outside consultant selected only on the grounds that the consultant has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist of state certification or registration in the area in which the person practices, or if no certification or registration exists, a minimum of three years of substantial practice in the field at issue (e.g., wetlands science, engineering) or a related field. Such an appeal must be in writing and received by the Boxford Select Board and a copy received by the Conservation Commission, so as to be received within 10 days of the date consultant fees were requested by the Conservation Commission. The required time limits for action upon the application shall be extended by the duration of the administrative appeal.

**§ 375-106. Return of unspent fees.**

When the Commission's review of a project is completed and a Certificate of Compliance issued, any balance in the special account attributable to that project shall be returned within 30 days. The excess amount, including interest, shall be repaid to the applicant or the applicant's successor in interest. For the purpose of this regulation, any person or entity claiming to be an applicant's successor in interest shall provide the Commission with appropriate documentation. A final report of said account shall be made available to the applicant or applicant's successor in interest.



**Chapter 382****ZONING BOARD OF APPEALS RULES AND REGULATIONS**

**[HISTORY: Adopted by the Zoning Board of Appeals of the Town of Boxford 6-27-2002. Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Zoning — See Ch. 196.**

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**§ 382-1. Authority and purpose.**

- A. Authority. These rules and regulations of the Boxford Board of Appeals are adopted pursuant to and under the authority of § 196-44 of the Boxford Zoning Bylaw; Chapter 40A ("The Zoning Act") and other applicable provisions of the Massachusetts General Laws.
- B. Purpose. The purpose of these rules and regulations is to establish uniform standards and procedures for conducting the business of the Board of Appeals. These shall apply to all matters over which the Board of Appeals has jurisdiction, including:
  - (1) To hear and decide appeals from any decisions of the Inspector of Buildings;
  - (2) To hear and decide applications for special permits as authorized by the Boxford Zoning Bylaw;
  - (3) To hear and decide petitions for variances as authorized by the Boxford Zoning Bylaw;
  - (4) To hear and decide applications seeking authorization and a comprehensive permit to build low- and moderate-income housing contemplated by MGL c. 40B, § 21;
  - (5) To hear and decide upon all matters otherwise legally within the jurisdiction of the Board of Appeals.

**§ 382-2. Organization.**

- A. Members and officers. The Board of Appeals shall consist of three regular members appointed by the Select Board. The Board of Appeals shall annually, at their first meeting in July, elect officers consisting of a Chairperson, Vice Chairperson and Clerk from its regular members, and may engage, subject to appropriation, a Secretary and such other assistance as is necessary. **[Amended 9-12-2020ATM by Art. 19]**
- B. Alternate members. Alternate members of the Board of Appeals shall be appointed by the Select Board. Alternate members shall sit on the Board of Appeals in the case of absence, inability to act or conflict of interest on the part of any regular member. Alternate members shall not participate in elections of officers. **[Amended 9-12-2020ATM by Art. 19]**
- C. Chairperson's power and duties.
  - (1) The Chairperson shall preside over all hearings and meetings of the Board of Appeals. Subject to the rules as stated herein, the Chairperson shall decide all points of order unless overruled by a majority of the Board in session at the time. The Chairperson shall designate associate



members to sit on the Board as may be deemed necessary and in the event of a vacancy on the Board shall designate an associate member to act as a member until the vacancy is filled by appointment of the Select Board. **[Amended 9-12-2020ATM by Art. 19]**

- (2) In addition to powers granted by Massachusetts General Laws and the Boxford Zoning Bylaw, and subject to these rules and regulations and further instruction of the Board of Appeals, the Chairperson shall supervise the work of the Secretary, arrange for necessary help and exercise general supervision over the Board's activities. The Vice Chairperson shall preside over any hearing or meeting, or perform all duties and exercise all powers of the Chairperson in the absence of the Chairperson.
- D. Secretary. A Secretary shall be appointed by the Select Board and, subject to the direction of the Board and its Clerk, shall undertake all of the clerical work of the Board including all correspondence, sending of all notices required by law or the rules and regulations or orders of the Board, receive and scrutinize all petitions and applications for compliance with the rules and regulations of the Board, keep dockets, minutes and records of the Board's proceedings, compile all required documents, and maintain necessary files and indices. **[Amended 9-12-2020ATM by Art. 19]**
- E. Quorum. A quorum for the purpose of conducting public hearings and transacting other business of the Board of Appeals shall consist of three members.
- F. Regular hearing dates. The regular hearing dates of the Board of Appeals shall be held as necessary at 7:30 p.m. on the fourth Thursday of each month, or at other times determined by the Board. If a regular hearing is cancelled, it shall be held on the next regular hearing date unless otherwise provided.
- G. Meetings of the Board. Meetings of the Board of Appeals may be called by the Chairperson or at the request of two members. Notice thereof shall be given to each member at least 48 hours before the time set, not including Sundays and holidays, except that announcement of a meeting at any hearing or other meeting of the Board attended by all members shall be sufficient notice. Notices shall be posted publicly as required by law for all meetings.

### **§ 382-3. Procedure for application.**

- A. General procedure.
  - (1) All applications for hearing must be date stamped by the Town Clerk and filed with the Board's Secretary. All applications shall be made by the owner of the property noted in the request or with the owner's written permission attached.
  - (2) Prior to filing any application it shall be reviewed with the Board's Secretary to assure its completeness, and each such application shall be accompanied by all applicable site plans, building plans and such other information as may be required by the Boxford Zoning Bylaw or as may reasonably be deemed necessary by the Board's Secretary. Failure to provide all applicable site plans, building plans and other required information, including the specific reference(s) to all applicable sections of the Zoning Bylaw, may result in either rejection of the application for incompleteness or the need for a new application and hearing.
- B. Application requirements. Any person who wishes to make an application for hearing shall file twelve copies of the following:
  - (1) Application for hearing. Every application for action by the Board of Appeals shall be made on

an official application form entitled "Board of Appeals - Application for Hearing" which is hereby made part of the rules and regulations and shall be furnished by the Inspector of Buildings or the Board's Secretary upon request. Any other communication purporting to be an application or petition shall be treated as mere notice of intention to seek Board action until such time as it is made on the official application form. All information called for by the application form shall be furnished by the applicant in the manner therein prescribed together with all information specified in the applicable provisions of the Boxford Zoning Bylaw.

- (2) Plans and specification. The applicant shall file seven prints of all applicable plans and specifications, which shall clearly show the nature of the specific request being made. Insofar as practicable all plans shall be drawn to scale, shall not exceed 24 inches x 36 inches and shall indicate as applicable:
  - (a) The title of the plan, including assessor's map and parcel number;
  - (b) Plot plan, including all required setbacks and property boundaries;
  - (c) The scale;
  - (d) The date, name and address of the owner and the applicant; the name, seal and address of the designer, engineer or surveyor;
  - (e) The zoning classification and the location of any zoning district boundaries including floodplain;
  - (f) The location of all existing and proposed buildings or parts thereof, structures, signs, parking and loading spaces;
  - (g) The limits of all paving and storage areas;
  - (h) All required landscaping; and
  - (i) Such other information as is necessary to ensure the purposes of the Boxford Zoning Bylaw and these rules.
- (3) Filing fee.
  - (a) Application for a special permit or an appeal hearing shall be accompanied by two checks payable to the Town of Boxford for \$100 for the application and a separate one to cover the cost of mailing. The newspaper will bill the applicant directly for advertising.
  - (b) Application for a variance hearing shall be accompanied by two checks payable to the Town of Boxford for \$150 for the application and a separate one to cover the cost of mailing. The newspaper will bill the applicant directly for advertising.
  - (c) In the event that an application to the Board involves more than one of the above matters, the filing fee for each application shall be paid. In addition, all applications for a repetitive petition shall be accompanied by a new check payable to the Town of Boxford in the same amount as if it were an original application.

C. Information to be furnished to the Board of Appeals.

- (1) Special permits. In the case of a special permit, the following points, at a minimum, based on the Zoning Act, MGL c. 40A, § 9, shall be identified and both factually and legally supported

on the application form and again verbally at the hearing:

- (a) That the proposed use (conditions and character of operations) is in harmony with the general purpose and intent of the Boxford Zoning Bylaw;<sup>90</sup> and
  - (b) That the use complies with all requirements of the Boxford Zoning Bylaw.
- (2) Variances. In the case of a variance, the following points, at a minimum, based on the Zoning Act MGL c. 40A, § 10, shall be identified and both factually and legally supported on the application form and again verbally at the hearing:
- (a) That there are circumstances relating to the soil conditions, shape or topography of the land or structure and especially affecting such land or structure in question, but which do not affect generally the zoning district in which the land or structure is located;
  - (b) That due to those circumstances especially affecting the land or structure, a literal enforcement of the provisions of this bylaw would involve substantial hardship, financial or otherwise to the petitioner;
  - (c) That desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of this bylaw; and
  - (d) That desirable relief may be granted without substantial detriment to the public good.
- (3) Appeals. In the case of an appeal, the following points, at a minimum, based on the Zoning Act, MGL c. 40A, § 8, shall be identified and both factually and legally supported on the application form and again verbally at the hearing:
- (a) The specific nature and the grounds for the appeal; and
  - (b) All evidence supporting the grounds for the appeal; and
  - (c) All documents and papers constituting the record of the case.

D. Public hearing and notice.

(1) Notice.

