

## **The Charter**

CHELMSFORD CODE

**Chapter C**

**CHARTER**

**[HISTORY: Adopted by the Town of Chelmsford at election 4-4-1989. Amendments noted where applicable.]**

PART I  
**Incorporation and Authority**

**Section 1-1. Incorporation Continued.**

The inhabitants of the Town of Chelmsford, Massachusetts, within its territorial limits as now or may hereafter be established by law, shall continue to be a body politic and corporate, known as the "Town of Chelmsford."

**Section 1-2. Short Title.**

This instrument may be cited and shall be known as the Chelmsford Home Rule Charter.

**Section 1-3. Division of Powers. [Amended by Acts of 2020, Ch. 164, approved 8-25-2020]**

All legislative powers of the town shall be exercised by a representative town meeting. The administration of all town fiscal, prudential and municipal affairs shall be vested in the executive branch headed by the select board and town manager.

**Section 1-4. Powers of the Town.**

The intent and purpose of this charter is to secure for the voters of the Town of Chelmsford, through the adoption of this charter, all the powers possible to secure for their government under Article LXXXIX of the Amendments to the Constitution of the Commonwealth and laws of the commonwealth, as fully and as though each such power were specifically and individually enumerated herein.

**Section 1-5. Interpretation of Powers.**

The powers of the town under the charter shall be construed and interpreted liberally in favor of the town, and the specific mention of any particular power is not intended to limit in any way the general powers of the town as stated in section 1-4.

**Section 1-6. Intergovernmental Relations.**

The town may enter into agreements with any other unit of government to perform jointly or in cooperation, by contract or otherwise, any of its powers or functions.

## PART II

**Legislative Branch/Representative Town Meeting****Section 2-1. Town Meeting Composition. [Amended Acts of 2007, Ch. 157, approved 11-13-2007]**

The legislative body of the town shall be a representative town meeting who shall be elected to meet, deliberate, act and vote in the exercise of the corporate powers of the town. Its membership shall in each precinct consist of the largest numbers divisible by three which will admit of a representation thereof in the approximate proportion which the number of inhabitants therein bears to the total number of inhabitants in the town, and which will cause the total elected membership not to exceed one hundred eighty, but which will not exceed eighteen representatives per precinct. Members shall be elected for terms of three years each, so arranged that the terms of one-third of the members shall expire each year.

**Section 2-2. Establishment of Districts. [Amended Acts of 2007, Ch. 157, approved 11-13-2007; Acts of 2012, Ch. 62, approved 3-23-2012; Acts of 2020, Ch. 164, approved 8-25-2020]**

The select board shall divide the town into convenient voting precincts so established as to consist of as nearly equal number of inhabitants as possible, in compact and contiguous territory, bounded insofar as possible by the center line of known streets and ways or by other well-defined limits.

The boundaries of the precincts shall be reviewed and wholly or partially revised by the select board (a) at least once every ten years, to coincide with the publication of new state decennial census statistics, (b) whenever it is directed to do so by vote of the town meeting, and (c) whenever it is apparent from the street list, census data or other official information that the number of inhabitants in any one precinct varies by ten percent or more from the total number of inhabitants of the town divided by the number of precincts.

The select board shall, within twenty days after any revision of precincts, but not later than January twentieth of the succeeding year, file a report of its doings with the town clerk and the assessors with a map or maps or description of the precincts and the names and addresses of the voters therein. The board shall cause to be posted in at least one public place in each precinct a map or description of that precinct with the names and addresses of the voters therein. Whenever the precincts are revised, the town clerk shall forthwith give written notice thereof to the state secretary, stating the number and designation of such precincts.

The number of voting precincts shall be determined such that each precinct shall average not less than two thousand five hundred residents and not more than four thousand residents.

**Section 2-3. Town Meeting Membership.**

- (a) Eligibility. Any voter shall be eligible to be a candidate, to be elected, and to serve as a town meeting member.
- (b) Nomination Procedures. Nomination of candidates for town meeting member shall be made by nomination papers signed by not less than ten voters of the precinct in which the candidate resides and from which the candidate seeks election. Nomination papers shall be filed with the town clerk at least thirty-five days preceding the date of the town election. Every nomination paper shall be submitted to the registrars of voters for certification of names thereon on or before five o'clock in the afternoon of the fourteenth day preceding the day on which it shall be filed with the town clerk. The written acceptance of the candidate shall be on or attached to the nomination papers when filed in order for it to be valid. **[Amended 10-19-2023 ATM by Art. 23]**

- (c) Candidates for Re-election. Elected incumbent town meeting members may seek re-election within their current precincts by notifying the Town Clerk's office of their intent to do so by using the appropriate forms supplied by the Town Clerk. **[Added 10-16-2017 by ATM, Art. 24; amended 10-18-2021 STM by Art. 18, ratified 4-5-2022]**

#### **Section 2-4. Election.**

The voters in every precinct shall, at the first annual town election held following any precinct revision that affects them, elect by ballot the number of voters of the precinct prescribed in this part to be town meeting members. The first third in order of votes received shall serve for three years; the second third of such order shall serve for two years and the remaining third in such order shall serve for one year from the date of the annual town election. In case of a tie vote affecting the division into thirds, the members elected from the precinct shall determine the same by ballot. Thereafter, except as otherwise provided therein, at each annual election the voters of each precinct shall, in like manner, elect for three-year terms one-third of the number of town meeting members to which each precinct is entitled and shall fill for the unexpired terms any such vacancies then existing.

In the event of a tie vote for the office of town meeting member the town clerk shall, within seven days following the election, notify elected town meeting members within that precinct of the vacancy. Under the supervision of the town clerk, any such tie shall be broken by ballots cast by the elected town meeting members participating. **[Amended 10-18-2021 STM by Art. 19, ratified 4-5-2022]**

#### **Section 2-5. Vacancies.**

- (a) Resignation. A town meeting member may resign by filing a written resignation with the town clerk; absent a date certain, such resignation shall take effect upon the date of such filing. **[Amended by Acts of 2018, Ch. 76, approved 4-12-2018]**
- (b) Moving from Town or Precinct. A town meeting member who moves from the town shall forthwith cease to be a town meeting member. A town meeting member who moves from one precinct to another, or who is so removed by a revision of precinct lines, may continue to serve as a town meeting member from the precinct from which the member was elected until the next annual town election at which the remainder of the member's term, if any, shall be filled by ballot. Any person so removed from office may be elected at the same election as a town meeting member from the precinct to which the member has moved. **[Amended by Acts of 2018, Ch. 76, approved 4-12-2018]**
- (c) Forfeiture of Office. If any person elected as a town meeting member shall fail to take the oath of office within thirty days following the election of such person, or shall fail to attend more than one-half of the sessions of the town meeting held in a calendar year, the member shall be deemed to have resigned and the member's place shall be declared vacant. Any such vacancy shall be filled as provided in section 2-5(d).

Any town meeting member who shall fail to attend more than one-half of the sessions of the town meeting held in a calendar year, may appeal the declaration of vacancy by requesting a hearing on removal. A request for hearing shall be in writing and shall be filed with the Town Clerk on or before January 15th of the following calendar year. A hearing shall be held before a committee consisting of the Town Clerk, Town Moderator and Town Counsel to be held no later than January 25th of said year. Upon the showing of good cause by the member, the committee may excuse one or more absences and may rescind the Declaration of Vacancy provided the Town meeting member has attended at least one-half of the unexcused sessions of the Town Meeting during said calendar year. **[Added 4-26-1993ATM by Art. 11, ratified 4-5-1994]**

- (d) Filling vacancies. Any vacancy in the full number of town meeting members from any precinct shall be filled by the person receiving the highest number of votes among the defeated candidates at the last election. In order to be eligible to fill a vacancy, a write-in candidate shall have received at least ten (10) votes in the most recent election. In the absence of such candidate, the vacancy shall be filled until the next annual town election by the remaining town meeting members from the precinct, from among the voters in said precinct. **[Amended 5-8-1995ATM by Art. 17, ratified 4-2-1996; 10-16-2017by ATM, Art. 25; 10-18-2021STM by Art. 20, ratified 4-5-2022]**

#### **Section 2-6. Compensation.**

Representative town meeting members shall serve without compensation.

#### **Section 2-7. Presiding Officer.**

All sessions of the town meeting shall be presided over by a town moderator, elected as provided in Part III. The town moderator shall regulate the proceedings, decide questions of order, and make public declarations of all votes. The town moderator shall perform such other functions as may be authorized by the charter, bylaw or other town meeting vote.

#### **Section 2-8. Clerk to the Meeting.**

The town clerk or the designee of the town clerk shall serve as the clerk of the town meeting. The clerk shall give notice of all town meetings to the members and to the public, keep the journal of their proceedings, cause the publication of town meeting attendance and perform such other functions as may be provided by the charter, bylaw or other town meeting vote.

#### **Section 2-9. Participation by Non-Town Meeting Members.**

- (a) Residents. Any resident of the town who is not an elected town meeting member may attend sessions of the town meeting but may not vote. However, subject to such rules as may be from time to time adopted, any resident may participate in proceedings.

- (b) Representatives of Town Agencies. Each town agency shall designate a representative to attend all sessions of the representative town meeting for the purpose of providing town meeting members with information pertinent to warrant articles concerning such agencies.

#### **Section 2-10. General Powers and Duties of the Town Meeting.**

The representative town meeting shall be vested with all the powers of the town, except as otherwise provided by the laws of the commonwealth or the charter. The representative town meeting shall provide for the exercise of all powers of the town and for the performance of all duties and obligations imposed upon the town.

#### **Section 2-11. Warrant Articles.**

- (a) Initiation. Except procedural matters, all subjects to be acted upon by town meeting shall be placed on warrants issued by the select board. The select board shall receive all petitions which are addressed to it and which request the submission of a particular subject matter to the representative town meeting and which are filed by: (a) any elected town officer including a member of a multiple member body; (b) any appointed multiple member body acting by a majority of its members; (c) any ten voters; and (d) any other person, persons or town agency as may be authorized by bylaw. All such requests for the inclusion of subjects shall be in writing, but they shall not be required to conform to any particular style or form, except that each request for a particular subject shall be submitted as a separate petition. **[Amended by Acts of 2020, Ch. 164, approved 8-25-2020]**
- (b) Publication. Publication and distribution of the warrant shall be determined by bylaw.

#### **Section 2-12. Procedures.**

- (a) Time of Meeting. The representative town meeting shall meet at least twice each calendar year. These two meetings shall constitute the Annual Town Meeting of the Town and shall be held in two sessions to be known as the Spring Annual Town Meeting and the Fall Annual Town Meeting. Each session of the Annual Town Meeting shall be called by separate warrant. The Spring Annual Town Meeting shall be held in April on a date fixed by by-law and shall include the election of town officers and other matters to be determined by ballots and is expected to be primarily concerned with the determination of matters involving the expenditure and commitment of town funds, including but not limited to the adoption of an annual operating budget for all town agencies. **[Amended 1-7-1991STM by Art. 8, ratified 4-2-1991; Acts of 2020, Ch. 164, approved 8-25-2020]**

The Fall Annual Town Meeting shall be held in October on a date fixed by by-law and shall be deemed to have all the powers of an Annual Town Meeting except that it shall not be construed to include the time for the election of town officers and other matters to be determined by ballot. The select board shall insert in the warrants for both sessions of the Annual Town meeting all subjects the insertion of which shall be requested of them in writing by ten or more registered voters of the Town, in the manner provided under the laws of the Commonwealth.

The select board may, in any manner provided under the laws of the Commonwealth or the charter, for the purpose of acting upon the legislative business of the town in an orderly and expeditious manner, call the Town Meeting into session at other times by the issuance of warrants therefor.

- (b) Quorum. A majority of town meeting members shall constitute a quorum for the transaction of all business to come before the representative town meeting, but a smaller number may adjourn from time to time. **[Amended Acts of 2007, Ch. 157, approved 11-13-2007]**
- (c) Duty of Town Meeting Member. It shall be the duty of town meeting members to stay informed of town business and review materials made available to members by the select board and the town manager. It is expected that town meeting members will attend or view selected meetings of multiple member bodies, attend or view hearings held by the finance committee and actively prepare for each session of the town meeting. **[Amended by Acts of 2018, Ch. 76, approved 4-12-2018; Acts of 2020, Ch. 164, approved 8-25-2020]**
- (d) Establishment of Committees. The representative town meeting may, by vote or by-law, establish committees for the review of warrant articles, consideration and study of any subjects of concern to the town meeting, and the discussion of town business. The representative town meeting members in any precinct may organize, meet, and confer on town business, subject to provisions of the open meeting law.<sup>1</sup> **[Amended by Acts of 2018, Ch. 76, approved 4-12-2018]**
- (e) Meetings of Town Boards, Committees and Commissions. No multiple member body of the town shall schedule a meeting to be held during the time the town meeting is in session for the transaction of business.

**Section 2-13. Referendum Procedures. [Amended 5-2-1997ATM by Art. 27, ratified 4-7-1998]**

- (a) Effective Date of Final Votes. No final affirmative vote of a town meeting on any warrant article, except a vote to adjourn or dissolve, or votes appropriating money for the payment of notes or bonds of the town and interest thereon becoming due within the then current fiscal year, or votes for the temporary borrowing of money in anticipation of revenue, or a vote declared by preamble by a two-thirds vote of the town meeting to be an emergency measure necessary for the immediate preservation

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1. Editor's Note: See MGL c. 39, § 23B.



of the peace, health, safety or convenience of the town, shall be operative until after the expiration of seven days, exclusive of Sundays and holidays, from the dissolution of the town meeting. If a referendum petition is not filed within the said seven days, the vote of the town meeting shall become operative.

- (b) Referendum Petition. If, within said seven days a petition signed by not less than five percent of the registered voters of the town, containing their names and addresses as they appear on the list of registered voters, is filed with the select board requesting that any question, not yet operative as defined in (a) above, be submitted to the voters of the town at large, then the operation of such vote shall be further suspended pending its determination as provided below. The select board shall, within five days after the filing of such a petition, call a special election in accordance with state election laws, for the purpose of presenting to the voters at large the question or questions so involved. If, however, a regular or special election is to be held not more than thirty days following the date the petition is filed, the select board may provide that any such questions be presented to the voters at the same election. **[Amended by Acts of 2020, Ch. 164, approved 8-25-2020]**
- (c) Referendum Election. The polls shall be opened no later than two o'clock in the afternoon and shall be closed not earlier than eight o'clock in the evening, and all votes upon the question or questions so submitted shall be taken by ballot, and the conduct of such election shall be in accordance with the provisions of state law relating to elections. The questions so submitted shall be determined by a majority vote of the voters voting thereon, but no action of the representative town meeting shall be reversed unless at least fifteen percent of the registered voters vote on the question.
- (d) Format of Questions. Each question so submitted shall be in the form of the following question which shall be placed upon the official ballot: "Shall the town vote to approve the action of the representative town meeting whereby it was voted (brief description of the substance of the vote and by what vote thereon if such vote was tabulated)?"

PART III  
**Elected Town Officers**

**Section 3-1. Elected Town Officers, In General.**

- (a) Elective Offices. The offices to be filled by the voters shall be a select board, a school committee, a town moderator, a planning board, a board of health, a board of trustees of the public library, a cemetery commission, and a housing authority. Such other regional authorities, districts, or committees as may be established by law or interlocal agreement may also be filled by the voters. **[Amended by Acts of 2018, Ch. 76, approved 4-12-2018; Acts of 2020, Ch. 164, approved 8-25-2020]**
- (b) Eligibility. Any voter shall be eligible to hold any elective town office. No person shall simultaneously hold more than one elective town office, provided however, any person elected to a town office as defined in this section may be a candidate and be elected to serve as a representative town meeting member.
- (c) Vacancies in Office. Any vacancy in any elective office shall be filled in the manner provided by General Law, chapter 41.

**Section 3-2. Select board. [Amended 10-16-2006ATM by Art. 27, ratified 4-3-2007; Acts of 2020, Ch. 164, approved 8-25-2020]**

- (a) Composition, Term of Office. There shall be a select board composed of five members elected for terms of three years each, so arranged that the terms of as nearly an equal number of members as is possible shall expire each year.
- (b) Powers and Duties. The executive authority of the town shall be vested in the select board which shall be deemed to be the chief executive office in the town. The select board shall be the chief policy making agency of the town and shall have all the powers and duties given to boards of selectmen or select boards as may be authorized by the laws of the commonwealth, the charter, bylaw or other town meeting vote, except those powers granted to the town manager under this charter. The select board shall prepare reports of town business and distribute such reports to all town meeting members. The select board shall act by the issuance of policy guidelines and directives. It is the intention of this provision that the select board shall act only through the adoption of policy directives and guidelines which are to be implemented by the officers and employees appointed by or under its authority. The town manager shall be the primary officer responsible for the implementation of policy directives and guidelines adopted by the select board. The daily administration of the affairs of the town shall be the exclusive responsibility of the town manager.
- (c) Appointment Powers. The select board shall appoint Town Manager, a Town Counsel, Town Accountant, Personnel Board, Public Celebrations Committee and a Board of Registrars of voters (but not including the Town Clerk). The select board shall also appoint all multiple member policy advisory committees and may appoint ad hoc committees not specifically provided by bylaw.
- (d) Licensing Authority. The select board shall be the licensing authority of the town and shall have all the power to issue licenses as otherwise authorized by law, to make all necessary rules and regulations regarding the issuance of such licenses and to attach conditions and restrictions on any such license it may issue as it deems to be in the public interest, and to enforce all laws relating to all such businesses for which it issues any licenses.