- (a) The notice shall contain the name of the applicant; the name of the owner of property, if different; a description of the area or premises (street address or other adequate identification of the location of the area or premises); the date, time and place of the public hearing; and the subject matter or the application with specific reference to all applicable sections of the Boxford Zoning Bylaw or General Laws.
- (b) Notice of hearings shall be advertised as required by the provisions of MGL c. 40A, § 11, or MGL c. 41, § 81AA. In addition, copies of the notice shall be sent by mail at least seven days prior to the date of the hearing, postage prepaid, to all parties in interest, and provided to the Planning Board, Inspector of Buildings, Board of Health, Conservation Commission, Fire Department, Select Board, Assessor's Office and where applicable, other Town Boards and departments. In the event of the failure to give timely notice to parties in interest, the Board of Appeals may continue the hearing until such notice requirement has been satisfied. **[Amended 9-12-2020ATM by Art. 19]**

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90. Editor's Note: See Ch. 194, Zoning.

- (2) Hearings to be public. All hearings shall be open to the public and shall be conducted in accordance with the Massachusetts Open Meeting Law, MGL c. 39, § 23B.
- (3) Representation and absence. An applicant may appear in his/her own behalf or be represented by a qualified agent or attorney. In the absence of an appearance, the Board of Appeals may, in its discretion, decide the matter using the information it has received, dismiss the petition with or without prejudice or continue the hearing to a later date. All petitioners will be asked to sign an agreement to extend the time for a decision in all cases that are continued beyond the second hearing.
- (4) Hearing procedure.
  - (a) The Chairperson shall call the hearing to order and open each hearing by requesting the Clerk to read the notice as advertised.
  - (b) The petitioner or representative will then present the case, stating fully the reason(s) why the petition or application should be granted.
  - (c) The Chairperson may ask the Inspector of Buildings to further explain the application or may ask another Town Official or representative thereof (Planning Board, Town Engineer, etc.) for their comments and recommendations.
  - (d) When the petitioner or representative and the Inspector of Buildings or other Town officials have concluded, the Chairperson will allow all abutters of the matter under consideration to speak on material facts on the case. Those who wish to speak will rise, address the Board of Appeals, give their names and addresses and then proceed.
  - (e) When all abutters have spoken, the Chairperson will then allow other interested parties a similar opportunity to speak on material facts on the case.
  - (f) Rebuttals may only be allowed at the discretion of the Chairperson.
  - (g) As directed by the Chairperson, any regular or alternate member of the Board of Appeals may direct appropriate questions during the hearing. In addition, the Board may choose to retain any record that has been introduced in evidence for reference in the consideration of the case. All cases will require a review process and a recommendation by the Planning Board.
  - (h) When the case has been presented, the Chairperson will close the hearing and inform the petitioner or representative and others present of the time requirements involved and the applicable appeals procedures.
  - (i) Decisions will generally be made at the conclusion of the hearing but may be postponed, prior to the close of evidence, to permit submission of written material or other documents requested by the Board; to permit viewing the property with respect to which an application has been filed; or to enable the Board to fully consider all records which have been introduced in evidence.

E. Actions by the Board of Appeals.

- (1) Voting requirements. A unanimous vote of all three sitting members of the Board of Appeals shall be necessary to reverse any order or decision of the Inspector of Buildings; or to decide in favor of a special permit or variance or on any matter legally within the jurisdiction of the Board.

The Board shall cause to be made a detailed record of its proceedings, showing the vote of each member or if absent or failing to vote, indicating such fact, and setting forth clearly the reason or reasons for its decisions and of its other official actions, copies of all of which shall be filed in the Office of the Town Clerk.

- (2) **Withdrawal.** An application may be withdrawn without prejudice by notice in writing to the Board's Secretary at any time prior to the publication of notice of a public hearing by the Board of Appeals. Withdrawal of an application thereafter with or without prejudice requires Board approval and, in either event there shall be no return of any fee paid.
- (3) **Repetitive petition.** No appeal of a decision by the Inspector of Buildings, nor request for a special permit or variance which has been unfavorably and finally acted upon by the Board of Appeals shall be acted upon within two years after the date of final unfavorable action unless at least five members of the Planning Board and a unanimous vote of the Zoning Board agree that new evidence presented indicates that the reapplication is substantially altered from the original petition and the Board of Appeals finds specific and material changes in the conditions upon which the previous unfavorable action was based and describes such changes in its records prior to scheduling a new hearing.
- (4) **Limitation of approval.**
  - (a) A special permit shall lapse if a substantial use thereof has not commenced except for good cause or in the case of a permit for construction, if construction has not commenced except for good cause within two years from the date of the grant thereof.
  - (b) Any rights authorized by a variance, which are not exercised within one year from the date of grant of such variance, shall lapse and may be reestablished only after notice and a new hearing.
- (5) **Decisions.**
  - (a) Decisions of the Board of Appeals shall be made in writing and shall contain the following:
    - [1] Case number, name and address of the applicant and identification of the land affected;
    - [2] Name and address of the owner of the land affected if not the applicant;
    - [3] Place, time and date of the public hearing;
    - [4] Dates hearing was advertised and name of paper and a statement that the applicant and parties in interest were notified;
    - [5] Brief account of the hearing and relief requested;
    - [6] Date the decision was rendered, the vote of the Board stating specifically which members voted for and which voted against, whether the application was granted or denied in whole or in part and the reasons therefor and the conditions, if any imposed.
  - (b) The Board's Secretary will send a copy of its decision forthwith to the owner, the applicant if other than the owner, the Planning Board, the Town Clerk, the Inspector of Buildings, the Board of Health, Conservation Commission and, where applicable, other Town Boards and departments, and will send notices of its decision to parties in interest and every person

present at the hearing who requests that notices be sent and states the address to which such notice is to be sent. In addition, the Board will send a copy of decision for a shared driveway to the Fire Department and for accessory apartments to the Board of Assessors.

- (c) A variance or special permit does not become effective until the Town Clerk certifies that no appeal of the decision has been filed in Superior Court within the twenty-day statutory appeal period or that if an appeal has been filed, it has been dismissed or denied. A certified copy of the decision shall be recorded in the Essex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title (for registered land.)
- (d) The applicant or petitioner is responsible for filing the certified decision in the Registry of Deeds, paying the recording fees and delivering said copy to the Zoning Board of Appeals office.

**§ 382-4. Procedure for comprehensive permit to build low- and moderate-income housing. [Added 5-22-2003]**

**A. Purpose.**

- (1) These rules set forth substantive and procedural requirements for review of applications by the Zoning Board of Appeals (ZBA) for comprehensive permits granted under MGL c. 40B, §§ 20-23 (the Act). These Rules are required by M.G.L. c. 40B, § 21, as amended by State Acts of 1989, c. 593, and by 760 CMR 31.02. Other requirements are set forth in the Act. These rules must be read in conjunction with and implemented in a manner consistent with the complete regulations of the Housing Appeals Committee, 760 CMR 30.00 and 31.00. It is also advisable to read the Guidelines for Local Review of Comprehensive Permits published from time to time by the Massachusetts Department of Housing and Community Development (DHCD).
- (2) The ZBA's general rules of conduct of hearings under MGL c. 40A apply to comprehensive permit applications. In case of inconsistency or conflict between those general rules for conduct and these rules, these rules shall govern.
- (3) These rules apply to all applications for all projects requiring a comprehensive permit. Additional rules and requirements, which apply only to New England Fund (NEF) projects are described herein below in Subsections I through M.

**B. Definitions.** As used in this section, the following terms shall have the meanings indicated:

**ZBA** — The Zoning Board of Appeals established under MGL c. 40A, § 12.

**LOCAL BOARD** — Any local board or official, including, but not limited to any board of health; planning board; conservation commission; historical commission; fire, police, public works department, or other department; building inspector or similar official or board; board of selectmen. All boards, regardless of their geographical jurisdiction or their source of authority (that is, including boards created by special acts of the legislature or by other legislative action) shall be deemed local boards if they perform functions usually performed by locally created boards.

**LOCAL HOUSING PARTNERSHIP (LHP)** — A committee formed by the Select Board to promote the growth of affordable housing in accordance with state mandates and to serve as the initial screening authority for proposed comprehensive permits under MGL c. 40B, § 21. **[Amended 9-12-2020 ATM by Art. 19]**

## C. Complete application.

(1) A complete application for a comprehensive permit shall include (760 CMR 31.02):

- (a) An application form;
- (b) A determination of project eligibility (site approval) by the subsidizing agency [See 760 CMR 31.01(2)];
- (c) Documentation of site control (e.g., preliminary determination by the subsidizing agency that the applicant has a sufficient interest in the site or a purchase and sale agreement or deed);
- (d) Evidence that the project applicant is a nonprofit organization, a public agency or a limited dividend organization;
- (e) Preliminary site development plans (signed by a registered architect or other pertinent design/engineering professional) showing the location and footprints of all proposed buildings, changes in grading and topography, parking, landscaping, exterior lighting, signs, roads, walkways and driveways (including building materials), open space, wetlands, and infrastructure and utilities;
- (f) An existing conditions plan showing the location of all existing buildings, streets, metes and bounds description of the site, open spaces, trails and trails network, topography, wetlands and buffer areas, on-site infrastructure, parking, roads, driveways, storm water facilities, street elevations, traffic patterns and the character of open areas, if any, in the neighborhood;
- (g) Preliminary architectural drawings (scaled and signed by a registered architect) including the location and use of all buildings, typical floor plans, elevations, sections, construction type and exterior finish;
- (h) Building tabulations (including the number and type of buildings, number and size of units, number of bedrooms per building, floor area of units, and building and impervious surface coverage);
- (i) Where a subdivision of land is involved, a preliminary subdivision plan;
- (j) Preliminary utilities plan showing the proposed location and types of water, wastewater and stormwater facilities, including hydrants;
- (k) Payment of filing fee:
  - [1] Limited dividend organizations, nonprofit organizations and governmental entities utilizing the New England Fund Program: \$500 and \$50 per individual residential unit; or
  - [2] Limited dividend organizations that are using the Local Initiative Program (LIP) (760 CMR 45.00): \$250 and \$25 per individual residential unit;
- (l) Advertising costs and postage for abutter notification shall be borne directly by the applicant;
- (m) Documentation that the applicant has notified DHCD (per 760 CMR 31.01) within 10 days

of filing its application with the subsidizing agency for preliminary approval of the project;