**Section 3-3. School Committee.**

- (a) **Composition, Terms of Office.** There shall be a school committee composed of five members elected for terms of three years each, so arranged that the terms of as nearly an equal number of members as is possible expire each year.
- (b) **Powers and Duties.** The school committee shall have general charge and superintendence of the public schools of the town. The powers of the school committee shall include, but need not be limited to: appoint a superintendent of schools, and all other personnel associated with the school as defined by the Education Reform Act of 1993 and/or stated in the Massachusetts General Laws, fix their compensation, and negotiate all union contracts, define their duties and discharge them; make all reasonable rules, and regulations and policies consistent with law, for the administration and management of the public schools of the town. The school committee shall have all the powers and duties given to school committees by the laws of the commonwealth, the charter, bylaw or other town meeting vote. **[Amended 10-16-2006ATM by Art. 29, ratified 4-3-2007]**

**Section 3-4. Town Moderator.**

- (a) **Term of Office.** A town moderator shall be elected by the voters for a term of three years.
- (b) **Powers and Duties.** The town moderator shall preside and regulate the proceedings at all town meetings; decide all questions of order; and make public declaration of all votes. No person may address a town meeting without leave of the moderator. The moderator shall appoint a finance committee as provided by bylaw. The town moderator shall have all the powers and duties provided that office by the laws of the commonwealth, the charter, bylaw or other town meeting vote.

**Section 3-5. Planning Board, Composition.**

- (a) **Composition, Term of Office.** There shall be a planning board composed of seven members elected for terms of three years each, so arranged that the terms of as nearly an equal number of members as is possible expire each year. There may be one associate member of the planning board when the board is designated a special permit granting authority under the town's zoning by-law. The associate member of the planning board shall be elected at the annual town election. If the position becomes vacant or is unfilled the position shall be jointly appointed by members of the select board and the Planning Board. The associate member of the Planning Board shall be elected for a term of two years. **[Amended 4-27-2000ATM by Art. 19; Acts of 2020, Ch. 164, approved 8-25-2020]**
- (b) **Powers and Duties.** The planning board shall have the responsibility to make studies of the resources, possibilities and needs of the town and to make plans for the development of the town. The board shall have the power to regulate the subdivision of land within the town by the adoption of rules and regulations governing such development. The planning board shall have all the powers and duties given to planning boards by the laws of the commonwealth, the charter, bylaw or other town meeting vote.

**Section 3-6. Board of Health.**

- (a) **Composition, Term of Office.** There shall be a board of health composed of three members elected for terms of three years each, so arranged that the term of one member expires each year.
- (b) **Powers and Duties.** The board of health shall be responsible for the formulation and enforcement of rules and regulations concerning public health. The board shall have all the powers and duties given to boards of health by the laws of the commonwealth, the charter, bylaw or other town meeting vote.

**Section 3-7. Trustees of Public Library.**

- (a) Composition, Term of Office. There shall be a board of library trustees composed of seven members elected for terms of three years, so arranged that the terms of as nearly an equal number of members as is possible expire each year.
- (b) Powers and Duties. The board of library trustees shall have control over the selection of library materials, and have custody and management of such. All money and property that the town may receive for library purposes by gift or bequest shall be administered by the board in accordance with the provisions of the gift or bequest. The board shall continue to exercise all the powers and duties vested in the board of library trustees by the laws of the commonwealth or by bylaw.

**Section 3-8. Cemetery Commission.**

- (a) Composition, Term of office. There shall be a cemetery commission composed of three members elected for terms of three years, so arranged that the term of one member expires each year.
- (b) Powers and Duties. The cemetery commission shall have the sole care, superintendence and management of all public burial grounds of the town. The cemetery commission shall have all the powers and duties given to cemetery commissions by the laws of the commonwealth, the charter, bylaw or other town meeting vote.

**Section 3-9. Sewer Commission.<sup>2</sup>**

- (a) Composition, Term of Office. There shall be a sewer commission composed of five members elected for terms of three years each, so arranged that the terms of as nearly an equal number of members as is possible expire each year.
- (b) Powers and Duties. The sewer commission shall supervise, manage and control the construction of sewer lines within the town.

**Section 3-10. (Reserved)<sup>3</sup>****Section 3-11. Housing Authority.**

- (a) Composition, Term of Office. There shall be a housing authority composed of five members serving terms of five years each, so arranged that the term of one member expires each year. Three members shall be elected by the voters, the fourth member shall be a Town Appointed Tenant Board Member in accordance with the provisions of Chapter 121B of the Massachusetts General Laws, and the fifth member shall be appointed by the Secretary of Communities and Development of the Commonwealth. [Amended 10-18-2021STM by Art. 17, ratified 4-5-2022]
- (b) Powers and Duties. The housing authority shall make studies of the housing needs of the town and shall provide programs for housing. The authority shall have all the powers and duties given to housing authorities under the laws of the commonwealth.

**Section 3-12. Recall of Elected Officers.**

- (a) Application. Any holder of an elected office in the town, except town meeting members, with more

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2. Editor's Note: See also Charter Section 8-5(b) regarding the dissolution of the Sewer Commission.

3. Editor's Note: Former Section 3-10, Constable, was repealed 10-16-2017 by ATM, Art. 26.

than six months remaining in the term of office for which the officer was elected, may be recalled therefrom by the voters of the town in the manner provided in this section. No recall petition shall be filed against an officer within three months after taking office.

(b) Recall Petition. **[Amended Acts of 2012, Ch. 73, approved 4-18-2012]**

- (i) A recall petition may be initiated by the filing of an affidavit, on a form provided by the town clerk, containing the name of the officer sought to be recalled, appearing as registered on the current voting list prepared under sections 37 and 37A of chapter 51 of the General Laws, and a statement of the grounds for recall. The town clerk shall provide to the person requesting the affidavit form the name of the person whose recall is sought as it appears on the current voting list. Such affidavit shall be signed by at least 25 voters from each of the precincts into which the town is divided for the purpose of electing town meeting members. Signatures shall be collected on a single affidavit form for each precinct; provided, however, that if the affiants wish to collect more signatures than can be accommodated on a single form, an additional form may be requested from the town clerk. Blank affidavit forms shall not be photocopied or otherwise reproduced. The town clerk shall, within 24 hours of receipt, submit the affidavit to the registrars of voters, who shall, within 5 working days, certify thereon the number of signatures which are names of registered voters of the town.
- (ii) The town clerk shall, within 5 business days following said certification, make available to the lead petitioner, as designated on the affidavit, copies of petition blanks containing the number of signatures required below, multiplied by 5, demanding such recall, copies of which printed forms the town clerk shall keep available. Such blanks shall be issued by the town clerk, with signature and official seal attached thereto. They shall be dated, shall be addressed to the select board and shall contain the names of the lead petitioner and the voter first named on each of the precinct affidavits, the number of blanks so issued, the name of the person whose recall is sought appearing as registered on the current voter list, the office from which removal is sought, the grounds of recall as stated in the affidavit, and shall demand the election of a successor in the said office. A copy of the petition shall be entered in a record book to be kept in the office of the town clerk. Blank recall petitions shall not be photocopied or reproduced. Said recall petition shall be returned and filed with the town clerk within 20 days after the completion of the copies of the petition blanks, and shall have been signed by at least 15 per cent of the registered voters of the town as of the date of the most recent town election. **[Amended by Acts of 2020, Ch. 164, approved 8-25-2020]**

The town clerk shall, within 24 hours of receipt, submit the petition to the registrars of voters in the town, and the registrars shall, within 5 working days, certify thereon the number of signatures which are names of registered voters of the town.

- (c) Recall Election. If the petition shall be found and certified by the board of registrars to be sufficient, the town clerk shall submit the same with a letter of notice to the select board within 5 working days, and the select board shall, within 5 working days, give written notice of the receipt of the petition to the officer sought to be recalled and shall, if the officer does not resign within 5 days thereafter, forthwith order an election to be held on a date fixed by them not less than 60 and not more than 90 days after the date the election is called; provided, however, that if any other town election is to occur within 100 days after the date of said certificate, the select board shall postpone the holding of the

recall election to the date of such other election. If a vacancy occurs in said office after a recall election has been ordered, the election shall not proceed as provided in this section and notice shall be provided of the cancellation on the town's website, be posted in such locations as would the warrant for a town meeting, and through whatever other means the select board deems appropriate. **[Amended Acts of 2012, Ch. 73, approved 4-18-2012; Acts of 2020, Ch. 164, approved 8-25-2020]**

- (d) Office Holder. The incumbent shall continue to perform the duties of the office until the recall election. If said incumbent is not removed, the incumbent shall continue in office for the remainder of the unexpired term subject to recall as before. If recalled, the officer shall be deemed removed and the office vacant. The vacancy created thereby shall be filled in accordance with General Law, Chapter 41.
- (e) Ballot Proposition. Ballots used in a recall election shall submit the following propositions in the order indicated:

The form of the question to be voted upon shall be substantially as follows: "Shall [here insert the name and title of the elective officer whose recall is sought] be recalled?"

If a majority of the votes cast upon the question of recall is in the affirmative, such elected officer shall be recalled.

- (f) Repeat of Recall. In the case of an officer subjected to a recall election and not recalled thereby, no recall petition shall be filed against such officer until at least one year after the election at which the officer's recall was submitted to the voters of the town. **[Amended Acts of 2012, Ch. 73, approved 4-18-2012]**
- (g) Office Holder Recalled. No person who has been recalled from an office or who has resigned from office after the filing off a recall petition under subsection (b)(ii) of section 3-12, shall be appointed to any town office within two years after such recall or such resignation. **[Amended Acts of 2012, Ch. 73, approved 4-18-2012]**

PART IV  
**Town Manager**

**Section 4-1. Appointment, Qualifications, Term of Office. [Amended 10-16-2017 by ATM, Art. 27; Acts of 2020, Ch. 164, approved 8-25-2020]**

The select board shall appoint by a four-fifths vote a town manager for an indefinite term. The town manager shall be a person of proven administrative ability, especially qualified by education and training with at least five years full time paid experience as a city or town manager, or an assistant city or town manager or the equivalent public or private sector level experience. The select board may from time to time establish such additional qualifications as seems necessary and appropriate. The select board shall appoint a screening committee that shall include select board members and town residents to assist in the recruitment and selection of the town manager.

The town manager shall devote full time to the duties of the office and shall not hold any other elective or appointive office, nor shall the town manager engage in any other business unless such action is approved in advance in writing by the select board.

The town manager need not be a resident of the town or of the commonwealth at the time of appointment, but shall establish residence within the town within twelve months following appointment, unless the select board shall extend such time or waive such residency requirement.

**Section 4-2. Powers of Appointment. [Amended 10-16-2006ATM by Art. 35, ratified 4-3-2007; 10-16-2017 by ATM, Art. 28; Acts of 2020, Ch. 164, approved 8-25-2020]**

Except as otherwise provided by this charter, the town manager shall appoint, based upon merit and fitness alone, all department heads, officers, subordinates, employees and all appointed multiple member bodies for whom no other method of selection is provided in this charter except employees of the school department and persons serving under officers and multiple member bodies elected directly by the voters of Chelmsford. The Town Manager shall appoint the constable from a list of candidates provided to him by the Chief of Police. The duties and responsibilities of the Constable shall be established by the Town Manager and Chief of Police, subject to the provisions of state law and Chelmsford By-law and/or regulation.

Appointments made by the town manager shall become effective upon the approval of the select board, provided, however, that such approval is received within thirty days of filing such notice of appointment. If the select board shall fail to act, appointments made by the town manager shall become effective on the thirtieth day following the day on which notice of the proposed appointment is filed with the select board. For the purpose of this section, notice of appointment shall be considered filed with the select board when such notice is filed at an open meeting of the select board.

Department heads shall appoint all officers, subordinates and employees within their department subject to the approval of the town manager.

The Town Manager shall also appoint all multiple member administrative advisory committees and may appoint ad hoc committees.

**Section 4-3. Supervisory, Administrative Powers and Duties. [Amended 10-16-2006ATM by Art. 36, ratified 4-3-2007; by Acts of 2018, Ch. 76, approved 4-12-2018; Acts of 2020, Ch. 164, approved 8-25-2020]**

The town manager shall be the chief administrative officer of the town and shall be responsible to the select

board for the proper operation of town affairs for which the town manager is given responsibility under this charter. The powers, duties and responsibilities of the town manager shall include, but are not limited to, the following:

**Supervisory**

- (a) to supervise, direct and be responsible for the efficient administration of all officers appointed by the town manager and their respective departments and of all functions for which the town manager is given responsibility, authority or control by this charter, by by-law, by town meeting vote, or by vote of the select board.
- (b) to coordinate all activities of town departments under the direction of the town manager and select board with the activities of departments under the control of officers, boards or commissions elected directly by the voters of the town.
- (c) to delegate, authorize or direct any subordinate or employee of the town to exercise any power, duty or responsibility which the office of town manager is authorized to exercise; provided, that all acts that are performed under such delegation shall be considered the acts of the town manager.

**Administrative Powers**

- (d) to administer, either directly or through a person or persons supervised by the town manager, in accordance with this charter, all provisions of general or special laws applicable to the town, all by-laws, and all policies established by the select board.
- (e) to administer, in cooperation with the personnel board, if any, personnel policies, practices, or rules and regulations, any compensation plan and any related matters for all municipal employees and administer all collective bargaining agreements, except for school department agreements, entered into by the town.
- (f) to be responsible for the negotiation of all contracts with town employees over wages, and other terms and conditions of employment, except employees of the school department. The town manager may, subject to the approval of the select board, employ special counsel to assist in the performance of these duties. Contracts shall be subject to the approval of the select board.
- (g) to develop and maintain a full and complete inventory of all town owned real and personal property.
- (h) to fix the compensation of all town employees and officers appointed by the town manager within the limits established by appropriation and any applicable compensation plan.
- (i) to prepare and submit an annual operating budget and capital improvement program as provided in Part VI.
- (j) to investigate or inquire into the affairs of any town departments or office under the supervision of the town manager or the job-related conduct of any officer or employee thereof.

**Administrative Duties**

- (k) to attend all regular and special meetings of the select board, unless excused by the select board.
- (l) to attend all sessions of the town meeting and answer all questions addressed to the town manager which are related to the warrant articles and matters under the general supervision of the town



manager.

- (m) to keep the select board fully informed as to the needs of the town, and recommend to the select board for adoption such measures requiring action by them or by the town as the town manager deems necessary or expedient.
- (n) to keep the select board and the finance committee fully informed as to the financial condition of the town and make recommendations to the select board and other elected and appointed officials as the town manager deems necessary or expedient.
- (o) to insure that complete and full records of the financial and administrative activity of the town are maintained and render reports to the select board as may be required.
- (p) to be responsible for the maintenance and repair of all town facilities, except for the custodial services in the school facilities. The town manager shall be responsible for the rental of all town facilities.
- (q) to be responsible for the purchase of all supplies, materials and equipment, except for books and other educational materials for schools and books and other media materials for libraries, and approve the award of all contracts for all town departments, with the exception of the school department, subject to the approval of the select board.
- (r) to perform such other duties as necessary or as assigned by this charter, by by-law, by town meeting vote or by vote of the select board.

**Section 4-4. Compensation. [Amended by Acts of 2020, Ch. 164, approved 8-25-2020]**

The town manager shall receive such compensation for services as the select board shall determine, but such compensation shall be within the limits of available appropriations.

**Section 4-5. Temporary Absence. [Amended 10-16-2006ATM by Art. 37, ratified 4-3-2007; 10-16-2017 by ATM, Art. 29; by Acts of 2018, Ch. 76, approved 4-12-2018; Acts of 2020, Ch. 164, approved 8-25-2020]**

The town manager shall provide annually to the select board a list of qualified officers of the town and may designate by letter filed with the select board and town clerk a qualified officer of the town from the list to perform the duties of the town manager during a temporary absence or disability. If such temporary absence or disability shall exceed 14 days, any designation made by the town manager shall be subject to the approval of the select board. In the event of failure of the town manager to make such designation or if the person so designated is for any reason unable to serve, or is deemed not qualified by the select board, the select board may designate some other qualified person from the list to perform the duties of the town manager until the town manager shall return.

**Section 4-6. Vacancy in Office. [Amended 10-16-2006ATM by Art. 38, ratified 4-3-2007; by Acts of 2018, Ch. 76, approved 4-12-2018; Acts of 2020, Ch. 164, approved 8-25-2020]**

Any vacancy in the office of town manager shall be filled as soon as possible by the select board. Pending appointment of the town manager or the filling of any vacancy, the select board shall forthwith appoint some other qualified person to perform the duties of the town manager. The appointment of the acting town manager shall be for a term not to exceed 6 months, provided, however, that a renewal not to exceed an additional 6 months may be approved.