- (n) Documentation that the applicant has notified DHCD (per 760 CMR 31.01) within 10 days of receipt of a written determination of project eligibility (or site approval) from the subsidizing agency;
  - (o) First level hazardous waste assessment (MGL 21E) (if applicable);
  - (p) List of state or other local approvals necessary to be sought and granted prior to the issuance of a building permit for the project;
  - (q) A geohydrologic study on the impact of public water supply and irrigation needs on the local aquifer, nearby private wells, and surface water tributaries to the Ipswich River, Parker River and Merrimack River;
  - (r) List of waivers, variances and exceptions sought by applicant from any and all local regulations, policies and by-laws; and
  - (s) Additional information the ZBA reasonably determines is necessary to make a decision.
- (2) In order to allow review by local officials, the Applicant shall provide the Town Clerk with 20 copies of the complete application so that the local boards, officials and departments may review the same and that one copy may be placed on file at each library. In addition there shall be one unbound copy for copying purposes and eleven-inch-by-seventeen-inch copies of all plans (with matchlines) shall be made available to the Town Clerk for copying purposes.

D. Review fees.

- (1) The ZBA may employ outside consultants to provide technical or legal assistance in reviewing a comprehensive permit application in the event municipal staff cannot provide these services in-house. Whenever feasible, as determined by the ZBA, the ZBA will work cooperatively with the applicant to identify appropriate consultants. The ZBA may require the applicant to pay all or part of the consultant's fees. Consultants shall include, but not be limited to special counsel to the ZBA, traffic consultants, design review consultants, and/or financial reviews (for New England Fund projects only).
- (2) In hiring outside consultants, the Board may engage engineers, financial analysts, planners, lawyers, urban designers or other appropriate professionals who can assist the Board in analyzing a project to ensure compliance with all relevant laws, bylaws, and regulations. Such assistance may include, but not be limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the Board's decision or regulations, or inspecting a project during construction or implementation.
- (3) Funds received by the Board pursuant to this section shall be deposited with the municipal treasurer who shall establish a special account for this purpose, consistent with the terms and provisions of MGL c. 44 § 53G. Expenditures from this special account may be made at the direction of the Board without further appropriation. Expenditures from this special account shall be made only for services rendered in connection with a specific project or projects for which a project review fee has been or will be collected from the applicant. Accrued interest may also be spent for this purpose. Failure of an applicant to pay a review fee shall be grounds for denial of the comprehensive permit application.
- (4) At the completion of the Board's review of a project, any excess amount in the account,



including interest, attributable to a specific project shall be repaid to the applicant or the applicant's successor in interest. A final report of said account shall be made available to the applicant or applicant's successor in interest. For the purpose of this regulation, any person or entity claiming to be an applicant's successor in interest shall provide the Board with documentation establishing such succession in interest.

- (5) Any applicant may take an administrative appeal from the selection of the outside consultant to the Select Board. Such appeal must be made in writing and may be taken only within 20 days after the Board has mailed or hand-delivered notice to the applicant of the selection. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not process the minimum, required qualifications. The minimum qualifications shall consist either of an educational degree in, or related to, the field at issue or three or more years of practice in the field at issue or a related field. The required time limit for action upon an application by the Board shall be extended by the duration of the administrative appeal. In the event that the Select Board makes no decision within one month following the filing of the appeal, the selection made by the Board shall stand. **[Amended 9-12-2020ATM by Art. 19]**
- (6) All fees assessed pursuant to this Subsection D shall be reasonable in light of the:
  - (a) Complexity of the proposed project,
  - (b) Complexity of the particular issues,
  - (c) Number of dwelling units proposed, and
  - (d) Size and character of the site.

E. Procedures.

- (1) Negotiation/mediation. The applicant shall meet with the Local Housing Partnership to review and negotiate the proposal for a comprehensive permit before an application is filed with the ZBA.
- (2) The ZBA shall hold a public hearing on the project within 30 days of receipts of the completed application. The ZBA shall notify all Local Boards of the application for a comprehensive permit upon receipt of the application and forwards copies of the application and the ZBA should request that representatives of Local Boards attend the public hearing(s) to provide input and advice to the applicant. In making its decision the ZBA shall take into consideration the recommendations of the local boards. These recommendations shall include the reasons why any local bylaws or regulations of those boards should not be waived.
- (3) The ZBA will give public notice, beginning at least 14 days prior to the date of the hearing, by advertising the comprehensive permit hearing in a local newspaper of general circulation, notifying interested parties by certified mail as defined in MGL c. 40A § 11 to include the petitioner, direct abutters, owners of land directly opposite on any public or private street or way, abutters to abutters within 300 feet of the property line of the proposed project, the Planning Board of Boxford, the Planning Board of every abutting city or town, and posting a copy of the hearing notice in the Town Hall.
- (4) In the event that, during the public hearing, the applicant proposes any changes in its application or project plans that in, the ZBA's judgement, constitute a material or substantial change in the project, the applicant shall provide a new determination of project eligibility (site approval)

from the subsidizing agency, and the ZBA may request, and the Applicant shall provide, any and all changes to the information specified in Subsection C(1) that is deemed by the ZBA to be necessary for the ZBA and other local boards to evaluate such changes.

F. Decisions.

- (1) The ZBA shall render a decision based on a majority vote, within 40 days of the close of the public hearing, unless such time period is extended by written agreement of the ZBA and the applicant. The public hearing is deemed closed when all public testimony has been received and all information requested by the ZBA has been received. The ZBA may dispose of the application in the following manner:
  - (a) Approve a comprehensive permit on the terms and conditions set forth in the application;
  - (b) Deny a comprehensive permit as not consistent with local needs;
  - (c) Approve a comprehensive permit with conditions, including but not limited to height, site plan, size, shape, or building materials, that do not render the construction or operation of such housing economic.
- (2) Any decision approving a comprehensive permit shall, at minimum, contain the following conditions:
  - (a) For condominium projects, legal review and approval by the Town of final condominium documents;
  - (b) For all projects, legal review and approval by the Town of deed riders;
  - (c) A requirement that the units remain affordable for as long as the housing is not in compliance with local zoning.
  - (d) The project has the written support of the Local Housing Partnership.
  - (e) A requirement that the project qualify under state laws and regulations such as Wetlands Protection Act, Title 5, Subdivision Control Law, State Health Code and the State Building Code prior to construction.
- (3) The burdens of proof for ZBA decisions (denial, approval or approval with conditions) are described in 760 CMR 31.06 (5)-(8). "Consistent with local needs" is defined in M.G.L. c. 40B, § 20. Evidentiary standards, presumptions and the balancing of housing need and local concerns are described in 760 CMR 31.07.

G. Condominium documents. All condominium documentation shall state that:

- (1) Unit owner's percentage interest in the condominium shall be based on unit fair market value (not square footage of the unit).
- (2) There shall be one vote per unit owner, unless MGL c. 183A requires otherwise.
- (3) Condominium documents shall prohibit amendments to affordability provisions.
- (4) Affordable units shall not be rented without the approval of the Town, as determined by the Boxford Housing Partnership.