**Section 4-7. Removal of Town Manager. [Amended by Acts of 2020, Ch. 164, approved 8-25-2020]**

The select board by affirmative vote of a majority of the full board may vote to terminate, remove or suspend the town manager from office in accordance with the following procedure:

Prior to removal or termination, the select board shall adopt a preliminary resolution of removal by the affirmative vote of a majority of the full board. The preliminary resolution may suspend the town manager for a period not to exceed thirty days. A copy of the resolution shall be delivered to the town manager forthwith.

If so requested by the town manager, the select board shall provide a written statement setting forth the reasons for the removal or termination.

Within five days after the receipt of the preliminary resolution, the town manager may request a public hearing by filing a written request for such hearing with the select board. If such a hearing is requested, the hearing shall be held at a meeting of the select board not later than twenty days from the date of request.

If a public hearing has not been requested by the town manager, the select board may adopt a final resolution of removal, which may be effective immediately, by affirmative vote of four-fifths of its members at any time after ten days following the date of delivery of a copy of the preliminary resolution to the town manager. If the town manager requests a public hearing, the select board may, at the conclusion of the hearing or within five days of the conclusion of the hearing, adopt a final resolution of removal by an affirmative vote of four-fifths of its members.

The select board may suspend by an affirmative vote of a majority of the full board, the town manager pending and during any public hearing as requested by the town manager. The town manager shall continue to receive a salary until the final date of removal shall become effective unless provided otherwise. The action of the select board in terminating, removing or suspending the town manager shall be final.

PART V  
**Administrative Organization**

**Section 5-1. Powers of Organization. [Amended by Acts of 2020, Ch. 164, approved 8-25-2020]**

The town manager, subject to the approval of the select board, may reorganize, create, consolidate or abolish committees, commissions, offices, departments, and agencies under supervision of the town manager, in whole or in part, may establish new committees, commissions, offices, departments, and agencies as deemed necessary, and may for such purposes transfer the duties and powers, and so far as is consistent with the use for which the funds were voted by the town, transfer the appropriation of one committee, commission, office, department or agency to another.

**Section 5-2. Department of Public Works. [Amended by Acts of 2018, Ch. 76, approved 4-12-2018]**

Until such time as otherwise provided in accordance with section 5-1, there shall be established a department of public works under the direction of the town manager. The town manager shall appoint a director of public works who shall be a person especially suited by education, training and previous experience to perform the duties of the office. The director shall be responsible for the supervision and coordination of all public works operations of the town that are placed under control of the director by this charter. The department shall assume all of the powers and duties now vested in or exercised by any of the following departments and offices, which are hereby renamed divisions and included within the department of public works: highway, engineering, sewer, recreation, public buildings, parks, and tree warden.

**Section 5-3. Personnel System.**

The town manager shall, in conjunction with the personnel board, adopt rules and regulations establishing a personnel system. The personnel system shall make use of modern concepts of personnel management and may include, but not be limited to the following elements: a method of administration; personnel policies indicating the rights, obligations and benefits of employees; a classification plan; a compensation plan; a method of recruiting and selecting employees based upon merit principles; a centralized record keeping system; disciplinary procedures; and other elements that are deemed necessary. All town agencies and positions shall be subject to the rules and regulations adopted under this section excluding employees of the school department.

PART VI  
**Financial Provisions**

**Section 6-1. Annual Budget Policy. [Amended by Acts of 2018, Ch. 76, approved 4-12-2018; Acts of 2020, Ch. 164, approved 8-25-2020]**

The select board and school committee shall meet and confer as necessary prior to and during the budget process to review the financial condition of the town, revenue and expenditure forecasts and other relevant information in order to develop a coordinated and balanced budget. The finance committee shall participate in the discussions with the select board and the school committee in an advisory capacity. The school superintendent and the town manager shall jointly develop guidelines consistent with policies developed by the select board and school committee.

**Section 6-2. Budget Process.**

Within a time fixed by bylaw prior to the annual town meeting, the town manager shall submit to the finance committee a proposed budget and capital improvement program for the ensuing fiscal year with an accompanying budget message and supporting documents. The budget message submitted by the town manager shall explain the budget in fiscal terms and in terms of work programs for all town agencies. It shall outline the proposed fiscal policies of the town for the ensuing fiscal year; describe important features of the proposed budget and indicate any major variations from the current budget, fiscal policies, expenditures and revenues together with reasons for such change. The proposed budget shall provide a complete fiscal plan of all town funds and activities and shall be in the form the town manager deems desirable.

The preliminary budget as adopted by the school committee shall be submitted to the town manager at least ninety days prior to the spring session of the annual town meeting to enable the town manager to consider the effect of the school department's requested appropriation upon the total town budget which is required to be submitted under this section.

**Section 6-3. Finance Committee Action. [Amended by Acts of 2018, Ch. 76, approved 4-12-2018]**

The finance committee shall, upon receipt of the budget and capital improvement program, consider in public meetings the detailed expenditures for each town agency proposed by the town manager. The finance committee may confer with representatives from any town agency in connection with its deliberations. The finance committee may request the town manager or any town agency to provide additional information. The finance committee shall submit the proposed budget and report its recommendations for action prior to the date on which the town meeting is to act on the proposed budget. The budget to be acted upon by the town meeting shall be the budget proposed by the town manager with the accompanying recommendations of the finance committee.

**Section 6-4. Capital Improvement Program and Long Term Financial Plan. [Amended by Acts of**

**2020, Ch. 164, approved 8-25-2020]**

The town manager shall, in conjunction with the capital planning committee, submit a capital improvement program to the select board and finance committee at the date fixed by bylaw for the submission of the proposed operating budget unless some other time is provided by bylaw.

Annually the select board, in conjunction with the town manager, shall prepare a five year financial forecast of town revenue, expenditures and the general financial condition of the town. The plan shall be submitted to the finance committee and shall be available to the public.

**Section 6-5. Approval of Warrants.**

Warrants for payments of town funds prepared by the Town Accountant shall be submitted to the Town Manager for approval.

**Section 6-6. Management of Town Funds.**

The treasurer shall be responsible for the management of all town funds.

**Section 6-7. Annual Audit. [Amended by Acts of 2018, Ch. 76, approved 4-12-2018; Acts of 2020, Ch. 164, approved 8-25-2020; 10-17-2022ATM by Art. 19, ratified 4-4-2023]**

The select board shall provide for an annual audit of the books and accounts of the town to be made by a certified public accountant, or firm of accountants, who have no personal interest, direct or indirect, in fiscal affairs of the town government or any of its offices; provided, however, that any certified public accountant or firm of accountants that conducts said audit shall change the audit team that performs the audit at least every five years.

PART VII  
**General Provisions**

**Section 7-1. Charter Revision or Amendment.**

The charter may be replaced or a new charter adopted by the election of a charter commission pursuant to Article LXXXIX(89) of the Amendments to the Constitution of the Commonwealth and any laws of the commonwealth enacted to implement said constitutional amendment.

The charter may be amended in accordance with any procedure made available by Article LXXXIX(89) of the Amendments to the Constitution of the Commonwealth and any laws of the commonwealth enacted to implement said constitutional amendment. Said constitutional amendment requires a two-thirds vote of the legislative body of the town to propose a charter amendment and a subsequent ballot vote at a town election.

The charter may be revised or amended through the enactment of special laws by the general court on petition filed or approved by the voters of the town or the representative town meeting in accordance with Article LXXXIX(89) of the Constitution of the Commonwealth.

**Section 7-2. Severability.**

The provisions of this charter are severable. If any of the provisions of this charter are held to be unconstitutional, or invalid, the remaining provisions of this charter shall not be affected thereby. If the application of this charter, or any of its provisions, to any person or circumstances is held to be invalid, the application of said charter and its provisions to other persons or circumstances shall not be affected thereby.

**Section 7-3. Rules of Interpretation.**

The following rules shall apply when interpreting the charter:

- (a) Specific provisions to prevail. To the extent that any specific provision of the charter shall conflict with any provision expressed in general terms, the specific provision shall prevail.
- (b) Number and Gender. Words imparting the singular number may extend and be applied to several persons or things; words imparting the plural number may include the singular; words imparting the masculine gender shall include the feminine gender.
- (c) References to General Laws. All references to the general laws or the laws of the commonwealth contained in the charter refer to the general laws of the Commonwealth of Massachusetts and are intended to include any amendments or revisions to such chapters and sections or to the corresponding chapters and sections of any rearrangement of the general laws enacted subsequent to the adoption of the charter.
- (d) Computation of time. In computing time under the charter, if seven days or less, only business days, not including Saturdays, Sundays, or legal holidays shall be counted; if more than seven days, every day shall be counted.

**Section 7-4. Definitions.**

Unless another meaning is clearly apparent from the manner in which the word is used, the following words as used in the charter shall have the following meanings:

- (a) Charter - The word "charter" shall mean this charter and any amendments to it made through any methods provided under Article LXXXIX(89) of the Amendments to the Constitution of the Commonwealth.
- (b) Town - The word "town" shall mean the town of Chelmsford.
- (c) Voters - The word "voters" shall mean registered voters of the town.
- (d) Majority Vote - The words "majority vote" shall mean a majority of those present and voting, provided a quorum is present when a vote is taken, unless a higher number is required by law, this charter, or by the town meeting's own rules.
- (e) Town agency or agency - The words "town agency" or the word "agency" shall mean any board, commission, committee, department or office of town government, whether elected, appointed or otherwise constituted.
- (f) Multiple member body - The words "multiple member body" shall mean any board, commission or committee.
- (g) Officer - The word "officer" shall mean a position or board; (i) whose duties are public in nature; (ii) that has entrusted to it some portion of the sovereign authority of the state; (iii) whose duties are not merely clerical, but involve the exercise of power and authority bestowed by the law; or (iv) that holds a position established by law. **[Added by Acts of 2018, Ch. 76, approved 4-12-2018]**

PART VIII  
**Transitional Provisions**

**Section 8-1. Continuation of Existing Laws.**

All bylaws, resolutions, rules, regulations, and votes of the town meeting which are in force at the time this charter is adopted, not inconsistent with the provisions of this charter, shall continue in full force until amended or repealed.

Where provisions of this charter conflict with provisions of town bylaws, rules, regulations, orders, and special acts and acceptances of laws of the Commonwealth, the charter provisions shall govern. All provisions of town bylaws, rules, regulations, orders and special acts not superseded by this charter shall remain in force.

**Section 8-2. Existing Officials and Employees.**

Any person holding a town office or employment under the town shall retain such office or employment and shall continue to perform the duties of the office until provisions shall have been made in accordance with this charter for the performance of the said duties by another person or agency. No person in the permanent full-time service or employment of the town shall forfeit pay grade or time in service. Each such person shall be retained in a capacity as similar to the person's former capacity as is practical. No person shall be removed from a position without just cause.

**Section 8-3. Continuation of Government.**

All town offices, boards, commissions or agencies shall continue to perform their duties until re-appointed, or re-elected, or until successors to their respective positions are fully appointed or elected or until their duties have been transferred and assumed by another town office, board, commission or agency.

**Section 8-4. Transfer of Records and Property.**

All records, property and equipment whatsoever of any office, board, commission, committee or agency or part thereof the powers and duties of which are assigned in whole or in part to another town office, board, commission or agency shall be transferred forthwith to such office, board, commission or agency.

**Section 8-5. Time of Taking Effect. [Amended 5-2-1994ATM by Art. 5; Acts of 1996, Ch. 401, approved 10-3-1996; 10-16-2006ATM by Art. 39, ratified 4-3-2007]**

This charter shall become fully effective upon ratification by the voters, except as otherwise provided in this section:

- (a) After the amendment to Section 3-2(c) approved under Article 27 of the 2006 Fall Annual Town Meeting regarding appointment of the Personnel Board by the select board becomes effective, unless otherwise provided by bylaw, the personnel board shall continue to be composed of the same number of members as currently constituted provided, however, the appointments made by the town manager shall, upon the expiration of the term of office of such members, or if a vacancy shall sooner occur, be made by the select board. **[Amended by Acts of 2020, Ch. 164, approved 8-25-2020]**
- (b) The Sewer Commission shall cease to exist and be dissolved upon completion of the sewer project at which time all duties, powers, functions and assets shall be assigned to the department of public works or its successor agency.<sup>4</sup>



{END OF CHARTER}

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4. **Editor's Note: During a regular posted meeting on 6-27-2011, the Board of Selectmen heard a final report by the Sewer Commission on the substantial completion of the sewer project. The Board of Selectmen voted unanimously to accept the report and to dissolve the Sewer Commission as per the Town Charter § 8-5(b).**

**The Code**

**Bylaws**

**Chapter 1**

**GENERAL PROVISIONS**

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

ARTICLE I  
**Acceptance of Bylaws**

**[Warrant articles accepting Part 1, Bylaws, of the Code of the Town of Chelmsford and making certain substantive changes to the chapters in Part 1 were adopted by the Town Meeting on October 21, 1999. See Warrant Articles 30 through 48 of the October 1999 Town Meeting.]**

## ARTICLE II

**General Penalty****[Adopted 1926 ATM; amended Oct. 1973STM by Art. 3]****§ 1-1. Violations and penalties. [Amended 10-21-1999ATM by Art. 32]**

Any violation of these bylaws shall be punishable by a fine of not less than \$5 nor more than \$300, or any such other amount as may be authorized, from time to time, under the General Laws.

**§ 1-2. Noncriminal disposition. [Added 5-21-1979ATM by Art. 39]**

- A. Any person taking cognizance of a violation of a specific ordinance, bylaw, rule or regulation which he or she is empowered to enforce, hereinafter referred to as the "enforcing person," as an alternative to initiating criminal proceedings, may, pursuant to MGL c. 40, § 21D, give the offender a written notice to appear before the Clerk of the District Court of Lowell, or any other court having jurisdiction thereof, at any time during the office hours, not later than 21 days after the date of such notice.
- (1) Such notice shall be in triplicate and shall contain the name and address, if known, of the offender, the specific offense charged and the time and place for his or her required appearance. Such notice shall be signed by the enforcing person and shall be signed by the offender whenever practicable in acknowledgment that such notice has been received.
  - (2) The enforcing person shall, if possible, deliver to the offender a copy of said notice at the time and place of the violation. If it is not possible to deliver a copy of said notice to the offender at the time and place of the violation, said copy shall be mailed or delivered by the enforcing person, or by his or her commanding officer or the head of his or her department or by any person authorized by such commanding officer, department or head, to the offender's last known address within 15 days after said violation.
  - (3) Such notice as so mailed shall be deemed sufficient notice, and a certificate of the person so mailing such notice that it has been mailed in accordance with this section shall be prima facie evidence thereof.
  - (4) When enforced through this noncriminal disposition procedure, the penalty for violation of any Town bylaw, rule or regulation shall be as follows: a written warning for the first offense, \$100 for the second offense, \$200 for the third offense, and \$300 for the fourth and subsequent offenses. Each day upon which a violation exists shall be deemed to be a separate offense.  
**[Added 10-22-2007ATM by Art. 12]**
- B. At or before the completion of each tour of duty, or at the beginning of the first subsequent tour of duty, the enforcing person shall give to his or her commanding officer or department head those copies of each notice of such violation he or she has taken cognizance of during such tour which have not already been delivered or mailed by him or her as aforesaid. Said commanding officer or department head shall retain and safely preserve one copy and shall, at a time not later than the next court day after such delivery or mailing, deliver the other copy to the clerk of the court before which the offender has been notified to appear. The Clerk of the District Court shall maintain a separate docket of all such notices to appear.
- C. Any person notified to appear before the Clerk of the District Court as hereinbefore provided may so appear and confess the offense charged, either personally or through a duly authorized agent or by mailing to the Town Clerk of the municipality within which the violation occurred, together with the

notice, such specific sum of money not exceeding \$300 as the town shall fix as penalty for violation of the ordinance, bylaw, rule or regulation. Such payment shall, if mailed, be made only by postal note, money order or check. Upon receipt of such notice, the Town Clerk shall forthwith notify the District Court Clerk of such payment, and the receipt by the District Court Clerk of such notification shall operate as a final disposition of the case. An appearance under this subsection shall not be deemed to be a criminal proceeding. No person so notified to appear before the Clerk of the District Court shall be required to report to any probation officer, and no record of the case shall be entered in any probation records. If any person so notified to appear desires to contest the violation alleged in the notice to appear, he or she may avail himself or herself of the procedure established in MGL c. 40, § 21D. **[Amended 4-27-1992STM by Art. 6]**

{END OF CHAPTER}



**Chapter 5****ALARM SYSTEMS**

**[HISTORY: Adopted by the Annual Town Meeting of the Town of Chelmsford 10-21-1993 by Art. 10. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Fire alarms — See Ch. 42.

Noise — See Ch. 100.

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**§ 5-1. Definitions.**

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

**ALARM INSTALLATION** — The design, installation, repair, alteration and maintenance of systems designed to cause alarm to be sounded in the event of a burglary or robbery.

**ALARM USER** — Any person on whose premises an alarm system is maintained within the Town of Chelmsford, except for alarm systems on motor vehicles or proprietary alarm systems.

**ANSWERING SERVICE** — A telephone answering service which provides the service of receiving emergency signals from alarm systems and thereafter immediately relaying the message by live voice to the Chelmsford Police Department.

**CENTRAL ALARM STATION** — Any facility which is privately owned that owns or leases alarm systems and whose facility is staffed by employees who receive, record or validate alarm signals and relay the information of such signals to the Chelmsford Police Department by any means.

**DIAL ALARM** — An alarm system which automatically selects a telephone line connected to the Chelmsford Police Department and reproduces a prerecorded voice message or coded signal indicating the existence of an emergency situation that the alarm system is designed to detect.

**DIRECT ALARM** — Any alarm system which is directly connected to the alarm processing unit within the police monitoring facility.

**EMERGENCY ALARM SYSTEM** — An assembly of equipment and devices, or a single device, arranged to signal a hazard or intrusion requiring urgent attention and to which police are expected to respond. In this chapter, the term "emergency alarm system" shall include the terms "dial alarm," "direct alarm" and "local alarm," as those terms are herein defined. Fire alarm systems and alarm systems which monitor temperature, humidity and any other conditions not directly related to the detection of an unauthorized intrusion into a premises, robbery or attempted robbery at a premises are specifically excluded from the provisions of this chapter.

**FALSE ALARM** —

- A. The activation of an alarm system through mechanical failure, malfunction, improper installation or negligence of the user of an alarm system or of the user's employees or agents.
- B. Any signal or oral communication transmitted to the Police Department requesting, requiring or resulting in a response on the part of the Police Department when in fact there has been no unauthorized intrusion or attempted unauthorized intrusion into a premises and no attempted robbery



at a premises. Excluded from this definition are activations of alarm systems caused by power outages, hurricanes, tornadoes or earthquakes or an alarm user who has no other means of eliciting an emergency response by the Police Department for valid emergency reasons.

**LOCAL ALARM** — Any alarm system which may or may not be connected to a central station or answering service which, when activated, causes an audible and/or visual signaling device at the premises within which the alarm system is installed.

**MANUAL ALARM** — Any alarm in which the activation of the alarm is initiated by the direct action of the alarm user or the user's agents or employees and which is installed to elicit a police response to a burglary, attempted burglary, robbery or attempted robbery.

**PERMIT** — Written permission duly granted to an applicant by the town upon payment of the required fee.

**PERMIT YEAR** — A twelve-month period beginning January 1 and ending December 31 of each year.

**PERSON** — Any natural person, corporation, unincorporated association or other legal entity.

**POLICE ALARM ADMINISTRATOR** — An employee of the town whose responsibility is to coordinate the administration and documentation of alarm businesses and alarm systems as they relate to the effective enforcement of the provisions of this chapter.

**POLICE CHIEF** — The Chief of Police of the Town of Chelmsford or his or her designated representative.

**POLICE DEPARTMENT** — The Town of Chelmsford Police Department or any authorized agent thereof.

**PROPRIETARY SYSTEM** — All alarm systems sounding and/or recording alarm and supervisory signals at a control center located within the protected premises, the control center being under the supervision of the proprietor of the protected premises or the proprietor's employees or agents. If a proprietary alarm system includes a signal line connected directly or by means of a dialing device to a central station or answering service, it thereby becomes an emergency alarm system as defined in this chapter.

**PUBLIC NUISANCE** — Anything which annoys, injures or endangers the comfort, repose, health or safety of any persons or any community or neighborhood.

**TOWN** — The Town of Chelmsford, Massachusetts.

#### **§ 5-2. Permit required; application procedure.**

- A. Within 90 days from the effective date of this chapter, every alarm user shall make application for a permit which shall be required to maintain and/or operate an emergency alarm system within the Town of Chelmsford.
- B. The Chief of Police is hereby authorized to issue a permit to any owner of property located within the Town of Chelmsford, or the lesser thereof, to maintain, install and modify an alarm system upon application to the Chief of Police and subject to the following provisions:
  - (1) The alarm user applying for the permit shall provide to the Chief of Police the name, address and current telephone number of at least two persons for one-family residences and three persons for all other property who will be available at all times for the purpose of responding to alarms by personally appearing at the building protected following an alarm of any kind.
  - (2) The Chief of Police, upon application to him or her for a permit, shall, in his or her sound judgment, determine whether the application conforms to the requirements of this chapter and that the facts stated therein are true and accurate, and the Chief of Police may cause such system

to be inspected to determine whether such system is reasonably operational.

- (3) All information obtained pursuant to this chapter shall be kept confidential and shall be for the use of the Police Communications Center and the Police Alarm Administrator.
- (4) It shall be the responsibility of the permit holder to keep all information necessary for proper notification, with the Police Communications Center/Police Alarm Administrator, current and up-to-date.
- (5) A residential permit shall include all private dwellings, individual apartments or condominium units occupied primarily by the applicant for which the applicant will pay to the Town of Chelmsford a permit fee set pursuant to MGL c. 40, § 22F. The effective date will be January 1, 1994. Said effective date does not exempt the payment of said fee for previously installed systems. **[Amended 10-17-2005ATM by Art. 15]**
- (6) A commercial permit shall include all businesses, corporations or unincorporated associations for which the applicant will pay to the Town of Chelmsford a permit fee set pursuant to MGL c. 40, § 22F. **[Amended 10-17-2005ATM by Art. 15]**
- (7) All federal, state, county or local government agencies who operate alarm systems shall be exempt from all permit fees and service charges but shall comply with all other requirements of this chapter and with all requests of the Chief of Police as shall concern the operation of their alarm systems.
- (8) All persons 65 years of age or older who are the principal occupants of the private residence listed on the application shall also be exempt from all permit fees but shall comply with all other requirements of this chapter.
- (9) Applications for the renewal of an alarm user's permit shall be made every year within 30 days immediately preceding January 1 and shall be accompanied by a nonrefundable fee set pursuant to MGL c. 40, § 22F for each application in behalf of a residential building and set pursuant to MGL c. 40, § 22F for each application in behalf of a nonresidential building. **[Amended 10-17-2005ATM by Art. 15]**
- (10) A late charge set pursuant to MGL c. 40, § 22F will be charged in addition to the fees provided above to an alarm user who is more than 60 days delinquent in renewing a permit. **[Amended 10-17-2005ATM by Art. 15]**
- (11) All alarm users to whom a permit has been issued shall keep the permit within the protected premises for which the permit was issued.
- (12) Any alarm permit issued under this chapter shall be made available for inspection, suspension or revocation purposes upon the demand of any authorized Chelmsford police officer.
- (13) Failure to comply with any of the provisions of this chapter may constitute grounds for the Chief of Police to deny the issuance of a permit or suspend/revoke an existing permit.

### **§ 5-3. False alarms.**

- A. No alarm system designed to transmit emergency messages through relay to the Police Department shall be worked on, tested or demonstrated without notifying and obtaining permission from the Police Chief. Permission is not required to test or demonstrate alarm devices not transmitting emergency messages through relay to the Police Department. An unauthorized test constitutes a false

alarm.

- B. If in the event of any alarm the Police Communications Center is unable to notify any listed representative of the alarm user or if a representative of the alarm user fails to appear at the building protected within 30 minutes after notification, the Police Communications Center shall not respond to any further alarms from that system until the alarm is reset by the alarm user or, in the case of a defective alarm system, until the alarm system has been repaired. Whenever a representative of an alarm user fails to appear at the building protected following an alarm within 30 minutes after being notified by the Police Communications Center, the alarm user shall pay a charge set pursuant to MGL c. 40, § 22F in addition to any service charge assessed for every such event to the Town of Chelmsford. Violation of the provisions of this subsection is sufficient cause for suspension/revocation of the emergency alarm system permit required by § 5-2 of this chapter. **[Amended 10-17-2005ATM by Art. 15]**
- C. Service charges and fees.
- (1) Any user of an alarm system which transmits false alarms requiring a response from the Chelmsford Police Department shall be assessed a service charge set by the Chief of Police pursuant to MGL c. 40, § 22F for each false alarm in excess of three occurring within a thirty-day period. **[Amended 10-17-2005ATM by Art. 15]**
- (2) All service charges assessed hereunder shall be paid through the Police Alarm Administrator to the Town of Chelmsford Treasurer-Collector for deposit into the general fund. Upon failure of an alarm user to pay the assigned service charge within 30 days, a five-dollar late fee shall be assessed and the total amount shall be payable within 15 days. Failure to remit payment due within a total of 45 days from original notice shall result in the Chief of Police ordering the permit (for the premises recording the false alarm) revoked. Any such revocation shall be effectuated within 10 days from the date of mailing of the Police Chief's order. **[Amended 10-21-1999ATM by Art. 31]**
- D. After the Police Department has recorded three separate false alarms within a calendar year from a particular alarm system, the Police Chief shall notify the alarm user, in writing, of such fact and require said alarm user to submit, within 10 days after receipt of said notice, a report describing efforts to discover and eliminate the cause(s) of the false alarms. If the alarm user, on the basis of absence from the town or on any other reasonable basis, requests an extension of time for filing the report, the Police Chief may extend the ten-day period for a reasonable time. If said alarm user fails to submit such a report within 10 days or within any such extended period, the Police Chief may order the alarm permit (for the premises recording the three false alarms) suspended until the alarm system is made to function properly. Any such order of suspension shall be preceded by a written notice of intent to the alarm user by the Police Chief. Any such suspension shall be effectuated 10 days from the date of mailing of the Police Chief's notice if no hearing is requested.
- E. In the event that the Police Chief determines that a report submitted is unsatisfactory or the alarm user has failed to show by the report that the alarm user has taken or will take reasonable steps to eliminate or reduce false alarms, then the Police Chief shall order the alarm permit (for the premises recording the three false alarms) suspended until the alarm system is made to function properly. Any such order of suspension shall be preceded by a written notice of intent to the alarm user by the Police Chief. Any such suspension shall be effectuated within 10 days from the date of mailing of the Chief's order.
- F. In the event that the Police Department records five false alarms within a calendar year from a particular alarm system, the Police Chief may order the permit for said alarm system to be suspended for a period of not less than six months from the date the alarm system is disconnected. Any such

order of suspension shall be preceded by a written notice of intent to the alarm user by the Police Chief. Any such suspension shall be effectuated within 10 days from the date of mailing of the Police Chief's order.

- G. Upon receipt of a notice of intent to revoke or suspend an alarm user's permit pursuant to this chapter, the alarm user may, within five days of such receipt, submit a written request for a hearing before the Chief of Police or his or her designee setting forth the reasons why the permit should not be revoked or suspended.
- H. At the hearing before the Chief of Police or his or her designee, the holder of the permit shall have the right to present evidence, to cross-examine witnesses and to be represented by counsel. Such a hearing shall be informal and shall not be subject to the rules of evidence or formal courtroom procedure. After the hearing, the Chief of Police or his or her designee may either issue an order of revocation, withdraw the notice of revocation or suspend the permit until such time that he or she is satisfied that the cause (or causes) of the false alarms has (or have) been eliminated.
- I. Any alarm user who has, in accordance with this section, had his or her alarm permit revoked/suspended by the Police Chief may appeal the order of revocation/suspension to the Select Board. An appeal shall be filed within five days of the date of the order of revocation/suspension. Thereafter, the Board shall consider the merits of the appeal and in connection therewith shall hear evidence presented by all parties concerned. After hearing such evidence the Board may affirm, vacate or modify the order of revocation/suspension. **[Amended 6-17-2021ATM by Art. 29]**
- J. An alarm user whose permit has been revoked is not precluded under this chapter from applying for a new permit. The Chief of Police will not issue a new permit unless he or she is satisfied that the user's system has been properly serviced and its deficiencies corrected. The Chief of Police may also impose reasonable restrictions and conditions upon the user before issuing a new permit. (These restrictions and/or conditions shall appear on the permit and shall provide for automatic revocation on the occurrence of two false alarms in the remaining permit year.) **[Amended 10-21-1999ATM by Art. 33]**
- K. Any alarm user, central station, answering service or proprietary system who or which does not possesses an alarm user's permit or whose permit has been suspended, revoked or denied who or which transmits by any means to the Chelmsford Police Department an alarm signal from his, her or its respective system shall be charged a service fee set pursuant to MGL c. 40, § 22F for each signal eliciting a response from the police. This service fee shall be separate from any fines which may be assessed by the court upon a finding of a violation of this chapter. **[Amended 10-17-2005ATM by Art. 15]**
- L. Any alarm user, owner or lessee who possess an alarm user's permit may appeal false alarm service charges in writing to the Chief of Police within 10 days after receipt of the notice of penalty.
- M. The Chief of Police or his or her designee may waive assessment of the service charge when, in his or her judgment, reasonable attempts are being taken to discover and eliminate the cause of the false alarm.<sup>5</sup>

#### **§ 5-4. Abatement of nuisance alarms.**

- A. All alarm systems as defined in this chapter which make or sound an audible signal which may be

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5. Editor's Note: Original Section 3N, which immediately followed this subsection and contained the same wording as § 5-7C, was deleted 10-21-1999ATM by Art. 33.

heard outside of the protected premises shall be equipped with a device which shall limit the duration of such audible signal to not more than 20 minutes.

- B. Any alarm system emitting a continuous and uninterrupted audible signal for more than 20 minutes between 7:00 p.m. and 7:00 a.m. which cannot be shut off, reset or otherwise curtailed due to the absence or unavailability of the alarm user or those persons designated by the alarm user and which disturbs the peace, comfort or repose of a community, a neighborhood or inhabitants of the area where the alarm system is located shall constitute a public nuisance. Upon receiving complaints regarding such a continuous and uninterrupted audible signal, the Police Communications Center shall endeavor to contact the alarm user or members of the alarm user's family or those persons designated by the alarm user in an effort to abate the nuisance. The Police Chief shall cause to be recorded the names and addresses of all complainants and the time each complaint was made.
- C. In the event that the Police Chief is unable to contact the alarm user or members of the alarm user's family or those persons designated by the alarm user or if the aforesaid persons cannot or will not curtail the audible signal being emitted by the alarm system, and if the Police Chief is otherwise unable to abate the nuisance, the Police Chief may direct a police officer or a fire fighter or a qualified alarm technician to enter upon the property outside the home or building in which the alarm system is located and take any reasonable action necessary to abate the nuisance.
- D. If entry upon property outside the home or building in which the alarm system is located is made in accordance with this section, the person so entering upon such property shall be considered lawfully present but may not conduct any search, seizure, inspection or investigation while he or she is upon the property and shall not cause any unnecessary damage to the alarm system or to any part of the home or building and shall leave the property immediately after the audible signal has ceased. After an entry upon property has been made in accordance with this section, the Police Chief shall have the property secured, if necessary. The reasonable costs and expenses of abating a nuisance in accordance with this section may be assessed to the alarm user, said assessment not to exceed expenses incurred by the town.
- E. Within 10 days after abatement of a nuisance in accordance with this section, the alarm user may request a hearing before the Chief of Police and may present evidence showing that the signal emitted by the user's alarm system was not a public nuisance at the time of the abatement; that unnecessary damage was caused to the user's property in the course of the abatement; that the costs of the abatement should not be assessed to the user; or that the requirements of this section were not fulfilled. The Chief shall hear all interested parties and may, in his or her discretion, reimburse the alarm user for the repairs to the user's property necessitated by the abatement or excuse the alarm user from paying the costs of the abatement.

#### **§ 5-5. Administration and enforcement.**

- A. The Chief of Police shall establish a written procedure for the administration and enforcement of the provisions of this chapter.
- B. In January of each year the Chief of Police shall submit a report to the Town Manager regarding the effectiveness of this chapter and any recommendations thereon.
- C. The Police Department of the Town of Chelmsford shall take every reasonable precaution to assure that the alarm signals and alarm messages received by the Police Department are given appropriate attention and are acted upon with dispatch. Nevertheless, the Police Department shall not be liable for any defects in the operation of alarm devices, for any failure or neglect to respond appropriately

upon receipt of an alarm from such source nor for the failure or neglect of any person or in connection with the installation and operation of alarm systems or their components, the transmission of alarm signals and prerecorded messages or the relaying of such signals and messages. In the event that the Police Department finds it necessary to disconnect an alarm device after exhausting all other provisions of this chapter, the Police Department shall incur no liability by such action.

**§ 5-6. Dial alarms and direct alarms.**

Dial alarms and direct alarms are not allowed.

**§ 5-7. Violations and penalties.**

- A. It shall be unlawful for any person or alarm user to maintain or operate an alarm system, as defined by the terms of this chapter, without first obtaining a permit as provided.
- B. Any person or alarm user who does maintain or operate an alarm system without a permit shall be guilty of a violation and, upon conviction, shall be fined not less than \$50.
- C. Any alarm user who, after having a permit suspended/revoked and after exhausting his or her right to a hearing, fails to disconnect the alarm system shall be guilty of a violation and, upon conviction, shall be fined not less than \$100.

{END OF CHAPTER}

**Chapter 8****ALCOHOLIC BEVERAGES**

**[HISTORY: Adopted by the Special Town Meeting of the Town of Chelmsford 10-15-1974 by Art. 8. Amendments noted where applicable.]**

**§ 8-1. Definitions.**

The following definitions shall apply in the interpretation and enforcement of this chapter:

ALCOHOLIC BEVERAGE — Any beverage defined as an alcoholic beverage in MGL c. 138, § 1.