H. Amendments to approved permit.

- (1) If after the issuance of a comprehensive permit an applicant seeks to change its proposal as approved by the ZBA, it shall promptly notify the ZBA in writing, describing such change. Within 20 days the ZBA shall determine and notify the applicant whether it deems the change substantial or insubstantial [see 760 CMR 31.03(2) for examples of substantial and insubstantial changes.]
  - (2) If the ZBA determines the change is insubstantial, the comprehensive permit shall be modified to incorporate the change.
  - (3) If the ZBA determines the change is substantial, it shall hold a public hearing within 30 days of its determination and issue a decision within 40 days of the close of the hearing, in accordance with Subsection D(5) of these rules. Only the changes in the proposal or aspects of the proposal affected thereby shall be at issue in the hearing.
- I. New England Fund projects. The Federal Home Loan Bank Board of Boston (FHLBB) and its member banks (A member bank is hereinafter referred to as "the bank,") provide comprehensive permit applicants with construction financing at below-market interest rates through the New England Fund (NEF). The Housing Appeals Committee (HAC) in *Stuborn v. Town of Barnstable* determined that NEF qualifies as a subsidy for purposes of the Act and outlined the type of issues that should be considered by towns when reviewing comprehensive permit applications.
- (1) The rules set forth herein below in Subsections J through S apply to NEF projects and are in addition to those rules listed herein above and below, which apply to all comprehensive permit projects. These rules are consistent with the framework established by HAC in the *Stuborn* decision.
  - (2) Where these rules do not answer a particular question, the ZBA will refer for guidance to the Department of Housing and Community Development Local Initiative Program guidelines for homeownership projects and to the Massachusetts Housing Finance Agency 80/20 program for rental projects.
- J. NEF applications.
- (1) A complete application for a project receiving New England Fund financing, in addition to the requirements for a complete application listed herein above in Subsection C, shall include:
    - (a) A project eligibility letter that provides the following information:
      - [1] Name of applicant;
      - [2] Address of site;
      - [3] Number of units proposed;
      - [4] Type of housing proposed (ownership or rental);
      - [5] Name of housing program under which project eligibility letter or site approval letter is sought;
      - [6] Relevant details of the proposed project (e.g., percentage of affordable units, income-eligibility standards, duration of the affordable housing restrictions, how the applicant will comply with the limited dividend aspect of the program, etc.);
      - [7] A statement that the proposed project is generally eligible under the requirements of

the NEF program, pending final review and approval;

[8] A statement by the bank that it has not exceeded its lending limits with the FHLBB;

[9] A statement by the Bank that it has performed an on-site inspection of the property as well as a review of the project-eligibility application and has found that:

[a] The proposed housing design is generally appropriate for the site on which it is located;

[b] The proposed project appears financially feasible within the housing market in which it will be situated (based on comparable rental or sales figures);

[c] An initial pro forma has been reviewed and that the project appears viable from a development cost perspective; and

[d] The applicant meets the general eligibility standards of the NEF program.

(b) A statement that the entity issuing the project eligibility letter has notified the ZBA and Select Board, provided a thirty-day review period for local comment and provided a list of comments from Local Boards and officials and neighbors; **[Amended 9-12-2020ATM by Art. 19]**

(c) The information provided by the applicant to the entity issuing the project eligibility letter;

(d) Project pro forma [for allowable acquisition costs, see Subsection B(1) of these rules; for reasonable profits, see Subsection K of these rules.];

(e) Proposed regulatory agreement;

(f) Proposed monitoring agreement;

(g) Market feasibility report;

(h) General information on the applicant and projects that the applicant has completed, including comprehensive permit projects.

K. NEF reasonable profits. The applicant's profits shall be reasonable and shall be limited as follows:

(1) Homeownership projects: 20% of total development costs (TDC). TDC does not include overhead, profits and management consulting fees. Overhead shall not be more than 5% of the total development costs (net of profits, management consulting fees and overhead).

(2) Rental projects: Annual return of 10% of equity (equity being the difference between TDC, as defined by the NEF construction loan documents, and the amount of the construction loan.) This difference may not be equal to the applicant's cash invested. TDC includes an allowable fee for applicant's overhead (5% of TDC, excluding site acquisition and applicant overhead and fee) and applicant fees (20% of TDC, excluding site acquisition and applicant overhead and fees).

L. NEF allowable acquisition costs. The development pro forma must list a land value that is the lower of the last arm's length transaction (if within three years) plus reasonable carrying and/or maintenance costs or the value under the pre-existing zoning regulations, plus reasonable carrying costs.

(1) Last arm's length transaction shall not involve an identity of interest between the seller and the buyer or any party related to the buyer;

- (2) Pre-existing zoning regulations concerns the time the option or purchase and sale agreement is executed.
- (3) Reasonable carrying costs include interest, taxes, insurance and the costs related to option agreements. These costs plus the acquisition costs cannot exceed the appraised value of the land under the density permitted by a comprehensive permit.

M. NEF decisions.

- (1) Any decision by the ZBA regarding a comprehensive permit application for an NEF project shall comply with the rules set forth herein above in Subsection F.
- (2) A decision by the ZBA approving a comprehensive permit application for an NEF project shall also contain, but not be limited to, the following conditions:
  - (a) The applicant shall provide documentation that NEF funding has been obtained.
  - (b) Legal review and approval by the Town of the regulatory and monitoring agreements.

N. Regulatory agreements.

- (1) The purpose of the regulatory agreement is to provide legal assurances that the applicant will construct and maintain the units in accordance with these rules and be limited to a reasonable profit for the project (as set forth in Subsection K herein above) subject to the regulatory agreement.
- (2) The regulatory agreement shall:
  - (a) Include a definition of "profit";
  - (b) Limit profits on homeownership projects to 20% [See Subsection K(1) herein above.];
  - (c) Limit profits on rental projects to an annual return of 10% of equity [See Subsection K(1) herein above.];
  - (d) Require a full compilation and certification of total development costs (net of related-party expenses) and total revenue, on a federal income tax basis, prepared and certified by a certified public accountant, acceptable to the monitoring agent and the Town; and
  - (e) Be executed by the Town, the lending bank, and the applicant.
  - (f) Establish resale and rental controls to preserve long-term affordability and to ensure its availability to low- or moderate-income households.

O. Monitoring agreements.

- (1) The purpose of the monitoring agreement is to provide legal assurances that there is a public entity (or a private entity responsible to a public entity) to oversee compliance with the terms of the regulatory agreement.
- (2) The Boxford Housing Partnership shall be the monitoring agent under any monitoring agreement.
- (3) The per unit fees for monitoring the affordable units shall be set by the Boxford Housing Partnership.

P. Affordability restrictions-all applications.

(1) Restrictions for homeownership projects.

- (a) The formula for determining resale price shall be the lesser of the appraised value of the unit multiplied by a discount rate (established by a ratio between the original sales price of the affordable unit compared to the sales price of a market-rate unit), or a price based on an annual debt service on a mortgage plus taxes, insurance and condominium fees (assuming a down payment of 10%) that does not exceed 30% of the annual income of a household earning 70% of the area median income for the local statistical area as defined by the United States Department of Housing and Urban Development.
- (b) Upon resale, the owner of the affordable unit shall be required to actively market the affordable unit to eligible purchasers for up to 120 days.
- (c) The Town shall have a right of first refusal to purchase the affordable units.
- (d) Excess profits shall be returned to the Town to be used for affordable housing purposes.
- (e) Approval by the Department of Housing and Community Development of deed riders shall be required.
- (f) There shall be a deed restriction that the affordable unit shall remain affordable in perpetuity.

(2) Restrictions for rental projects.

- (a) Affordable rents shall be limited to 30% of the annual income of a renter whose income is 70% of the area median income for the local statistical area as defined by the United States Department of Housing and Urban Development or established pursuant to a rent schedule set by the Town.
- (b) Tenant selection, income guideline changes, and annual verification of income shall be by the Boxford Housing Partnership.

Q. Buyer/tenant selection-all applications.

(1) Buyers of affordable units shall:

- (a) Be first-time homebuyers and not have had an ownership interest in a residence in three years preceding the date of the closing of the loan except that a single parent, with one or more children living with him or her, who has been divorced or widowed within the preceding three years and who no longer owns a home, or, who in the case of a divorced person, is subject to a court order or separation agreement to sell the home and divide the proceeds, or, in the case of a widowed person, whose home is subject to a binding purchase and sale agreement for sale, will be considered a first-time homebuyer, notwithstanding prior home ownership during those preceding three years, provided such widowed or divorced person is eligible in other respects.
- (b) Have a household income of less than 80% of the area median income for the local statistical area as defined by the United States Department of Housing and Urban Development.

(2) Renters of affordable units shall have a household income of less than 80% of the area median

income for the local statistical area as defined by the United States Department of Housing and Urban Development.

- (3) Applicants shall have a Town-approved affirmative marketing plan for sale and rental of the affordable units.

R. Owner-occupancy requirements-all applications.

- (1) These requirements shall apply to homeownership projects.
- (2) All units shall be owner-occupied.
- (3) Rentals of owner-occupied affordable units shall be limited to two years and to renters of affordable units [See Subsection Q(2) herein above.] and are subject to approval by the Town as determined by the Boxford Housing Partnership.

S. Affordable unit design and location-all applications.

- (1) The exterior of the affordable units shall be indistinguishable from the exterior of the market-rate units.
- (2) Affordable units shall be dispersed throughout the project.

T. Appeals.

- (1) If the ZBA approves a comprehensive permit, any person aggrieved may appeal within the time period and to the court provided in MGL c. 40A, § 17.
- (2) If the ZBA denies the comprehensive permit or approves the permit with conditions or requirements considered by the applicant to be unacceptable, the applicant may appeal to the Housing Appeals Committee as provided in MGL c. 40B, § 22.10

U. Lapse of permits.

- (1) If construction authorized by a comprehensive permit has not begun with three years of the date on which the permit becomes final, the permit shall lapse. The permit shall become final on the date of the ZBA decision if no appeal is filed. Otherwise, it shall become final on the date the last appeal is decided or otherwise disposed of.
- (2) The ZBA may set an earlier or later expiration date for the permit and may extend any expiration date. An extension may not be unreasonably denied.

V. Transfer of permits.

- (1) No comprehensive permit shall be transferred to a person or entity other than the applicant without the written approval of the ZBA.

**§ 382-5. Administration.**

A. Advice and policies.

- (1) Any advice, opinion or information given to an applicant by any Board of Appeals member, the Inspector of Buildings, the Board's Secretary or any other official or employee of the Town prior to a public hearing shall not be binding on the Board. Individuals are discouraged from appealing personally to members of the Board prior to a public hearing.