PRIVATE PROPERTY — Any real property within the Town of Chelmsford which is not owned by the town.

PUBLIC PROPERTY — Includes all town commons, school grounds, municipal parking lots, municipal parks, municipal playgrounds and all real property, buildings or offices owned by or leased to the town or occupied or used by any board, department, committee, commission or office of the town.

PUBLIC WAY — The entire width between the lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel, and shall include the entire width of any sidewalk within the lines of such way. In the case of ways established by prescription or concerning which no official layouts exist, the edge of the surface of the traveled way shall be deemed to be the lines of such public ways.

**§ 8-2. Consumption on public ways.**

No person shall consume any alcoholic beverages on any public way or on any way to which the public has a right of access.

**§ 8-3. Possession or consumption on public or private property.**

No person shall bring any alcoholic beverages onto any public property or onto any private property or possess or consume any alcoholic beverages in or upon any public property or private property without the permission of the owner or person lawfully in charge or control of such public or private property.

**§ 8-4. Seizure.**

All alcoholic beverages possessed or consumed in violation of this chapter shall be seized and held until final adjudication of the charge against the person or persons arrested or summoned before the court. After final adjudication all alcoholic beverages seized shall be returned to the person or persons entitled to the lawful possession of them.

**§ 8-5. Violations and penalties. [Amended 10-21-1999ATM by Art. 34]**

Violations of this chapter are punishable by a fine of \$100 for each offense.

**§ 8-6. Enforcement.**

This chapter shall be enforced on behalf of the town by its Police Department, which shall have the right to arrest any and all persons in violation of said chapter.

**§ 8-7. Severability.**

If any part, section or provision of this chapter is found to be invalid, the remainder of this chapter shall not be affected thereby.

{END OF CHAPTER}



**Chapter 10****AMUSEMENT DEVICES, AUTOMATIC**

**[HISTORY: Adopted by the Annual Town Meeting of the Town of Chelmsford 10-16-2000 by Art. 17. Amendments noted where applicable.]**

**§ 10-1. License required; features promoting misuse.**

- A. In accordance with MGL c. 140, § 177A, as amended from time to time, any individual or business desiring to keep and operate an automatic amusement device for hire, gain or reward shall secure an annual license from the Select Board. **[Amended 6-17-2021ATM by Art. 29]**
- B. The Select Board shall not grant a license for any automatic amusement device that presents a risk of misuse as a gaming device. **[Amended 6-17-2021ATM by Art. 29]**
  - (1) Automatic amusement devices which may present a risk of misuse as gaming devices are those devices which have one or more of the following features:
    - (a) The device involves matching random numbers, patterns or cards.
    - (b) The device accumulates more than 26 plays.
    - (c) The device is equipped with a "knock off" switch, button or similar device that resets the total points won as shown on the video screen and adds these points to a second meter and/or recording device.
    - (d) The device has a mechanism for adjusting the odds.
    - (e) The device has a remote control feature that can reset the device from another location.
    - (f) The device is capable of returning money to the player, other than the change for the excess amount put in.
    - (g) The device permits a player to pay for more than one game at a time.
  - (2) Each game on the device shall cost exactly the same amount for each player, and no player may change any aspect of the game by paying a different amount than any other player before or during the game.
  - (3) There shall be no metering device that accounts for both money/points in and money/points out.

**§ 10-2. Use restrictions.**

- A. The maximum number of automatic amusement devices allowed on any single business premises shall be four, except in the case of duly licensed arcades and amusement parks.
- B. Any individual or business desiring more than four automatic amusement devices on a single business premises shall require a special license from the Select Board. **[Amended 6-17-2021ATM by Art. 29]**

**§ 10-3. Enforcement; violations and penalties.**

- A. The enforcing authority under this chapter shall be the Chelmsford Police Department.

§ 10-3

CHELMSFORD CODE

- B. All licenses for automatic amusement devices granted by the Select Board shall be subject to inspection by the Chelmsford Police Department to ensure conformance with submitted application information and local code requirements. **[Amended 6-17-2021ATM by Art. 29]**
- C. Any unlicensed automatic amusement device shall be subject to immediate seizure by the Chelmsford Police Department.
- D. Violation of this chapter shall be liable to a penalty of \$250, with each unlicensed amusement device constituting a separate offense.

**§ 10-4. Severability.**

The provisions of this chapter are declared to be severable, and if any section, subsection, sentence, clause or part thereof is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses or part of the chapter.

{END OF CHAPTER}

ANIMALS

**Chapter 11**

ANIMALS

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

## ARTICLE I

**Dogs****[Adopted 5-5-1986ATM by Art. 17]****§ 11-1. References to Massachusetts General Laws.**

Any reference to a section number in this article shall mean Chapter 140 of the Massachusetts General Laws, unless otherwise stated.

**§ 11-2. Definitions.**

A. Unless otherwise set out in this article, any term defined in § 136A shall have the same meaning in this article and shall be expressly incorporated herein.

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

AT LARGE — Off the premises of the owner and not under the control of the owner or authorized escort either by leash, cord, chain or otherwise.

LICENSE PERIOD — From January 1 of each year to December 31 of the same year.

OWNER — Any person or persons, firm, association or corporation owning, keeping or harboring a dog owned or kept in the Town.

**§ 11-3. Registration and license. [Amended 11-30-1987STM by Art. 13; 4-28-2014ATM by Art. 20]**

A. A person who at the commencement of a license period is, or who during any license period becomes, the owner or keeper of a dog six months old or over which is not duly licensed, and the owner or keeper of a dog when it becomes six months old during a license period, shall cause it to be registered, numbered, described and licensed until the end of such license period, and the owner or keeper of a dog so registered, numbered, described and licensed during any license period, in order to own or keep such dog after the beginning of the succeeding license period, shall, before the beginning thereof, cause it to be registered, numbered, described and licensed for such period. The registering, numbering, describing and licensing of a dog shall be done in the office of the Town Clerk on a form prescribed and supplied by the Town Clerk and shall be subject to the condition expressed therein that the dog which is the subject of the license shall be controlled and restrained from killing, chasing or harassing livestock or fowls.

(1) The Town Clerk shall not grant such license for any dog unless the owner thereof provides the Town Clerk with either a veterinarian's certification that such dog has been vaccinated in accordance with the provisions of MGL c. 140, § 145B, or has been certified exempt from such provision as outlined in MGL c. 140, § 137, or a notarized letter from a veterinarian that a certificate was issued.

(2) The owner or keeper of a licensed dog shall cause it to wear around its neck or body a collar or harness of leather or other suitable material to which shall be securely attached a tag in a form prescribed by and issued by the Town Clerk when a license is issued. Such tag shall state the following: Town of Chelmsford, year of issue and tag number. If any such tag shall be lost, the owner or keeper of such dog shall forthwith secure a substitute tag from the Town Clerk at a cost of \$2. This subsection shall not apply where it is otherwise provided by law, nor shall it apply to a person having a kennel license.

B. The provisions of MGL c. 140, § 138, shall be expressly incorporated under this article.

- C. A license duly recorded shall be valid throughout the commonwealth, except that, in the case of the permanent moving of a dog into the Town, the owner or keeper thereof shall, within 30 days after such moving, present the original license and tag of such dog to the Town Clerk, and said Town Clerk shall take up the same and issue to said owner or keeper a transfer license, together with a tag, for such dog upon payment of \$2. The provisions of this article relative to the form and furnishing of licenses and tags shall apply to licenses and tags issued under this subsection.

#### **§ 11-4. Kennel license.**

- A. Any person holding a kennel license shall maintain the kennel in a sanitary and humane manner. **[Amended 10-16-2006ATM by Art. 14]**
- B. Any person who meets any requirement of the Town of Chelmsford bylaws and § 137A may obtain a kennel license from the Town Clerk on a form prescribed and supplied by the Town Clerk and for a fee as set out in § 11-5 of this article. The Town Clerk shall, upon application, issue without charge a kennel license to any domestic charitable corporation incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse for the relief of suffering among animals.
- C. The provisions of § 137B shall be expressly incorporated under this article.
- D. The Chief of Police or Animal Control Officer may at any time inspect or cause to be inspected any kennel and, if in his or her judgment the same is not being maintained in a sanitary and humane manner or if records are not properly kept as required by law, shall file with the Select Board a petition setting forth the facts, and the Select Board shall, upon this petition or upon a petition of 25 citizens setting forth that they are aggrieved or annoyed to an unreasonable extent by one or more dogs at a kennel maintained in Town, because of excessive barking or vicious disposition of said dogs or other conditions connected with such kennel constituting a public nuisance, within seven days after the filing of such petition, give notice to all parties in interest of a public hearing to be held within 14 days after the date of such notice. Within seven days after such public hearing said Select Board shall make an order either revoking or suspending such kennel license or otherwise regulating said kennel or dismissing said petition. Within 10 days after such order the holder of such license may bring a petition in the District Court as outlined in § 137C. Any person maintaining a kennel after the license therefor has been so revoked or while such license is so suspended shall be punished as set forth in § 11-18 of this chapter. The Select Board may, in the case of any suspension, reinstate such license. **[Amended 10-16-2006ATM by Art. 14; 6-17-2021ATM by Art. 29]**
- E. The provisions of § 137D shall be expressly incorporated under this chapter.
- F. All kennels shall be limited to a total of 100 dogs to be maintained on said premises. It shall be a violation of this article to have any dogs on said premises over and above said number. **[Added 11-30-1987STM by Art. 13; amended 10-24-2016ATM by Art. 14]**

#### **§ 11-5. License fees. [Amended 12-8-1986STM by Art. 1; 11-30-1987STM by Art. 13; 6-4-1990ATM by Art. 12; 10-1-1990ATM by Art. 11; 10-28-1991ATM by Art. 19; 4-29-2002 by Art. 12; 10-17-2005ATM by Art. 14; 4-28-2014ATM by Art. 20]**

- A. License fees for dogs and kennels shall be set by a majority vote of the voters present at a Town Meeting.
- B. The license fee for a spayed or neutered dog shall be less than the license fee for an intact dog. Upon application for a license, the Town Clerk shall require a certificate from the veterinarian who spayed or neutered the dog as proof that the dog is spayed or neutered; provided, however, that if the Town

Clerk is satisfied that the certificate of the veterinarian who spayed or neutered the dog cannot be obtained, the Town Clerk may instead accept a receipt of a bill from the veterinarian who performed such procedure or a statement signed under the penalties of perjury by a veterinarian registered and practicing in the commonwealth describing the dog and stating that the veterinarian has examined the dog, which appears to have been spayed or neutered and incapable of propagation.

- C. To determine the amount of the license fee for a kennel, a dog under the age of six months shall not be counted in the number of dogs kept in a kennel.
- D. No fee shall be charged for a license issued for a service animal as defined by the Americans with Disabilities Act<sup>6</sup> or regulations promulgated thereunder.
- E. No license fee or portion thereof shall be refunded because of the subsequent death, loss, spaying or removal from the commonwealth or other disposal of the dog, nor shall a license fee or portion thereof paid by mistake be paid or recovered after it has been paid over to the Town.
- F. All fees shall be increased by \$5 on the first day of the second month following the commencement of the required license period and by an additional \$5 on the first day of each succeeding month up to June 30 each year.
- G. In addition to all other sums due and owing for any license fee hereunder, a person who applies for a license hereunder shall be obligated to pay all prior amounts of license fees and citations determined to be due and owing by the Town Clerk pursuant to this article for past periods in which said person was obligated to obtain a license. It shall be a violation of this article to fail to pay any said sum due hereunder. This remedy shall be cumulative.
- H. The following fees shall apply for licenses issued under Chapter 11:

<b>Dog License</b>		<b>Fee</b>
Intact male or female dog		\$20
Spayed or neutered dog		\$15
<b>Kennel License</b>		<b>Fee</b>
Domestic charitable corporation kennel		\$0
Commercial boarding or training kennel		\$350
Commercial breeder kennel		\$350
Personal kennel		
(1)	4 dogs or less	\$85
(2)	5 dogs	\$100
(3)	6 to 10 dogs	\$150
(4)	11 to 25 dogs	\$250
Veterinary kennel		\$300

**§ 11-6. Animal Control Officer. [Amended 10-15-1990ATM by Art. 18; 10-16-2006ATM by Art. 14]**

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6. Editor's Note: See 42 U.S.C. § 12101 et seq.

- A. The Town Manager shall annually appoint a Animal Control Officer and as many Assistant Animal Control Officers as the Town Manager determines necessary to enforce this article, and said individual(s) shall enforce this article and perform such other duties as the Town Manager may determine. The Town Manager shall determine hours and conditions of work for the Animal Control Officer(s). Compensation for persons appointed under this article shall be consistent with other bylaws dealing with salaries of appointed officials.
- B. The provisions of §§ 151 and 151A regarding killing and/or transfer of any dogs shall apply and are expressly incorporated in this article. No Animal Control Officer shall be a licensed animal dealer registered with the United States Department of Agriculture, and no Animal Control Officer, either privately or in the course of carrying out his or her official assignments as an agent for this Town, or any other agent of the Town shall give, sell or turn over any animal which may come into his or her custody to any business or institution licensed or registered as a research facility or animal dealer with the United States Department of Agriculture. Whoever violates the provisions of this subsection shall be punished as provided in § 151.

**§ 11-7. Nuisances. [Amended 10-16-2006ATM by Art. 14]**

Every owner or keeper of a dog shall exercise proper care and control of his/her dog so as to prevent said dog from becoming a public nuisance.

- 1. Running at large. No owner or keeper of any dog shall permit such dog to run at large at any time. The provisions of this section shall not be intended to apply to dogs participating in any dog show, nor to Seeing Eye dogs properly trained to assist blind persons for the purpose of aiding them in going from place to place, nor to any dogs properly trained and under control of and aiding the deaf, nor to any dogs being trained or actually being used for hunting purposes, nor in any area officially designated by the Town for off-leash activities. **[Amended 4-29-2013ATM by Art. 29]**
  - (a) Any off-leash area designated by the Town will comply with all other Town of Chelmsford general bylaws.
  - (b) Owners of dogs shall be legally responsible for any and all injury or destruction of property caused by their dogs.
  - (c) Within areas that have been officially designated as off-leash areas, dogs may be allowed to run at large, subject to such rules and regulations as may be determined by the Town and as follows;
    - [1] All dogs are leashed prior to entering and upon leaving the off-leash dog area;
    - [2] The owner/keeper of the dog(s) at all times while his/hers dog(s) is (are) using the designated off-leash dog area is in attendance with the dog(s) in the designated area;
    - [3] The owner/keeper of the dog(s) has a leash in his/her possession for each dog he/she owns/ keeps that is using the dog park.
    - [4] All dogs using the off-leash dog areas must be licensed and vaccinated per the Town of Chelmsford general bylaws;
    - [5] All dogs must be accompanied by an owner/keeper and be under his/her control at all times;
    - [6] Dogs determined to be dangerous or potentially dangerous pursuant to MGL c. 140, § 157, or Town of Chelmsford general bylaw Chapter 11, Article I, § 11-2, are not permitted to

use these off-leash parks;

[7] Use of these off-leash dog areas will be restricted to daylight hours;

(d) The rules and regulations shall be posted at any off-leash area.

2. Barking. Dog owners or caretakers shall not allow excessive or untimely barking, howling, crying or scratching by their dogs which disturbs the peace and quiet of any neighborhood. Excessive barking is defined for the purposes of this section as barking for over 30 minutes.
3. Dog Waste Removal. A person owning or having the care, custody, or control of any dog shall not permit such dog to soil or defile or commit any nuisance upon any sidewalk, street, thoroughfare, beach, bike path, park/common or wetland, in or upon any public property or in or upon the property of persons other than the owner or person having the care, custody, or control of such dog, unless said person picks up any such waste and disposes of same in a sanitary manner.
4. Nothing contained in the foregoing subsection shall prevent the Select Board from passing any orders authorized by Massachusetts General Laws or by MGL c. 140, § 167 at such times as the Board shall deem it necessary to safeguard the public. **[Amended 6-17-2021ATM by Art. 29]**

**§ 11-8. Impoundment. [Amended 10-21-1999ATM by Art. 35; 10-16-2006ATM by Art. 14]**

The Animal Control Officer shall seek out, catch and confine any dog within the Town that has not been licensed with 60 days of the time the dog is required to be licensed under this article and shall seek out, catch and confine any dogs within the Town that are found on public property, or on private property where said dog is trespassing and the owner or person in control of such property wants the dog removed, said dogs being in violation of this requirement of this article, and shall seek out, catch and confine any dog within the Town when said dog was cited for a violation of any provision of this article and the owner or keeper has failed within 21 days to avail himself or herself of § 11-16 or 11-17 of this article or, within 21 days of a determination by the court under the provision of Chapter 1, General Provisions, § 1-2 of the Code of the Town of Chelmsford that any sums are due, has failed to pay said sums.