- (2) The Board may, at its discretion, develop policies to further define or interpret provisions of their Zoning Bylaw in these rules and regulations.
- B. Waivers. The Board of Appeals may waive strict compliance with any of these rules and regulations if it deems it in the public interest and if a written record is kept of such waivers, and the reasons for them.
- C. Amendments to rules and regulations. These rules and regulations may be amended by a unanimous vote of the members of the Board of Appeals, provided that such amendment shall be presented in writing at a regular meeting and action taken thereof at a subsequent regular meeting.
- D. Effective date. These rules and regulations were adopted at a regular meeting of the Board of Appeals on June 27, 2002, and become effective as of July 1, 2002. The rules previously adopted and subsequently amended are hereby repealed. No action taken under said Rules shall be affected by said repeal.

## **Appendix**



**Chapter A400****LOCAL OPTION STATUTES ACCEPTED OR REJECTED****§ A400-1. Acceptance or rejection of local option statutes.**

The following is a list of local option statutes accepted or rejected by the Town of Boxford.

<b>G.L. Chapter</b>	<b>Amended by Chapter</b>	<b>of the Acts of</b>	<b>Date of Action</b>	<b>Result of Action (Accept, reject, etc.)</b>	<b>Topic</b>
	242	1867	1883	Accepted	Removal of shade trees
	158	1871	1898	Accepted	Election of Board of Road Commissioners
	482	1902	1902	Accepted	Election of Town Clerk
	264	1886		Accepted	Voting precincts
	503	1912	11-5-1912	Rejected	Pensioning laborers
	494	1911	3-3-1913	No action taken	Eight hour day
	807	1913	11-4-1913	Accepted	Workmen's compensation
	807	1913	3-2-1914	Accepted	Workmen's compensation
	487	1913		No action taken	Call men
	217	1914	11-3-1914	Rejected	Laborers' vacations
	688	1914	11-3-1914	Rejected	Saturday half-holiday
	790	1914	11-3-1914	Accepted	Abolition of party enrollment — primaries
	23	1917	3-4-1918	No action	Licensing taken of coffee houses
	254	1917	3-4-1918	No action taken	Soldier's pay
	293	1916	3-4-1918	Accepted	Licensing motor vehicles
	598	1910	4-1-1918	Accepted	Accounting system
	624	1910	7-11-1918	Accepted	Town accountant

<b>G.L. Chapter</b>	<b>Amended by Chapter</b>	<b>of the Acts of</b>	<b>Date of Action</b>	<b>Result of Action (Accept, reject, etc.)</b>	<b>Topic</b>
	311G	1919	11-4-1919	Accepted	Continuation schools
RL 103 §§ 178- 180	14	1921	3-6-1922	No action taken	Assistant assessors
				Accepted	Licensing picnic groves
	209	1908		Accepted	Protection of forest or sprout lands
	807	1913		Accepted	Workmen's compensation
	153	1916		Accepted	Licensing of slaughterhouses
	293	1916		Accepted	Licensing of jitneys
140, § 47				Accepted	Licensing of coffee houses
94, § 120A				Accepted	Additional fees for slaughterhouses
41, § 6			6-25-1923	Accepted	Use of official ballots
131, § 105B			3-1-1937	Accepted	Street traps
	710	1941	3-2-1942	Accepted	Registration and operation of bicycles
328, §§ 1-28	166	1946	11-5-1946	Accepted	Establishment of retirement system
48, §§ 42-44			1950	Accepted	Establishment of Fire Department and appointment of Fire Chief
71, §§ 16-16I	638	1949	10-1-1956	Accepted	Establishment of regional school district
	670	1955	1956	Accepted	Increasing pensions
40, § 8C			1960	Accepted	Establishment of Conservation Commission

<b>G.L. Chapter</b>	<b>Amended by Chapter</b>	<b>of the Acts of</b>	<b>Date of Action</b>	<b>Result of Action (Accept, reject, etc.)</b>	<b>Topic</b>
	478	1963	1963	Accepted	Increasing pensions
32B			1965	Accepted	Group insurance
152, § 69			1967	Accepted	Additional workmen's compensation coverage
32B			1971	Accepted	Increased group insurance coverage
	486	1971	3-7-1972	Rejected	Beano licensing
40, § 6C			1973	Accepted	Snow and ice removal
53, § 9A			1974	Accepted	Deadlines for filing nomination papers
40, § 13			1979	Accepted	Municipal Buildings Insurance Fund
41, § 45A			1979	Accepted	Board of Selectmen <sup>91</sup> to act as Board of Commissioners of Trust Funds
	152, § 9	1940		Accepted	Workmen's compensation
41, § 97				Accepted	Establishment of Police Department and appointment of Chief of Police
40, § 4G			5-12-1981	Accepted	Increase amount necessitating specific bidding procedures
90, § 20A 1/2					Parking regulations
90, § 20C			5-12-1981	Accepted	

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91. Editor's Note: The name of the governing body was changed to "Select Board" 9-12-2020ATM by Art. 19.

<b>G.L. Chapter</b>	<b>Amended by Chapter</b>	<b>of the Acts of</b>	<b>Date of Action</b>	<b>Result of Action (Accept, reject, etc.)</b>	<b>Topic</b>
	43	1982	5-10-1983	Accepted	Tuition for nonresident students
653		1982	5-9-1984	Accepted	Revaluation impact and relief for the elderly and disabled
32B, § 16			1984	Accepted	Optional health insurance
188, § 13		1985	11-19-1985	Accepted	Professional grant program for teachers
188, §§ 16-17		1985	5-13-1986	Accepted	Salary increased for teachers
4055	640	1985		Accepted	Licenses for cities and towns
		Chapter 291 of the Acts of 1990	5-15-1991	Accepted	Enhanced 9-1-1
44, § 531/2			5-10-1994	Accepted	Establishment of recycling revolving account
44, § 53 1/2			5-10-1994		Establishment of a library photocopy machine revolving account
48, § 42A			5-10-1994	Rejected	Relative to the creation of Fire Department
40, § 3			5-10-1994	Accepted	Makes school rental fund a revolving fund
40, § 8d			5-10-1994	Accepted	Establish a Historical Commission
59, § 5			5-10-1994	Accepted	Reduction of state residency requirement for veteran's exemption

<b>G.L. Chapter</b>	<b>Amended by Chapter</b>	<b>of the Acts of</b>	<b>Date of Action</b>	<b>Result of Action (Accept, reject, etc.)</b>	<b>Topic</b>
		Chapter 71, Section 83 of Acts of 1993	7-13-1993	Accepted	Early retirement incentive for teachers
		Chapter 85, Section 2A of Acts of 1994	12-14-1994	Accepted	Appropriations for highway maintenance and construction
44, § 17			5-10-1988	Accepted	Authorize the Town Treasurer to borrow money
71, § 5, CL. 41C			5-10-1988	Accepted	Increase elderly exemption
71, § 40			5-10-1988	Accepted	State reimbursement of teacher's pay
39, § 10			5-11-1988	Accepted	Collective bargaining agreements subsections
41, § 1			5-11-1988	Accepted	Combine positions of treasurer and tax collector funds
		Chapter 236 of the Acts of 1987	5-11-1988	Accepted	Expenditure of default funds by municipal Planning Board
40, § 5 cl. 51			5-11-1988	Accepted	Conservation fund
44, § 4			5-9-1989	Accepted	Town Treasurer to borrow money
44, § 4, 17			5-8-1990	Accepted	Town Treasurer to borrow money
		Chapter 516 of the Acts of 1958	5-8-1990	Accepted	Withdraw from membership in Essex County Mosquito Control Project
98, § 56			5-8-1990	Accepted	Schedule of fees for the sealing of weighing or measuring devices

<b>G.L. Chapter</b>	<b>Amended by Chapter</b>	<b>of the Acts of</b>	<b>Date of Action</b>	<b>Result of Action (Accept, reject, etc.)</b>	<b>Topic</b>
44, § 53F 1/2			5-12-1992	Accepted	Creation of a Roadside Collection Solid Waste and Recycling Enterprise Fund
		Chapter 223 of the Act of 1990	5-22-1991	Accepted	To join the Essex-Middlesex Sanitary District
101, § 33			5-22-1991	Accepted	Issue of temporary licenses for public events
30B			5-22-1991	Accepted	Busing of students
		Chapter 706 of the Act of 1989	5-22-1991	Accepted	Leasing of surplus school space
		Chapter 138 of the Acts of 1981, §§ 228- 231	8-27-1991	Rejected	
59, § 57C			2-25-1992	Accepted	Quarterly tax bills
71, §§ 16- 16I			10-20-1992	Rejected	Expansion of Masconomet Regional School District
44, § 53E 1/2			5-12-1992	Accepted	Establishment of recycling revolving account
33		Acts of 1991	5-12-1992	Accepted	Highway maintenance and construction state aid
44, § 53E 1/2			5-11-1993	Accepted	Recycling revolving account to be under the direction of Board of Health
44, § 8 (p.24)			5-11-1993	Accepted	Transfer of funds for the closure of sanitary landfill
		Chapter 399 of the Acts and resolves of 1992	7-13-1993	Accepted	Early retirement for certain town employees

<b>G.L. Chapter</b>	<b>Amended by Chapter</b>	<b>of the Acts of</b>	<b>Date of Action</b>	<b>Result of Action (Accept, reject, etc.)</b>	<b>Topic</b>
		Chapter 516 of the Acts of 1958	8-10-1994	Rejected	Re-join Essex County Mosquito Control District
44, § 53E 1/2			5-9-1995	Accepted	Establishment of a printing revolving account
44, § 53E 1/2			5-9-1995	Accepted	Establishment of a library photocopy machine revolving account
44, § 53E 1/2			5-9-1995	Accepted	Establishment of a recycling revolving account
30B			2-27-1996	Accepted	The lease of town land for agriculture lease
30B			2-27-1996	Accepted	The lease of conservation land for agriculture leases
44, § 73, 3A		Chapter 645 of the Act of 1948	2-27-1996	Accepted	School funding contingent on prop. 21/2 override
44, § 53E 1/2			5-14-1996	Accepted	Recycling revolving account
44, § 53E 1/2			5-14-1996	Accepted	Printing revolving account
44, § 53E 1/2			5-14-1996	Accepted	Library photocopy machine revolving account
40 § 8C			5-14-1996	Accepted	Authorize Treasurer with approval of the Selectmen <sup>92</sup> to enable the Conservation Commission to purchase land

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92. Editor's Note: The name of the governing body was changed to "Select Board" 9-12-2020ATM by Art. 19.