**§ 11-9. Disposition. [Amended 10-16-2006ATM by Art. 14; 6-17-2021ATM by Art. 29]**

Any dog confined by the Animal Control Officer, unless picked up by the owner, shall be kept for at least 10 days, at which time said dog may be disposed of in a manner determined by the Select Board, provided that at the end of 10 days the Animal Control Officer may make available for adoption any male or any spayed female dog not found to be diseased. Any dog confined by the dog officer shall not be released to the owner until the owner produces evidence of a current dog license and pays a sum of as voted by the BOS pursuant to MGL c. 40, § 22F for care of the animal, each day or part of a day counted as one day. For any dog adopted under this section, a fee as voted by the BOS pursuant to MGL c. 40, § 22F shall be charged, and said dog shall be licensed before adoption. Any fees in this section are to be in addition to fees or fines as specified elsewhere in this article and/or under Massachusetts General Laws. No dog shall be turned over or sold in any manner inconsistent with § 151 or disposed of inconsistent with the provisions of § 151A.

**§ 11-10. Emergency treatment. [Amended 10-16-2006ATM by Art. 14]**

Any veterinarian registered under the provisions of MGL c. 112, § 55 or 56A who provides emergency treatment of a dog or cat that is injured on any public way in Chelmsford shall receive, in lieu of payment from the County Dog Fund as allowed in § 151B, payment from the Revolving Dog Fund. All other provisions of § 151B shall be incorporated herein under this article.



**§ 11-11. Damage caused by dogs.**

- A. Whoever suffers loss in a manner described in § 161 shall inform the Animal Control Officer of such loss, who shall investigate the circumstances of said loss. In the event it is found that the damage was caused by a dog and the estimate of damages by the Animal Control Officer is less than \$50, the Animal Control Officer shall submit a report to the Select Board. If the estimate is over \$50, the Animal Control Officer shall have the damage appraised on oath by three persons, one person appointed by the Animal Control Officer, one appointed by the person alleged to be damaged and one appointed by the other two. Said appraisers shall act as outlined in § 161 and turn in said appraisal to the Select Board, which may authorize payment or make such independent investigation as it thinks proper and shall issue an order upon the Town Treasurer-Collector for any amount as it decides to be just and shall notify all interested parties of its decision. The appraisers shall receive payment from the Town in a manner as is authorized in § 161. All funds expended under this section shall come from the Revolving Dog Fund. **[Amended 10-21-1999ATM by Art. 31; 10-16-2006ATM by Art. 14; 6-17-2021ATM by Art. 29]**
- B. The obligations and liability of the Town and the Town's agents, servants, employees and/or elected officials hereunder shall be limited to \$100 per animal and \$500 per residence per fiscal year. This shall not limit the Town's remedies and rights to seek compensation in excess of said amount pursuant to this article. **[Added 11-30-1987STM by Art. 13]**
- C. The Select Board may appoint a temporary investigator in any case that the Board believes in its reasonable discretion requires further investigation, and if said investigator believes that the evidence is sufficient to sustain an action against the owner or keeper of the dog, the investigator shall recommend to the Select Board that said action be brought, unless the owner or keeper before action is brought pays him or her such amount in settlement of the damages as he or she deems reasonable. After the recommendation of the investigator, the Select Board may order that action shall be brought in his or her own name or in the name of the Town of Chelmsford, or both, as the Select Board determine. **[Amended 6-17-2021ATM by Art. 29]**
- D. If the Select Board determine, after notice to parties interested and a hearing, who is the owner or keeper of any dog which is found to have worried, maimed or killed any livestock or fowls, thereby causing damages for which their owner may become entitled to compensation from the Dog Fund under this article, they shall serve upon the owner or keeper of such dog a notice directing him or her within 24 hours to kill or confine the dog. A person who owns or keeps a dog and who has received such notice and does not within 24 hours kill such dog or thereafter keep it on his or her premises or under the immediate restraint and control of some person shall be punished as provided in § 11-18 of this article, and any police officer, constable or dog officer may kill such dog if it is found outside of the enclosure of its owner or keeper and not under his or her immediate care. **[Amended 6-17-2021ATM by Art. 29]**
- E. The Select Board, or its agents thereto authorized in writing, may, after written notice to the owner or keeper, enter upon the premises of the owner or keeper of any dog known to the Board to have worried or killed livestock or fowls and then and there kill such dog, unless such owner or keeper whose premises are thus entered for said purpose shall give a bond in the sum of \$200, with sufficient sureties, approved by the Select Board, conditioned that the dog shall be restrained for 12 months next ensuing, and if the owner or keeper of the dog declares his or her intention to give such a bond, said Select Board or their agents shall allow him or her seven days, exclusive of Sundays and holidays, in which to procure and prepare the same and to present it to them or to file it with the Town Clerk. **[Amended 6-17-2021ATM by Art. 29]**

**§ 11-12. Liability for damages. [Amended 6-17-2021ATM by Art. 29]**

The owner or keeper of a dog which has done damage to livestock or fowls shall be liable in tort to the Town for all damages so done in which the Town has been requested to pay as provided by MGL c. 140 or by this article. Such action may be brought by the Select Board or by a temporary investigator as authorized in § 11-11 of this article.

**§ 11-13. (Reserved)<sup>7</sup>****§ 11-14. Ordering dogs to be muzzled or restrained.**

All the provisions of § 167 shall be incorporated into this article, except that any dog held under the provisions of § 167 may not be released until all the requirements of this article regarding licensing and the fee for care of the animal are complied with. All other provisions of § 167 shall be incorporated herein.

**§ 11-15. Citations. [Amended 10-16-2006ATM by Art. 14]**

Any person authorized to enforce the provisions of this Chapter 11, Animals, Article I, Dogs, shall, in addition to any pickup of the dog pursuant to this article, issue a citation to the owner or keeper of any dog violating the provisions of this article. Any such citation shall include, in addition to the violation charged, the name and address of the owner or keeper of the dog, the date and time and location of the alleged offense and the amount of the penalty due. Said citation shall be on a form prescribed by and furnished by the Town Clerk.

**§ 11-16. Informal disposition process.**

- A. The owner or keeper of the dog that receives a citation under this article may, within 21 days, confess to the offense charged personally or through a duly authorized agent or by mailing to the Town Clerk said citation along with payment in the amount as authorized under the penalty provisions of this article. Said payment shall be by postal note, money order or check. The payment to the Town Clerk shall operate as a final disposition of the case.
- B. If such person when issued a citation desires to contest the violation through the informal disposition process, such person may, within 21 days of said issuance, request a hearing with the Town Clerk, or a hearing officer appointed by said Clerk, and may present either in person or by counsel any evidence he or she may have to refute the allegation contained in the citation. At such hearing, the Clerk or hearing officer shall make a determination as to facts of the allegation, and said determination shall be final regarding the informal disposition process.

**§ 11-17. Noncriminal disposition.**

If any person so notified by citation desires to contest the violation alleged in the citation notice without availing himself or herself of the provisions of the informal process or desires to contest the decision of the Clerk or hearing officer, he or she may avail himself or herself of the procedures established in Chapter 1, General Provisions, § 1-2 of the Code of the Town of Chelmsford. In either of the above cases, or if the owner or keeper of a dog fails to respond to the citation within 21 days, the Town Clerk shall forward a copy of the citation to the District Court, where it shall be handled under the provisions of Chapter 1, General Provisions, § 1-2 of the Code of the Town of Chelmsford.

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7. Editor's Note: Former § 11-13, Reward for killing dog, as amended, was repealed 4-28-2014ATM by Art. 20.

**§ 11-18. Violations and penalties. [Amended 10-16-2006ATM by Art. 14; 4-28-2014ATM by Art. 20]**

The following penalties shall apply for violations of Chapter 11. Any person who violates this section shall be subject to payment of the following fines:

<b>Section</b>	<b>Violation</b>	<b>Penalty</b>
11-3	Non-current dog license	\$50
11-3A(1)	Non-current rabies vaccination	\$25
11-3A(2)	Not wearing tag	\$50
11-4D	Failure to maintain kennel in sanitary and humane manner	\$50
11-7-2	Barking dog	\$25
11-7-3	Failure to remove animal waste	
	First offense in a calendar year	\$50
	Second offense in a calendar year	\$75
	Third and subsequent offenses in a calendar year	\$125
11-7-1	Running at large	
	(1) Informal disposition process:	
	(a) First offense in a calendar year	\$50
	(b) Second offense in a calendar year	\$75
	(c) Third and subsequent offenses in a calendar year	\$125
	(2) Non-criminal disposition	
	(a) First offense in a calendar year	\$75
	(b) Second offense in a calendar year	\$150
	(c) Third and subsequent offenses in a calendar year	\$200
All other sections of Article 11		\$100

Each day a violation exists shall constitute a separate offense.

**§ 11-19. Anti-rabic vaccine and treatment.<sup>8</sup>**

The Board of Health shall, upon application, furnish free of charge to any resident who has been exposed to rabies or may have been so exposed anti-rabic vaccine and anti-rabic treatment, in accordance with rules and regulations which the Department of Public Health is authorized to make. Any resident shall have the right to select his or her own physician, who shall be paid by the Town at a rate established by the Board of Health, and the fact that a physician is a member of the Board of Health shall not disqualify him or her from being so selected and from being paid by the Town for his or her services. Reimbursement for the cost of furnishing vaccine and treatment, not exceeding \$50 in the case of any one person, shall be made from the Dog Fund.

**§ 11-20. List of dog owners. [Amended 4-28-2014ATM by Art. 20]**

Persons authorized or directed by MGL c. 51, § 4, or by any special law to make lists of persons three years of age or older shall make a list of all dogs owned by the inhabitants of the Town at the time of making lists required under such section and return the same in duplicate to the Town Clerk on or before April 1. An owner or keeper of a dog who refuses to answer or answers falsely to persons directed or authorized to make a list of owners of dogs shall be punished by a fine of not less than \$20.

**§ 11-21. Incorporation of statutory provisions.**

The provisions of the following sections of Chapter 140 of Massachusetts General Laws shall be incorporated into and apply to this article: §§ 145B, 149, 155, 155A, 156, 157, 158, 159, 160, 161A, 168, 174A, 174B and 174D.<sup>9</sup>

**§ 11-22. Severability.**

If any part, section or provision of this article is found to be invalid, the remainder of this article shall not be affected thereby.

**§ 11-23. through § 11-29. (Reserved)**

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8. Editor's Note: Former § 11-19, Dog Fund, as amended, was repealed 10-16-2006ATM by Art. 14. This enactment also renumbered former §§ 11-20 through 11-23 as §§ 11-19 through 11-22, respectively.

9. Editor's Note: Original Sec. 23, Effective implementation date of this article, which immediately followed this section, was deleted 10-21-1999ATM by Art. 35.

## ARTICLE II

**Wildlife Feeding****[Adopted 10-19-2020ATM by Art. 17]****§ 11-30. Definitions**

As used in this and subsequent sections:

**DESIGNATED ENFORCEMENT AUTHORITY** — Chelmsford Animal Control Officers, police officers, and agents of the Board of Health; and State Environmental Police Officers, and other enforcement officers of the Division of Law Enforcement, and by the Deputy Environmental Police Officers.

**FEEDING** — The act of ground feeding, placing, exposing, depositing, distributing, or scattering, directly or indirectly, of any grain, shelled, shucked, or unshucked corn, seeds, wheat, bread or bakery products, salt, meat or parts, fish or parts, honey, molasses, or any other feed or nutritive substances, in any manner or form, so as to constitute for such wildlife a lure, attraction, or enticement to, on, or over any such areas where such feed items have been placed, exposed, deposited, distributed, or scattered.

**WILDLIFE** — Any undomesticated and unrestrained animal or fowl, including, but not limited to, bears, coyotes, deer, foxes, raccoons, skunks, turkeys and other animals or fowl causing public safety threats or nuisances.

**§ 11-31. Prohibited activity.**

No person shall feed any wildlife at any place within the Town of Chelmsford. Whenever the Chelmsford Animal Control Officer or any designated enforcement authority determines a person has violated the provisions of this section, such person shall be notified pursuant to § 11-33. Further violations in the same location, either by act of commission or omission, may constitute prima facie evidence that such violation was with the knowledge or consent of the person previously found in violation of this provision.

**§ 11-32. Exceptions.**

- A. Nothing in this bylaw shall be construed to limit the feeding of domesticated waterfowl or other animals, as defined by the Division of Fisheries and Wildlife, by a farmer, as defined in MGL c. 128, § 1A, on property owned or leased by them, or the feeding of waterfowl or any other birds by propagators licensed under MGL c. 131, § 23, when such waterfowl or other birds are confined in such a manner as may be required pursuant to said § 23 and any rules and regulations issued under authority thereof; or the feeding by any person or his agents, invitees or licensees or waterfowl lawfully kept as a pet by such person.
- B. (Reserved)<sup>10</sup>
- C. Any individual, company or corporation that is duly licensed by the Commonwealth of Massachusetts or entitled under law to possess wildlife of any kind.
- D. Any action that is officially sanctioned by the Commonwealth of Massachusetts that would require feeding, baiting, or luring of wildlife (i.e., capturing and tagging wildlife for scientific projects and study).
- E. Any individual, company, or corporation that is engaged in lawful agricultural pursuits, including but not limited to growing crops, crop-bearing plants or raising livestock.

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**10. Editor's Note: This subsection was disapproved and deleted by the Attorney General.**

- F. This section shall not be interpreted so as to prohibit bird feeders, squirrel feeders, or bat houses. However, if a feeder is determined to be the cause of a public safety threat or nuisance, the Chelmsford Animal Control Officer may order the feeder(s) and seed debris to be removed within 48 hours.
- G. This section shall not be interpreted so as to prohibit the feeding of pets, provided that if food intended for pets is determined to be the source of wildlife feeding, the landowner or person responsible for the premises will, upon notification by the Chelmsford Animal Control Officer, be required to take steps to render such pet food inaccessible to wildlife, including the requirement that the pet food be removed. If any wildlife gains access to pet food, the condition allowing access must be corrected or the pet food removed within 48 hours.
- H. This section shall not be interpreted so as to prohibit the storage of refuse, food products, pet food, or other material or nutritive substance on any premises in a manner which does not constitute a lure, attraction or enticement of wildlife on property within the Town of Chelmsford, provided that if such storage is determined to be the source of a wildlife feeding problem, the landowner or person responsible for the premises will be required to take steps to render such storage area inaccessible to wildlife and the area near the storage be kept free from such debris. If any wildlife gains access to a storage area, the condition allowing access must be corrected or the stored material removed within 48 hours.

**§ 11-33. Violations and penalties.**

Any violation of this section may be enforced by the Animal Control Officer or any designated enforcement authority through noncriminal disposition, pursuant to MGL c. 40, § 21D, in accordance with the following schedule of fines:

- A. First offense: written warning.
- B. Second offense: \$25 fine.
- C. Third offense: \$50 fine.
- D. Each subsequent offense: \$100 fine.

{END OF CHAPTER}



CHELMSFORD CODE

**Chapter 12**

**ANNUAL REPORT**

**[HISTORY: Adopted by the Annual Town Meeting of the Town of Chelmsford 10-24-2002 by Art. 23. Amendments noted where applicable.]**

GENERAL REFERENCES

Town Meeting — See Ch. 154.

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**§ 12-1. Time frame for printing.**

The Town shall provide for the printing of the annual report pursuant to M.G.L. c. 40, § 49, on a fiscal-year basis within 90 days of the close of the fiscal year.

{END OF CHAPTER}



**Chapter 16****BUILDINGS, DEMOLITION OF**

**[HISTORY: Adopted by the Annual Town Meeting of the Town of Chelmsford 5-21-1979 by Art. 53. Amendments noted where applicable.]**

**§ 16-1. Permit required.**

No building shall be demolished in whole or in part in the Town of Chelmsford without a permit from the Building Inspector.

**§ 16-2. Procedure; delay; alternatives; emergencies; violations and penalties. [Amended 10-20-2008ATM by Art. 14]**

**A. Intent and purpose; definition.**

- (1) It is the intent and purpose of this chapter to preserve and protect from demolition historically significant buildings and structures which reflect distinctive features of the architectural, cultural, political, economic, and/or social history of the Town; to encourage owners of such buildings or structures to explore and develop alternatives to such demolition; to seek out persons or entities who might be willing to purchase, preserve, rehabilitate or restore such buildings or structures rather than demolish them; and thereby to preserve the historic resources of the Town, and to make the Town a more attractive and desirable place in which to live, and so promote the general welfare.
- (2) For purposes of the chapter, the term "demolition" shall mean any act of pulling down, destroying, moving, removing or razing a building or structure or any portion thereof, including destruction through willful neglect or arson.

**B. Procedure.**

- (1) Notice of intent to demolish: No demolition permit shall be issued for any building or structure that was constructed 75 or more years prior to the year of the application, other than in conformity with the provisions of this chapter. The property owner shall first file an application for a demolition permit with the Inspector of Buildings, and the Inspector of Buildings shall forward a copy of such application within one week to the Historical Commission, the Select Board, and the Planning Board. The application shall be reviewed by the Historical Commission at its next regular meeting. Such application shall be in the form provided and established by the Inspector of Buildings in consultation with the Historical Commission and shall include a copy of the demolition plan, a description of the building or structure to be demolished, the reasons for the demolition and the proposed reuse of the property, including a written description or concept plan describing the proposed reuse. The property owner shall provide an inventory of the building or structure to be demolished. The inventory is to be prepared by an historic preservation consultant, following approved state guidelines. **[Amended 6-17-2021ATM by Art. 29; 10-18-2021ATM by Art. 22]**
- (2) Determination of significance: A building or structure which was constructed 75 or more years prior to the year of the application may be deemed to be significant if the Historical Commission, at a public meeting, finds that the building or structure is significant to the architectural, cultural, political, economic or social history of the Town.

- (3) Nonapplicability: Upon determination by the Historical Commission that the building or structure is not historically significant, the Historical Commission shall submit a negative finding to the property owner, and a copy thereof shall be furnished to the Inspector of Buildings. Upon receipt of such notification, or after the expiration of 120 days from the date of submission of the demolition application to the Historical Commission, the Inspector of Buildings may issue the demolition permit.
- C. Public hearing. Unless the Historical Commission has determined that the building or structure is not historically significant, the Historical Commission shall hold a public hearing to determine if the building or structure is "preferably preserved." The Historical Commission shall hold a public hearing within 60 days from the date of submission of the demolition application to the Commission. The date of submission shall be the date the application is received at a meeting of the Commission. Notice of the public hearing shall be provided as described in MGL c. 40A, § 11. The Historical Commission, at the expense of the owner, shall complete the newspaper publication and abutter notification. Within 30 days of the close of the public hearing, the Historical Commission shall make one of the following determinations:
- (1) Preferably preserved: If the proposed demolition would be detrimental to the architectural, cultural, political, economic or social heritage or resources of the Town, then such building or structure shall be considered preferably preserved.
  - (2) Not preferably preserved: If the Commission finds that the building or structure is not preferably preserved, or where less than a complete demolition is being proposed, that the work to be done will not materially diminish its historical significance, the Inspector of Buildings may thereafter allow demolition in accordance with applicable law. The failure of the Historical Commission to issue its written determination within 30 days after the close of the hearing shall be deemed to constitute a determination that the building or structure is not considered preferably preserved.
- D. Delay of demolition. If the Historical Commission determines that the building or structure is preferably preserved, it may impose a demolition delay of up to 12 months from the date of such determination. Written notice of its determination and the period of delay imposed shall be mailed promptly to the property owner, and a copy thereof shall be furnished to the Inspector of Buildings, who shall not issue a demolition permit during the period specified therein. However, such permit may be issued prior to the end of such period if the Historical Commission notifies the Inspector of Buildings that the property owner: (i) has made a bona fide, reasonable and unsuccessful effort to locate a purchaser for the building or structure who has agreed to preserve, rehabilitate, restore or relocate same, or (ii) has agreed to alternatives to demolition set forth in Subsection E.
- E. Alternatives to demolition. If the Historical Commission imposes a demolition delay as set forth in Subsection D and/or if alternatives to demolition are developed in or after the public hearing which are acceptable to the owner, then the Historical Commission is hereby empowered, in its discretion, to enter into an agreement with such owner providing for such alternatives and a time period for implementation of same. A copy of said agreement shall be filed with the Inspector of Buildings and any other applicable Town department, board or commission and thereafter no work shall be done on the building or structure except in accordance with the terms of said agreement unless and until a new application for a demolition permit is filed and processed hereunder.
- F. Expiration of demolition delay. At the end of any period of demolition delay as set forth in this chapter, including any alternatives agreed upon pursuant to Subsection E, the Historical Commission shall notify the Inspector of Buildings the period of delay has expired, and the property owner shall

§ 16-2

BUILDINGS, DEMOLITION OF

be entitled to apply for all necessary demolition permits to allow the work to go forward as set forth in the demolition permit, and pursuant to applicable law.

- G. Emergency demolition. Nothing in this chapter shall restrict or prevent the Inspector of Buildings from ordering the immediate demolition of any building or structure that is determined to be imminently dangerous or unsafe to the public. The Inspector of Buildings shall file a copy of any such order of emergency demolition with the Historical Commission.
- H. Enforcement and remedies.
  - (1) Enforcement: The Inspector of Buildings shall have the authority to enforce this chapter in the manner described in § 195-100 of the Chelmsford Zoning Bylaw.
  - (2) Issuance of building permits: No building permit shall be issued or be valid for any parcel or premises upon which an historically significant building or structure, or property has been demolished by an intentional or grossly negligent violation of this chapter, for a period of up to three years after a completion of such demolition.
  - (3) Multiple remedies: The remedies and enforcement procedures set forth in this section may be applied separately or in conjunction with one another.
- I. Penalty. Any person violating any of the provisions of this chapter shall be fined not more than \$300 for each offense. Each day that such violation continues shall constitute a separate offense.
- J. Request for enforcement. If the Inspector of Buildings is requested in writing to enforce this chapter against any person allegedly in violation of the same, he shall notify, in writing, the party requesting such enforcement of any action or refusal to act, and the reasons therefor, within 14 days of receipt of such request.
- K. Historic Districts Act. If any of the provisions of this chapter shall conflict with the Historic Districts Act, MGL c. 40C, the state statute shall prevail.
- L. Validity. The invalidity of any section or provision of this chapter shall not render invalid any other section or provision of this chapter.

§ 16-3. (Reserved)<sup>11</sup>

{END OF CHAPTER}

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11. Editor's Note: Former § 16-3, Violations and penalties, was repealed 4-25-2005ATM by Art. 21. See now § 16-2I.

**Chapter 19****COMMUNITY PRESERVATION COMMITTEE**

**[HISTORY: Adopted by the Special Town Meeting of the Town of Chelmsford 2-26-2001 by Art. 2. Amendments noted where applicable.]**

**§ 19-1. Establishment; appointment of members; membership; terms of office.**

There is hereby established a Community Preservation Committee, consisting of nine voting members, pursuant to the provisions of MGL c. 44B, § 5. The composition of the Committee, the appointing authority and the terms of office for the Committee members shall be as follows

**A. Membership.**

- (1) One member of the Conservation Commission as designated by the Commission;
- (2) One member of the Historical Commission as designated by the Commission;
- (3) One member of the Planning Board as designated by the Board;
- (4) The Public Works Director, whose responsibilities include the duties of the Board of Park Commissioners, established under MGL c. 45, § 2, or his designee;
- (5) One member of the Housing Authority as designated by the Authority;
- (6) The Community Development Director;
- (7) One member of the Select Board, as designated by the Select Board; **[Amended 6-17-2021ATM by Art. 29]**
- (8) Two citizens of the Town of Chelmsford, to be appointed by the Town Manager, who are neither a municipal employee of the Town or an elected or appointed Town official, except that they may be Town Meeting members.

**B.** Each member of the Committee shall serve for a term of three years or until the person no longer serves in the position or on the board or committee as set forth above, whichever is earlier.

**C.** Should any of the officers, and commissions, boards or committees listed in this section no longer be in existence for whatever reason, the Town Manager shall appoint a suitable person to serve in his or her place.

**D.** Any member of the Committee may be removed for cause by his or her respective appointing authority after hearing.

**§ 19-2. 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 Historical Commission, the Planning Board, the Department of Public Works, and the Housing Authority, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the Committee shall hold one annual public informational hearing, or more, at its discretion, 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 either that the legislative body 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.

### **§ 19-3. Conduct of meetings; approval of actions; cost estimates.**

- A. The Community Preservation Committee shall comply with the provisions of the Open Meeting Law, MGL c. 39, § 23B. The Committee shall not meet or conduct business without the presence of a majority of the members of the Community Preservation Committee.
- B. At the first meeting in each fiscal year, a chairman of the Community Preservation Committee shall be elected by a majority vote.
- C. The Community Preservation Committee shall approve its actions by majority vote.
- D. Recommendations to the Town Meeting shall include the Committee's anticipated costs.

### **§ 19-4. Amendments.**

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

### **§ 19-5. Severability.**

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

**§ 19-6. When effective.**

Provided that the Community Preservation Act, MGL c. 44B, is accepted at the 2001 Annual Town election,<sup>12</sup> this chapter shall take effect upon approval by the Attorney General of the Commonwealth and after all requirements of MGL c. 40, § 32, have been met. Each appointing authority shall have 30 days after approval by the Attorney General to make its appointments.

{END OF CHAPTER}

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12. Editor's Note: The Community Preservation Act was accepted 2-26-2001STM by Art. 1.

(RESERVED)

## **Chapter 20**

(RESERVED)

**[Former Ch. 20, Conservation Commission, consisting of Art. I, Conservation Reservations, adopted 1969ATM by Art. 50, as amended, and Art. II, Performance Bonds, adopted 5-5-1975ATM by Art. 38, as amended, was repealed 4-28-2008ATM by Art. 17.]**

CHELMSFORD CODE

**Chapter 25**

**ENERGY CONSERVATION: STRETCH ENERGY CODE**

**[HISTORY: Adopted by the Annual Town Meeting of the Town of Chelmsford 4-26-2010 by Art. 25. Amendments noted where applicable.]**

**§ 25-1. Adoption.**

The Town of Chelmsford has adopted the provisions of 780 CMR 120.AA (i.e., Appendix 120.AA of the State Building Code or the "Stretch Energy Code"),<sup>13</sup> 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.

**§ 25-2. 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.

{END OF CHAPTER}

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**13. Editor's Note: See now 780 CMR 115.AA (Massachusetts State Building Code, 8th edition).**



ENERGY CONSERVATION: SPECIALIZED ENERGY

**Chapter 26**

**ENERGY CONSERVATION: SPECIALIZED ENERGY CODE**

**[HISTORY: Adopted by the Annual Town Meeting of the Town of Chelmsford 10-19-2023 by Art. 25. Amendments noted where applicable.]**

**§ 26-1. 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 MA State Building Code are the IECC with Massachusetts amendments, as approved by the Board of Building Regulations and Standards and published in state regulations as part of 780 CMR.

SPECIALIZED ENERGY CODE — Codified by the entirety of 225 CMR 22 and 23 including Appendices RC and CC, the Specialized Energy Code adds residential and commercial appendices to the Massachusetts Stretch Energy Code, based on amendments to the respective net-zero appendices of the International Energy Conservation Code (IECC) to incorporate the energy efficiency of the Stretch Energy Code and further reduce the climate impacts of buildings built to this code, with the goal of achieving net-zero greenhouse gas emissions from the buildings sector no later than 2050.

STRETCH ENERGY CODE — Codified by the combination of 225 CMR 22 and 23, not including Appendices RC and CC, the Stretch Energy Code is a comprehensive set of amendments to the International Energy Conservation Code (IECC) seeking to achieve all lifecycle cost-effective energy efficiency in accordance with the Green Communities Act of 2008, as well as to reduce the climate impacts of buildings built to this code.

**§ 26-2. Purpose.**

The purpose of 225 CMR 22.00 and 23.00 including Appendices RC and CC, also referred to as the "Specialized Energy Code," is to provide a more energy efficient and low greenhouse gas emissions alternative to the Stretch Energy Code or the baseline Massachusetts Energy Code, applicable to the relevant sections of the building code for both new construction and existing buildings.

**§ 26-3. Applicability.**

This energy code applies to residential and commercial buildings.

**§ 26-4. Specialized Code incorporation; enforcement.**

- A. The Specialized Code, as codified by the entirety of 225 CMR 22 and 23 including Appendices RC and CC, including any future editions, amendments, or modifications, is herein incorporated by reference into the Town of Chelmsford General Bylaws, Chapter 26.
- B. The Specialized Code is enforceable by the Inspector of Buildings or Building Commissioner.

{END OF CHAPTER}

**Chapter 29****ETHICS, CODE OF**

**[HISTORY: Adopted by the Annual Town Meeting of the Town of Chelmsford 10-15-1990 by Art.**

**14. Amendments noted where applicable.]**

**§ 29-1. Applicability.**

This chapter governs all municipal employees. A municipal employee is a person performing services for or holding an office, position, employment or membership in a municipal agency, whether by election, appointment, contract of hire or engagement, whether serving with or without compensation, on a full, regular, part-time, intermittent or consulting basis, but excluding elected members of a Town Meeting and members of a charter commission established under Article LXXXIX (89) of the amendments to the Constitution.

**§ 29-2. Purpose.**

- A. The purpose of this chapter is to ensure that municipal employees' private financial interests and personal relationships do not conflict with their public obligation to act objectively and with integrity. This chapter is written to prevent municipal employees from becoming involved in a situation which could result in or give the appearance of unethical or illegal behavior. This chapter restricts what municipal employees may do on the job, after hours and after leaving public service.
- B. It is essential for the continued well-being of the Town of Chelmsford that its citizens have full confidence in the integrity of its municipal employees. The Town of Chelmsford desires to promote such confidence by demanding the highest standards of ethical conduct for each municipal employee. It is required that municipal employees conduct themselves in such a way that their behavior, both in practice and appearance, conforms to the highest standards of ethical conduct. The Town of Chelmsford recognizes the Massachusetts Conflict of Interest Law (MGL c. 268A) as the basis for setting the minimum standard of ethical conduct for all municipal employees. It is considered an integral component of this chapter and should be read in its entirety.

**§ 29-3. Conduct of municipal employees.**

This chapter provides that municipal employees for the Town of Chelmsford will "pay their own way." Municipal employees must avoid conduct which creates the impression that they will act with bias.

- A. Municipal employees shall not engage in the most obvious kind of corruption: bribery. Massachusetts law imposes criminal penalties, not only on municipal employees who seek or receive payoffs or kickbacks but also on anyone who bribes or attempts to bribe a public official for any action or inaction.
- B. Municipal employees shall not request, accept or offer anything of substantial value from or to anyone with whom the municipal employee has had or is likely to have official dealings even if the motivation for the gift is to express gratitude for a job well done or to foster goodwill. The Town of Chelmsford deems "substantial value" to be \$50 or more in any calendar year. Substantial value includes but is not limited to additional compensation, waived fees, sporting event tickets, golf outings, parties, meals, discounts, gift certificates, entertainment and refreshments at testimonials, retirement functions and ground-breaking and dedication ceremonies. Free or discounted services, such as construction or accounting work, are considered gifts. The purchase of property at less than full market value from any entity having matters before any town board or agency is strictly

prohibited.

- C. Municipal employees shall not solicit contributions, sell tickets or otherwise seek or accept payment for a testimonial or retirement function, or any function having a similar purpose, held for themselves, for a member of their immediate family or another employee if the contributor is a person or entity doing business with the Town of Chelmsford and the admission price or payment exceeds the actual per-person cost of the food and beverages served at the function. Municipal employees shall not request or require any person or entity to sponsor or contribute to any ground-breaking ceremony, dedication ceremony or similar occasion. The Town of Chelmsford, if it deems the occasion appropriate, shall plan and pay for the ceremony.
- D. Municipal employees shall not accept reimbursement for travel expenses from any person or entity having business with or wishing to do business with the Town of Chelmsford and with whom or with which the municipal employee had or is likely to have official dealings. Municipal employees shall not utilize private aircraft for travel, whether business or pleasure, that is owned, leased or rented by entities doing business with or wishing to do business with the Town of Chelmsford and with which the municipal employee has had or is likely to have official dealings. Travel expenses for municipal employees for municipal business shall be paid by the town.
- E. Municipal employees shall not use the nonbusiness facilities of entities having financial contracts with or wishing to have financial contracts with the Town of Chelmsford and with which the municipal employee has had or is likely to have official dealings. This includes but is not limited to staying at vacation spots, lodges or condominiums.
- F. Conflicts of interest.
  - (1) Municipal employees are prohibited from taking action on any "particular matter" as defined in MGL c. 268A which would affect their own financial interest or the financial interest of:
    - (a) Their immediate family (themselves, their spouse, children, parents, brothers and sisters);
    - (b) Their partner(s);
    - (c) A business organization in which they serve as an officer, director, trustee, partner, silent partner or employee (including a nonprofit organization); and
    - (d) Any person or organization with whom or which they are negotiating or have any arrangement concerning future employment.
  - (2) An exception is available to appointed municipal employees who may act on a matter in which they, their family or their business has a financial stake, provided that they receive written permission from their appointing official prior to taking the action.
- G. Municipal employees shall not participate in any way in the hiring, promotion, performance review or salary recommendation of any immediate family member. An exception is available to appointed municipal employees who may act on a budget affecting an immediate family member's financial interest, provided that they receive written permission from their appointing official prior to taking the action.
- H. Municipal employees shall not use their position to benefit from municipal contracts and must avoid conduct which creates the public perception that municipal employees have an inside track on obtaining municipal contracts or jobs.

- I. Municipal employees shall not use or attempt to use their municipal position to obtain unwarranted privileges for themselves or anyone else. Municipal employees shall avoid conduct which creates the impression that they can be improperly influenced or that they will act with bias. Municipal employees are prohibited from misusing confidential information obtained on the job and from accepting outside employment which is inherently incompatible with their public position.
- J. Municipal employees shall not act as agent or attorney for a private party before the town. There are exceptions which are covered under MGL c. 268A, § 17.
- K. Former municipal employees shall not derive unfair advantage by misusing friendships formed or confidential information obtained while serving the town.
- L. Municipal employees shall not use town property of any kind, either directly or indirectly, for other than officially sanctioned activities, except to the extent that said property is available to the public.