<b>G.L. Chapter</b>	<b>Amended by Chapter</b>	<b>of the Acts of</b>	<b>Date of Action</b>	<b>Result of Action (Accept, reject, etc.)</b>	<b>Topic</b>
30B			5-14-1996	Accepted	Authorization of Selectmen <sup>93</sup> to enter into contracts for ambulance services
	Ch. 113, § 2A	1996	10-22-1996	Accepted	State aid allotment and reimbursement for Highway Department
44, § 53E 1/2			5-13-1997	Accepted	Recycling revolving account
44, § 53E 1/2			5-13-1997	Accepted	Printing revolving account
44, § 53E 1/2			5-13-1997	Accepted	Library photocopy machine revolving account
44, § 53E 1/2			5-13-1997	Accepted	Conservation revolving account
40, § 8C			5-14-1997	Accepted	Authorize the Treasurer with approval of the Selectmen <sup>94</sup> to enable the Conservation Commission to purchase land
29C § 1			5-22-1997	Accepted	Financing water pollution abatement facility projects
111, § 155			5-22-1997	Accepted	Licensing of stables in cities and large towns

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<b>G.L. Chapter</b>	<b>Amended by Chapter</b>	<b>of the Acts of</b>	<b>Date of Action</b>	<b>Result of Action (Accept, reject, etc.)</b>	<b>Topic</b>
32b, § 18			5-22-1997	Accepted	Eligible retirees spouses or dependents enrolled in Medicare part A at no cost, be required to enroll in supplement plan offered by the town
59, § 2A(a)			10-28-1997	Accepted	Allows town to assess new buildings, structures or other improvements added to real property
127, § 59		1999	5-9-2000	Accepted	Property tax work- off program <sup>95</sup>
43C, § 11			5-9-2000	Accepted	Create a consolidated Dept. of Municipal Finance
41, § 41B			5-8-2001	Accepted	Authorize Treasurer to provide a payroll option for electronic transfer of funds
59, § 5(41D)		Added by Chapter 380, § 2, of the Acts of 2000	5-8-2001	Accepted	Allow increase in income and asset limits that apply to applicants for Clause 41C by the consumer price index
59, § 5(17D)			5-8-2001	Accepted	Exempt total value of the owner- occupied dwelling

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**95. Editor's Note: Pursuant to 6-26-2021ATM, Art. 21, the Town voted to amend the Senior Work-Off Program regulations to allow an approved representative, for persons physically unable, to provide senior property tax work-off abatement services to the Town.**

<b>G.L. Chapter</b>	<b>Amended by Chapter</b>	<b>of the Acts of</b>	<b>Date of Action</b>	<b>Result of Action (Accept, reject, etc.)</b>	<b>Topic</b>
181, § 1		1995	5-8-2001	Accepted	Increase annual exemption amount for MGL c. 59, § 5, Clause 17D by the consumer price index
59, § 5(17E)		Added by Chapter 380, § 1, of the Acts of 2000	5-8-2001	Accepted	Increase the whole estate limits that apply to applicants for a tax exemption under MGL c. 59, § 5, Clause 17D, by the consumer price index
59, § 5 (54) Chapter	G.L. Chapter	Added by Chapter 159, § 114, of the Acts of 2000	5-8-2001 of the Action	Accepted Result of Action Date of reject, etc.)	Establish a minimum fair cash value of \$3,001 required for personal property accounts to be taxed (effective fiscal year 2002)
184, § 51		2002	10-22-2002	Accepted	Adjustment of several factors related to property exempt from assessment of local taxes, including reducing the eligibility age and increasing certain amounts
44, § 53E 1/2			5-13-2003	Accepted	Recycling revolving account
44, § 53E 1/2			5-13-2003	Accepted	Printing revolving account
44, § 53E 1/2			5-13-2003	Accepted	Library photocopy machine revolving account
44, § 53E 1/2			5-13-2003	Accepted	Conservation revolving fund

<b>G.L. Chapter</b>	<b>Amended by Chapter</b>	<b>of the Acts of</b>	<b>Date of Action</b>	<b>Result of Action (Accept, reject, etc.)</b>	<b>Topic</b>
44, § 53E 1/2			5-13-2003	Accepted	Highway safety revolving account
39 § 23D			10-24-2006	Accepted	Allow a board member of any municipal board, committee or commission to vote in an adjudicatory hearing pending before their board, committee or commission even if that member has been absent from no more than a single session of the hearing at which testimony or other evidence is received, as long as before such vote the member shall certify in writing that he has examined all evidence received at the missing session
44, § 53E 1/2			5-8-2007	Accepted	Recycling revolving account
44, § 53E 1/2			5-8-2007	Accepted	Printing revolving account
44, § 53E 1/2			5-8-2007	Accepted	Library photocopy machine revolving account
44, § 53E 1/2			5-8-2007	Accepted	Conservation revolving fund
44, § 53E 1/2			5-8-2007	Accepted	Highway safety revolving account

<b>G.L. Chapter</b>	<b>Amended by Chapter</b>	<b>of the Acts of</b>	<b>Date of Action</b>	<b>Result of Action (Accept, reject, etc.)</b>	<b>Topic</b>
44, § 53E 1/2			5-8-2007	Accepted	Council on Aging transportation revolving account
59, § 5, Clause 41A			5-8-2007	Accepted	Establish the interest rate to be charged for deferred property taxes for qualifying seniors for fiscal years beginning on or after 7-1-2007
44B, § 3(i), and 59, § 5, Clause 55			10-23-2007	Accepted	Allows the Board of Assessors to grant certain property tax and Community Preservation Act surtax exemptions to qualified residents occupying units in housing cooperatives
32, § 4(2)(b 1/2)			10-27-2009	Accepted	Allow persons eligible for retirement to claim service as call firefighters for purposes of calculating creditable service
		In accordance with Chapter 463 of the Acts of 2004	10-27-2009	Accepted	Authorize Town to become a member of the North Shore Agricultural and Technical School District

<b>G.L. Chapter</b>	<b>Amended by Chapter</b>	<b>of the Acts of</b>	<b>Date of Action</b>	<b>Result of Action (Accept, reject, etc.)</b>	<b>Topic</b>
32B, § 20			10-22-2011	Accepted	Establish an Other Post Employment Benefits Trust Fund and authorize the Board of Selectmen <sup>96</sup> to enter into any and all agreements as necessary to establish said trust
59, § 5K	218	2016	5-9-2017	Accepted	Increase the amount of deduction on property tax bills to \$1,500 for eligible seniors
40, § 13E			5-9-2017	Accepted	Create a Special Education Revolving Fund
32B, § 20			5-9-2017	Accepted	Create an Other Post Employment Benefits Fund for the current and future liabilities of the Town for group health insurance benefits for retirees and their dependents

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<b>G.L. Chapter</b>	<b>Amended by Chapter</b>	<b>of the Acts of</b>	<b>Date of Action</b>	<b>Result of Action (Accept, reject, etc.)</b>	<b>Topic</b>
59, § 5C1/2			5-8-2018	Accepted	Provide an additional real estate exemption for taxpayers who are granted personal exemptions on their domiciles under MGL c. 59, § 5, including certain blind persons, veterans, surviving spouses and seniors, and to provide that the additional exemption be up to 100% of the personal exemption
60, § 3F			5-17-2022	Accepted	Voluntary donation to municipal veterans assistance fund by designation on municipal property tax or motor vehicle excise bills
59, § 5(57)			5-17-2022	Accepted	Board of Assessors may appropriate monies for and grant property tax rebates in an amount not to exceed annually the amount of the income tax credit set forth under MGL c. 62, § 6(k)
40, § 5B			5-9-2023	Accepted	Create Opioid Settlement Stabilization Fund

**Chapter A401****SPECIAL ACTS PERTAINING TO BOXFORD****§ A401-1. Special acts defined.**

- A. A special act relates particularly to a person or persons, an institution or institutions, one or more cities or towns or one or more topics or issues. Thus special legislation is narrow in its application. They also come about largely by request, and they are not codified. Therefore, they are always referred to by the year of enactment and chapter number. A few Special Acts, in addition to legislative approval, need acceptance by the local voters in order to become fully effective. In the listing which follows, any required local acceptance is indicated in parentheses after the title.
- B. The Boxford history relative to special legislation appears to be quite unusual, in that no special legislation pertaining to the town is recorded for a lengthy span of years from 1913 to 1959.

**§ A401-2. Special acts pertaining to Boxford.**

The following is a list of special acts pertaining to the Town of Boxford.

<b>Year</b>	<b>Chapter</b>	<b>Short Title</b>	<b>Date of Passage</b>
1782	107	Resolve on the petition of the Town of Beverly respecting its valuation (Beverly valuation reduced and apportioned among Boxford and other towns)	July 3, 1782
1783	54	Resolve on the petition of Isaac Adams et al., for the Town of Boxford, abating a fine for not sending a member (to the General Court) in 1782	Oct. 17, 1783
1808	47	An act to incorporate certain persons as trustees, to improve and manage a fund towards the support of schools in the north- westerly parish in Boxford	Feb. 27, 1809
1824	116	An act to incorporate the trustees of the ministerial fund in the first parish of Boxford	Feb 25, 1825

Year	Chapter	Short Title	Date of Passage
1825	32	An act to alter and establish a part of the boundary line between the Towns of Rowley and Boxford	June 18, 1825
1846	81	An act to set off a part of the Town of Ipswich and annex the same to the Town of Boxford	March 7, 1846
1856	56	Resolve in favor of the Town of Boxford (school fund reimbursement)	May 13, 1856
1856	61	An act to set off a part of the Town of Boxford and annex the same to the Town of Groveland	March 21, 1856
1865	65	An act to authorize the first parish in Boxford to sell real estate	March 6, 1865
1893	384	An act to incorporate the Haverhill, Georgetown and Danvers Street R.R. Company (permitting the laying of tracks in Boxford)	May 22, 1893
1897	284	An act relative to the boundary line between the Towns of Boxford and Georgetown	April 15, 1897
1898	541	An act to exempt the Town of Boxford from maintaining a high school and from paying the tuition of pupils living in said town and attending a high school in another town or city	June 20, 1898



Year	Chapter	Short Title	Date of Passage
1899	255	An act to change the name of the Police Court of Haverhill and to include the Towns of Georgetown and Boxford within its judicial district	April 10, 1899
1902	295	An act to incorporate the Danvers and Georgetown Street R.R. Company (permitting operations in Boxford)	April 11, 1902
1904	147	An act to establish the boundary line between the Towns of Boxford and North Andover	March 12, 1904
1904	253	An act to establish the boundary line between the Towns of Georgetown and Boxford	April 22, 1904
1904	252	An act to establish the boundary line between the Towns of Middleton and Boxford	April 22, 1904
1912	85	Resolve to provide for investigating the matter of a water supply for cities of Salem, Beverly and Woburn and for certain towns (Boxford included)	April 29, 1912
Year Chapter Short Title	Date of Passage		
1960	700	An act authorizing the Town of Boxford to appropriate funds from its stabilization fund for construction of an addition to the Cole Elementary School	Oct. 17, 1960

Year	Chapter	Short Title	Date of Passage
1966	298	An act authorizing the Town of Boxford to vote at a Special Town Meeting on the question of granting licenses for the sale in said town of alcoholic beverages (rejected by the town June 20, 1966)	May 23, 1966
1967	156	An act authorizing the formation of a Vocational Regional School District by the Cities of Haverhill and Newburyport and the Towns of Amesbury, Boxford, Georgetown, Groveland, Ipswich, Merrimac, Newbury, Rowley, Salisbury, Topsfield and West Newbury (passed over by the town March 4, 1968)	April 20, 1967
1968	712	An act providing tenure of office until age 65 for Douglas A. Warren, incumbent of the office of Police Chief of the Town of Boxford (approved by the town at Annual Town Election 1969)	July 19, 1968
1971	327	An act authorizing the Town of Topsfield to purchase land in the Town of Boxford for conservation purposes	May 20, 1971

Year	Chapter	Short Title	Date of Passage
1971	614	An act directing the transfer of certain lands of the Commonwealth to the control of the Department of Public Works for highway purposes and authorizing the Department of Public Works to acquire certain public lands in the Town of Boxford for highway purposes	Aug. 5, 1971
1972	545	An act authorizing the formation of a Vocational Regional School District by the Cities of Beverly, Gloucester, Peabody and Salem and the Towns of Boxford, Danvers, Essex, Hamilton, Lynnfield, Manchester, Marblehead, Middleton, Rockport, Swampscott, Topsfield and Wenham (approved by the town November 7, 1972)	June 29, 1972
1974	84	An act authorizing the Town of Boxford to issue an all alcoholic beverages license to the Far Corner Farm Golf Course, Inc. (subject to local referendum at each biennial state election)	April 8, 1974
1975	406	An act establishing an Historic and Scenic District Planning Commission in Essex County (provisions of act ceased on July 1, 1978)	July 5, 1975

Year	Chapter	Short Title	Date of Passage
2001	57	An act relative to a boundary change between the Towns of Georgetown and Boxford	August 2, 2001
2002	413	An act changing the boundary line between Boxford and North Andover	December 24, 2002
2018	238	An act to provide property tax exemptions for certain nonprofit senior housing in Boxford	August 30, 2018

### Disposition List

**Chapter DL****DISPOSITION LIST**

**The following is a chronological listing of bylaws and other regulations of the Town of Boxford adopted since the publication of the Code, indicating their inclusion in the Code or the reason for exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] Information regarding bylaws and regulations which are not included in the Code nor on this list is available from the office of the Town Clerk. The last bylaw reviewed for the original publication of the Code was adopted at the Annual Town Meeting of May 11, 1999, under Article 41. A complete listing, including disposition, of all bylaws reviewed in conjunction with the original publication of the Code is on file in the office of the Town Clerk.**

**§ DL-1. Disposition of legislation.**

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
Conservation Commission	5-4-2000	Wetlands protection regulations	Ch. 375
ATM, Art. 19	5-8-2001	General Law acceptance	Ch. A400
ATM, Art. 20	5-8-2001	Community Preservation Committee	Ch. 7, Art. XV
ATM, Art. 22	5-8-2001	General Law acceptance	Ch. A400
ATM, Art. 23	5-8-2001	General Law acceptance	Ch. A400
Chapter 57, Acts of 2001	8-2-2001	Special Act	Ch. A401
ATM, Art. 17	5-14-2002	Smoking amendment	Ch. 150
Board of Appeals	6-27-2002	Zoning Board of Appeals rules	Ch. 382
Conservation Commission	8-2-2002	Wetlands protection regulations	Ch. 375
Board of Health	8-21-2002	Massage establishments	Ch. 206
STM, Art. E16	10-22-2002	General Law acceptance	Ch. A400
STM	10-22-2002	Personnel amendment	Ch. 23
Chapter 413, Acts of 2002	12-24-2002	Special Act	Ch. A401
ATM, Art. 2	5-13-2003	Request for filing of home rule petition	NCM
ATM, Art. 3	5-13-2003	General Law acceptance	Ch. A400
ATM, Art. 19	5-13-2003	Town Clerk schedule of fees amendment	Ch. 19, Art. III
ATM, Art. 20	5-13-2003	Dog licensing and impoundment fees amendment	Ch. 52, Arts. II, III and V

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
ATM, Art. 25	5-13-2003	Zoning amendment	Ch. 196
Zoning Board of Appeals	5-22-2003	Rules and regulations amendment	Ch. 382
Conservation Commission	1-22-2004	Wetlands protection regulations amendment	Ch. 375
ATM, Art. 27	5-11-2004	Zoning amendment	Ch. 196
ATM, Art. 28	5-11-2004	Zoning amendment	Ch. 196
ATM, Art. 29	5-11-2004	Zoning amendment	Ch. 196
ATM, Art. 31	5-11-2004	Zoning amendment	Ch. 196
ATM, Art. 32	5-11-2004	Zoning amendment	Ch. 196
ATM, Art. 34	5-11-2004	Parking and Fine Schedule amendment	Ch. 1
ATM, Art. 35	5-11-2004	Brake noise	Ch. 121, Art. I
Planning Board	11-17-2004	Subdivision of land amendment	Ch. 300
STM, Art. 1	10-26-2004	Police mutual aid agreements	NCM
STM, Art. 5	10-26-2004	Department of Municipal Finance amendment; Director of Assessment amendment	Ch. 11, Art. IV; Ch. 19, Art. II
STM, Art. 12	10-26-2004	Zoning Map amendment	NCM
ATM, Art. 2	5-10-2005	Revolving accounts	NCM (annual measure)
ATM, Art. 8	5-10-2005	School district stabilization fund	NCM
ATM, Art. 25	5-10-2005	Zoning amendment	Ch. 196
ATM, Art. 26	5-10-2005	Zoning amendment	Ch. 196
ATM, Art. 28	5-10-2005	Agricultural Commission	Ch. 7, Art. XVI
Conservation Commission	10-6-2005	Wetlands protection regulations amendment	Ch. 375
STM, Art. 12	11-15-2005	Zoning amendment	Ch. 196
ATM, Art. 2	5-9-2006	Revolving accounts	NCM (annual measure)
ATM, Art. 9	5-9-2006	Rejoin Northeastern Mosquito Control District	NCM

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
ATM, Art. 28	5-9-2006	Commissions, committees and boards: Agricultural Commission amendment	Ch. 7, Art. XVI
ATM, Art. 30	5-9-2006	Commissions, committees and boards: Board of Library Trustees amendment	Ch. 7, Art. V
ATM, Art. 31	5-9-2006	Stormwater management	Ch. 160
ATM, Art. 33	5-9-2006	Zoning amendment	Ch. 196
ATM, Art. 34	5-9-2006	Zoning amendment	Ch. 196
ATM, Art. 35	5-9-2006	Zoning amendment	Ch. 196
ATM, Art. 39	5-9-2006	Authorize Superintendent of Schools and Chief Procurement Officer to solicit and award contracts	NCM
ATM, Art. 41	5-9-2006	Authorize Board of Health to enter into intermunicipal agreement	NCM
Board of Health	9-27-2006	Private water supply regulations amendment	Ch. 202
STM, Art. 21	10-24-2006	General Law acceptance	Ch. A400
ATM, Art. 2	5-8-2007	General Law acceptance	Ch. A400
ATM, Art. 12	5-8-2007	Wetlands protection amendment	Ch. 192
ATM, Art. 13	5-8-2007	Zoning amendment	Ch. 196
ATM, Art. 22	5-8-2007	General Law acceptance	Ch. A400
ATM, Art. 23	5-8-2007	Moderator amendment	Ch. 19, Art. IX
ATM, Art. 24	5-8-2007	Fire Department amendment	Ch. 11, Art. II
Conservation Commission	9-20-2007	Stormwater management regulations	Ch. 295
STM, Art. 16	10-23-2007	General Law acceptance	Ch. A400
STM, Art. 17	10-23-2007	Stormwater management amendment	Ch. 160
STM, Art. 19	10-23-2007	Personnel amendment	Ch. 23

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
Conservation Commission	2-21-2008	Wetlands protection regulations amendment	Ch. 375
Conservation Commission	2-21-2008	Wetlands protection regulations amendment (outside consultants)	Ch. 375
ATM, Art. 4	5-13-2008	Personnel amendment	Ch. 23
ATM, Art. 18	5-13-2008	Wetlands protection amendment	Ch. 192
ATM, Art. 19	5-13-2008	Zoning amendment	Ch. 196
ATM, Art. 20	5-13-2008	Zoning amendment	Ch. 196
STM, Art. 17	10-28-2008	General provisions amendment; fire prevention: open burning	Chs. 1; 91, Art. II
STM, Art. 18	10-28-2008	Town meeting and elections amendment	Ch. 36
Conservation Commission	2-23-2009	Wetlands protection regulations amendment	Ch. 375
ATM, Art. 15	5-12-2009	Wetlands protection amendment	Ch. 192
ATM, Art. 17	5-12-2009	Zoning amendment	Ch. 196
Board of Health	8-12-2009	Stable licensing amendment	Ch. 203
STM, Art. 18	10-27-2009	General Law acceptance	Ch. A400
STM, Art. 20	10-27-2009	General Law acceptance	Ch. A400
Conservation Commission	1-7-2010	Wetlands protection regulations amendment	Ch. 375
Board of Health	2-10-2010	Stable licensing amendment	Ch. 203
ATM, Art. 18	5-11-2010	Commissions, committees and boards: Board of Library Trustees amendment	Ch. 7, Art. V
ATM, Art. 19	5-11-2010	Officers and employees: constables	Ch. 19, Art. X
Board of Health	9-8-2010	Private water supply regulations amendment	Ch. 202
STM, Art. 6	10-26-2010	Town Meeting and elections amendment	Ch. 36



<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
ATM, Art. 23	5-14-2011	Commissions, committees and boards: Permanent Building Committee	Ch. 7, Art. XI
Conservation Commission	8-4-2011	Wetlands protection regulations amendment	Ch. 375
STM, Art. 10	10-22-2011	Town Meeting and elections amendment	Ch. 36
STM, Art. 12	10-22-2011	Stormwater management amendment	Ch. 160
STM, Art. 14	10-22-2011	General Law acceptance	Ch. A400
ATM, Art. 14	5-8-2012	Zoning amendment	Ch. 196
ATM, Art. 15	5-8-2012	Zoning Map amendment	NCM
ATM, Art. 16	5-8-2012	Officers and employees: Tree Warden	Ch. 19, Art. XI
Board of Health	9-26-2012	Solid waste amendment	Ch. 204
Board of Health	12-19-2012	Private water supply regulations amendment	Ch. 202
ATM, Art. 28	5-14-2013	Zoning amendment	Ch. 196
ATM, Art. 29	5-14-2013	Smoking amendment	Ch. 150
ATM, Art. 30	5-14-2013	Marijuana or tetrahydrocannabinol: public consumption	Ch. 117, Art. I
ATM, Art. 31	5-14-2013	Animals: licensing of dogs amendment; fees amendment	Ch. 52, Art. II; Ch. 52, Art. III
Board of Health	9-25-2013	Subsurface sanitary systems: supplement to 310 CMR 15 water supply protection amendment	Ch. 201, Art. V
ATM, Art. 23	5-13-2014	Zoning Map amendment	NCM
ATM, Art. 24	5-13-2014	Zoning amendment	Ch. 196
STM, Art. 7	10-27-2015	Capital Budgeting Committee repealer	Ch. 7, Art. II, Editor's Note only
Board of Health	12-11-2017	Boxford Sanitary Landfill	Ch. 207
ATM, Art. 8	5-9-2017	Local Option Statutes Accepted or Rejected Amendment	Ch. A400

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
ATM, Art. 20	5-9-2017	Local Option Statutes Accepted or Rejected Amendment	Ch. A400
ATM, Art. 21	5-9-2017	Local Option Statutes Accepted or Rejected Amendment	Ch. A400
ATM, Art. 22	5-9-2017	Zoning Amendment	Ch. 196, Editor's Note only
ATM, Art. 6	5-8-2018	Local Option Statutes Accepted or Rejected Amendment	Ch. A400
ATM, Art. 14	5-8-2018	Marijuana or Tetrahydrocannabinol: Marijuana Establishments	Ch. 117, Art. II
ATM, Art. 17	5-8-2018	Zoning Amendment	Ch. 196
ATM, Art. 16	5-8-2018	Stretch Energy Code	Ch. 164
ATM, Art. 18	5-8-2018	Zoning Amendment	Ch. 196
ATM, Art. 19	5-8-2018	Zoning Map Amendment	NCM
Board of Health	July 2018	Solid Waste Amendment	Ch. 204
Chapter 238, Acts of 2018	8-30-2018	Special Act	Ch. A401
STM, Art. 4	10-23-2018	Commissions, Committees and Boards: Permanent Building Committee Amendment	Ch. 7, Art. XI
Conservation Commission	5-2-2019	Wetlands Protection Regulations Amendment	Ch. 375

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>	<b>Supp. No.</b>
ATM, Art. 19	5-14-2019	Zoning Amendment	Ch. 196	35
ATM, Art. 22	5-14-2019	Stormwater Management Amendment	Ch. 160	35
Board of Health	9-4-2019	Subsurface Sanitary Systems: Small Package Wastewater Treatment Plants	Ch. 201, Art. IV	34

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>	<b>Supp. No.</b>
Conservation Commission	3-5-2020	Wetlands Protection Regulations Amendment	Ch. 375	35
ATM, Art. 13	9-12-2020	Stormwater Management Amendment	Ch. 160	36
ATM, Art. 19	9-12-2020	Nomenclature Change	Ch. 1; Ch. 7; Ch. 11; Ch. 19; Ch. 23; Ch. 28; Ch. 32; Ch. 36; Ch. 52; Ch. 77; Ch. 102; Ch. 105; Ch. 109; Ch. 129; Ch. 132; Ch. 176; Ch. 188; Ch. 192; Ch. 196; Ch. 202; Ch. 205; Ch. 295; Ch. 300; Ch. 375; Ch. 382; Ch. A400, footnote only	37
Conservation Commission	2-18-2021	Stormwater Management Regulations Amendment	Ch. 295	36
Conservation Commission	6-17-2021	Stormwater Management Regulations Amendment	Ch. 295	38
ATM, Art. 21	6-26-2021	Local Option Statutes Accepted or Rejected (Senior Work-Off Program)	Ch. A400 (footnote only)	38
Conservation Commission	8-5-2021	Stormwater Management Regulations Amendment	Ch. 295	38
Board of Health	9-29-2021	Earth Removal and Earth Filling Projects Amendment	Ch. 205	39
Board of Health	11-17-2021	Private Water Supply Regulations Amendment	Ch. 202	39

Enactment	Adoption Date	Subject	Disposition	Supp. No.
Board of Health	12-15-2021	Subsurface Sanitary Systems: Supplement to 310 CMR 15 Water Supply Protection Amendment; Regulation of Septic Systems Within 300 Feet of Great Ponds Amendment; Variances	Ch. 201, Art. V; Ch. 201, Art. VI; Ch. 201, Art. VII	40
ATM	5-17-2022	Local Option Statutes Accepted or Rejected	Ch. A400	40
Board of Health	9-28-2022	Earth Removal and Earth Filling Projects Amendment	Ch. 205	41
Conservation Commission	3-23-2023	Wetlands Protection Regulations Amendment	Ch. 375	42
ATM, Art. 9	5-9-2023	Local Option Statutes Accepted or Rejected	Ch. A400	43
Board of Health	2-7-2024	Private Water Supply Regulations Amendment	Ch. 202	43