#### **§ 29-4. Responsibilities of appointing authority.**

Appointing authorities shall appoint only those persons who do not have vested interests in any matter coming before that person's appointed body which would violate or give the appearance of violating the provisions of this chapter.

#### **§ 29-5. Implementation.**

All municipal employees are required to be familiar with the standards of this chapter. A procedure for the proper orientation of each individual is hereby established:

- A. The Town Manager and Superintendent of Schools shall jointly develop a program to annually inform and educate all municipal employees of the required standards of conduct. The Town Manager and the Superintendent of Schools shall develop a program to inform and educate all incoming municipal employees of said standards of conduct. They shall include in their program, as a minimum, a procedure that will produce for the town's records a signed document from each municipal employee indicating that each individual has read this chapter and is familiar with the requirements of MGL c. 268A.
- B. The Town Manager shall place the State Ethics Commission publication entitled "A Practical Guide to the Conflict of Interest Law for Municipal Employees" conspicuously in the Town Manager's and Town Clerk's office and shall provide copies for placement in all public buildings for the benefit of employees and the public.
- C. All citizens and municipal employees shall regularly be made aware that if they believe a violation of this chapter has occurred or is occurring, they should call or visit the State Ethics Commission's enforcement staff, or they may speak with the Town Manager or the Superintendent of Schools.

#### **§ 29-6. Reports; violations and penalties.**

- A. The Town Manager and the Superintendent of Schools shall report to the State Ethics Commission any suspected violations of the State Conflict of Interest Law. The Town Manager and the Superintendent of Schools shall report annually to their respective boards the educational initiatives they have taken to comply with this chapter. They shall also report the status of alleged violations brought to their attention, which report shall only be statistical in nature.
- B. When a violation of this chapter has occurred, administrative action as is warranted shall be taken by

the appropriate authority.

**§ 29-7. Severability.**

If any provisions of this chapter shall be held to be invalid, the validity of the remainder of this chapter shall not be affected thereby.

{END OF CHAPTER}

**Chapter 35****FINANCE**

**[HISTORY: Adopted by the Annual Town Meeting of the Town of Chelmsford 10-15-1990 by Art. 19. Amendments noted where applicable.]**

**§ 35-1. Annual budget process.**

The Town Manager shall submit to the Finance Committee a proposed budget and capital improvement program for the ensuing fiscal year with an accompanying budget message and supporting documents as set forth in Section 6-2 of the Chelmsford Home Rule Charter at least 90 days prior to the spring session of the Annual Town Meeting.

**§ 35-2. Fees.**

- A. All fees received by the Town Clerk and Town Treasurer-Collector by virtue of their office shall be paid into the Town Treasury. **[Amended 10-21-1999ATM by Art. 31]**
- B. The Town Clerk may, pursuant to MGL c. 40, § 22F, set fees and charges for all items specified under MGL c. 262, § 34. The schedule of such fees shall be posted in a conspicuous place in the office of the Town Clerk. **[Amended 10-17-2005ATM by Art. 17]**

**§ 35-3. Collective bargaining items.**

Any budget item presented at any Annual or Special Town Meeting for salaries or the payment of any benefit or expense that is the subject of collective bargaining shall accurately reflect the most recently negotiated or agreed payment and shall not be inflated to reflect anticipated negotiated contractual amounts.

**§ 35-4. Capital Planning Committee. [Amended 10-21-1999ATM by Art. 31; 6-17-2021ATM by Art. 29]**

A committee to be known as the "Capital Planning Committee" shall be established and shall be composed of the following Committee members: the Town Accountant (nonvoting member), the Town Treasurer-Collector, one member designated by the School Committee, one member designated by the Finance Committee, one member designated by the Board of Library Trustees and two citizens of the Town of Chelmsford to be appointed by the Select Board who are neither a municipal employee of the town nor an elected or appointed town official, except that they may be Town Meeting members. The Committee shall study proposed capital outlays having a useful life of at least one year or the acquisition of land. The Committee shall promulgate rules and regulations, make such investigations and hold public hearings as it deems appropriate.

**§ 35-5. Presentation of five-year forecast. [Added 4-24-2006ATM by Art. 23]**

At the first session of the Fall Annual Town Meeting, the Town Manager shall make an oral and visual presentation of the five-year financial forecast that is required to be prepared annually under Section 6-4 of the Town Charter. The Town Manager's presentation shall include an explanation of the process used to develop the current fiscal year budget and the basis for five-year financial projections.

**§ 35-6. Departmental revolving funds. [Added 4-24-2017ATM by Art. 15]**

- A. Purpose. This section establishes and authorizes revolving funds for use by Town departments, boards, committees, agencies and officers in connection with the operation of programs or activities that generate fees, charges or other receipts to support all or some of the expenses of those programs or activities. These revolving funds are established under and governed by MGL c. 44, § 53E1/2.
- B. Expenditure limitations. A department or agency head, board, or committee or officer may incur liabilities against and spend monies from a revolving fund established and authorized by this section without appropriation subject to the following limitations:
- (1) Fringe benefits of full-time employees whose salaries or wages are paid from the fund shall also be paid from the fund.
  - (2) No liability shall be incurred in excess of the available balance of the fund.
  - (3) The total amount spent during a fiscal year shall not exceed the amount authorized by Annual Town Meeting on or before July 1 of that fiscal year, or any increased amount of that authorization that is later approved during that fiscal year by the Select Board and Finance Committee. **[Amended 6-17-2021ATM by Art. 29]**
- C. Interest. Interest earned on monies credited to a revolving fund established by this section shall be credited to the general fund.
- D. Procedures and reports. Except as provided in MGL c. 44, § 53E1/2, and this section, the laws, Charter provisions, bylaws, rules, regulations, policies or procedures that govern the receipt and custody of Town monies and the expenditure and payment of Town funds shall apply to the use of a revolving fund established and authorized by this section. The Town Accountant shall include a statement on the collections credited to the fund, the encumbrances and expenditures charged to each fund and the balance available for expenditure in the regular report the Town Accountant provides the department, board, committee, agency or officer on appropriations made for its use.
- E. Authorized revolving funds. The table establishes: **[Amended 10-16-2023ATM by Art. 18]**
- (1) Each revolving fund authorized for use by a Town department, board, committee, agency or officer;
  - (2) The department or agency head, board, committee or officer authorized to spend from the fund;
  - (3) The fees, charges and other monies charged and received by the department, board, committee, agency or officer in connection with the program or activity for which the fund is established that shall be credited to each fund by the Town Accountant;
  - (4) The expenses of the program or activity for which each fund may be used;
  - (5) Any restrictions or conditions on expenditures from each fund;
  - (6) Any reporting or other requirements that apply to each fund; and
  - (7) The fiscal years each fund shall operate under this section.

A	B	C	D	E	F	G
Revolving Fund	Department, Board, Committee, Agency, or Officer Authorized to Spend from Fund	Fees, Charges or Other Receipts Credited to Fund	Program or Activity Expenses Payable from Fund	Restrictions or Conditions on Expenses Payable from Fund	Other Requirements/ Reports	Fiscal Years
Dog Pound and Licensing	Town Clerk	Fees from rabies clinic, pound and adoption of dogs	Improvement of the dog pound and expenses for licensing of animals			FY 19 and subsequent years
Senior Citizen Trip Program	Council on Aging	Fees charged for trips	Payment of transporta-tion for senior citizen trips			FY 19 and subsequent years
Senior Citizen Respite Care Program	Council on Aging	Fees charged for the care of seniors in the program	Payment of personnel and expenses for the adult day-care program			FY 19 and subsequent years
Police Cruiser	Police Department	Revenue from the sale of used police vehicles	Purchase of communica-tions equipment for newly acquired police cruisers			FY 19 and subsequent years
Fire Safety Equipment	Fire Department	Revenue from the sale of used fire vehicles	Purchase of life safety equipment for firefighters			FY 19 and subsequent years
Weights and Measures	Inspections Department	Fees for the Sealer of Weights and Measures Inspections	Personnel and expenses related to the inspections under the Sealer of Weights and Measures program			FY 19 and subsequent years



A	B	C	D	E	F	G
Revolving Fund	Department, Board, Committee, Agency, or Officer Authorized to Spend from Fund	Fees, Charges or Other Receipts Credited to Fund	Program or Activity Expenses Payable from Fund	Restrictions or Conditions on Expenses Payable from Fund	Other Requirements/ Reports	Fiscal Years
Public Shade Tree	Director of Public Works	Receipts from the payment pertaining to public shade tree removal as a result of construction or utility work	To replant public shade trees			FY 2024 and subsequent years

{END OF CHAPTER}

CHELMSFORD CODE

**Chapter 39**

**FIREARMS AND EXPLOSIVES**

**[HISTORY: Adopted by the Annual Town Meeting of the Town of Chelmsford 1926. Amendments noted where applicable.]**

**§ 39-1. Discharge on public or private property. [Amended 5-9-1974ATM by Art. 42; 6-17-2021ATM by Art. 29]**

No person shall fire or discharge any firearms or explosives of any kind within the limits of any highway, park or other public property, except with the possession of written permission of the Select Board, or on any private property, except with the possession of written consent of the owner or legal occupant thereof; provided, however, that this section shall not apply to the lawful defense of life or property nor to any law enforcement officer acting in the discharge of his or her duties. Any person violating this section shall be punished by a fine of not more than \$50 for each offense.

**§ 39-2. Storage of explosives. [Added 1954ATM by Art. 105; amended 1955ATM by Art. 36]**

- A. The Chief of the Fire Department shall include in his or her annual report and cause to be published in the Town Annual Report the following information: amount of explosives, of all classes, stored in magazines in the Town of Chelmsford.
- B. No person or corporation may store explosives in excess of 1,000 pounds unless the entire premises where the explosives are stored shall be enclosed by a sufficient fence capable of keeping unauthorized persons from said premises and sufficiently fireproof in construction to prevent grass or brush fires entering such premises. **[Added 1967ATM by Art. 50; amended 1971ATM by Art. 63]**

{END OF CHAPTER}

**Chapter 42****FIRE PREVENTION**

**[HISTORY: Adopted by the Annual Town Meeting of the Town of Chelmsford 5-6-1991 by Art. 27. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Explosives — See Ch. 39.

Hazardous materials — See Ch. 63.

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**§ 42-1. Purpose.**

The following chapter is intended to provide the Fire Department with authority to monitor and enforce fire safety and prevention measures within the Town of Chelmsford.

**§ 42-2. Definitions.**

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

**ALARM** — Any notification made to the Fire Department that a situation exists or may exist that requires a response.

**FIRE ALARM SYSTEM** — A combination of compatible initiating devices, control panels and indicating appliances designed and installed to provide an alarm signal in the event of a fire.

**GARAGE** — Any building wherein is kept or stored one or more motor vehicles, including but not limited to a public or private garage, carport, motor vehicle repair shop or paint shop, service station, lubritorium or any building used for similar purposes.

A. **RESIDENTIAL GARAGE** — A private building, or part thereof, having a capacity of not more than three motor vehicles when not used for commercial repair or servicing operations.

B. **SPECIAL GARAGE** — A special structure limited in use to the parking of motor vehicles.

**MASTER BOX** — A municipal fire alarm box that may also be operated by remote means.

**MULTIPLE DWELLING** — Any dwelling that contains three or more living quarters, including but not limited to hotels, motels, dormitories, apartments, condominiums, lodging houses, boardinghouses and care facilities.

**SERVICE STATION** — Any building or premises wherein or upon which gasoline or other motor fuel is sold at retail.

A. **FULL SELF-SERVICE FACILITY** — A service station where all the pumps are self-service.

B. **SELF-SERVICE-TYPE BUSINESS** — That type of business wherein the licensed motor vehicle operator dispenses his or her own motor fuel.

C. **SPLIT-ISLAND FACILITY** — A motor fuel dispensing installation where part of the facility is used as self-service and part is used for attendant service.

**SETBACK** — The distance from a public or private way to the front of a given building. A parking lot

shall not be considered a public or private way for purposes of this chapter.

**STREET BOX** — A municipal fire alarm box that is operated manually.

**UNINTENTIONAL FIRE ALARM** — An alarm caused by any of the following:

- A. Inadequate or improper maintenance of a private fire alarm system;
- B. Working on or tampering with a fire alarm system without giving proper notification to the Fire Department; or
- C. Failure to control dust, steam, smoke or other materials causing an alarm.

**§ 42-3. Street numbers.**

- A. The Select Board or its designee may determine and designate numbers for all buildings abutting upon or adjacent to public and private ways. **[Amended 6-17-2021ATM by Art. 29]**
- B. No person shall neglect or refuse to affix on any building owned by him or her the street number designated for him or her by said Board or its designee, nor shall any person affix or suffer to remain on any building owned or occupied by him or her a street number other than the one designated by said Board or its designee.
- C. All numbers shall comply with the following schedule:

<b>Setback* (feet)</b>	<b>Minimum Number Size (inches)</b>
0 to 50	3
51 to 100	4
Greater than 100	6

**NOTES:**

\*Defined in § 42-2.

- D. Street numbers shall be affixed in locations approved by the Fire Chief or his or her designee, and where possible the following locations shall be mandatory:
  - (1) If a setback is less than 200 feet, the number shall be placed near the front or main door of the building, provided that the door is visible from a public or private way.
  - (2) If a setback is greater than 200 feet or if the main or front door is not visible from the public or private way, the street numbers must be affixed to a sign posted near the driveway or entrance to the property in such a manner so that the sign is visible year-round.
- E. If several occupancies share a single address, each doorway shall be numbered with a street number and unit number. The unit number shall include all units served by the marked doorway. The street numbers shall comply with the schedule outlined in Subsection C, and in all cases the unit numbers shall be two inches or higher.
- F. Street numbers shall be a color that contrasts with the background upon which they are mounted. If a signboard is used for a background it shall be a minimum of one square foot per digit. Street numbers may be attached to a curbside delivery mailbox, provided that the mailbox is located adjacent to the

delivery driveway that accesses the property. The numbers shall be three inches high on both sides of the mailbox. **[Amended 10-21-1999ATM by Art. 37]**

**§ 42-4. Owner/manager information.**

- A. An owner of a multiple dwelling who does not reside therein and who does not employ a manager or agent for such dwelling who resides therein shall post and maintain or cause to be posted or maintained on such dwelling, adjacent to the mailboxes for such dwelling or on the exterior of such dwelling in a location visible to the public, a notice, not less than 20 square inches in size, bearing his or her name, address and telephone number or the name, address and telephone number of such manager or agent.
- B. The owner of said multiple dwelling shall submit annually before January 31 the address of the dwelling, the name of the dwelling, if any, the name of the trust, association or organization, if any, which manages or owns the dwelling and the names, addresses and telephone numbers of all owners and managers. Such information shall be provided in a form approved by the Fire Department.

**§ 42-5. Master box or street box.**

- A. Any owner of property applying for a tie-in to the municipal fire alarm system shall first obtain a permit, on a form provided by the Fire Department, prior to the installation of a master box or street box as those terms are defined in § 42-2. The fee for each tie-in permit shall be set pursuant to MGL c. 40, § 22F. **[Amended 10-17-2005ATM by Art. 18]**
- B. Any violation of this section shall be punishable by a fine of \$100 for each offense. Each day that any violation continues shall constitute a separate offense.

**§ 42-6. Alarm installation; permit requirements; sprinkler systems in general. [Amended 4-29-2013ATM by Art. 28]**

- A. The installation of all required or nonrequired fire protection systems, fire alarm systems, the master box or any other transmitting device, including modifications, alterations, additions or deletions to an existing fire protection system, the master box or other transmitting device, shall be governed by the provisions of MGL c. 148, the then current edition of the State Building Code pursuant to 780 CMR, including, without limitation, 780 CMR 9.00 et seq., entitled "Fire Protection and Life Systems," the reference standards cited at 780 CMR 35.00 et seq., the Massachusetts Board of Fire Prevention Regulations cited at 527 CMR 24.00 et seq., entitled "Fire Warning Systems Installed in Buildings Within the Commonwealth of Massachusetts," and the appropriate sections of the then current editions of the following National Fire Protection Association ("NFPA") Standards: NFPA 72, National Fire Alarm Code; NFPA 1221, Standards for the Installation, Maintenance and Use of Emergency Services Communications Systems; NFPA 70, National Electrical Code, and all reference documents contained within said codes and any related rules and regulations of the Town of Chelmsford Fire Department. All such fire alarm systems shall be supervised in accordance with the then current provisions of 780 CMR 907.14.
- B. All new and existing buildings with sprinkler systems shall be connected to the municipal fire alarm system via a master box connection or shall use such fire alarm system which is supervised utilizing any of the methods prescribed by 780 CMR 907.14 which is obtained by contract with a private alarm company of the building owner's choice for the purchase, lease, installation, maintenance and servicing of such supervised fire alarm system at such buildings.

- C. As of the effective date of this bylaw, any property owner and/or building owner must first obtain a permit, on a form provided by the Fire Department, prior to installation of any fire alarm system or equipment designed to summon the Fire Department, including the master box or other transmitting device. The issuance of permits shall be in compliance with MGL c. 148, § 10A. An application for any permits shall also be accompanied by the following information:
- (1) The name, address and telephone number of the alarm user who will be the permit holder and be responsible for the proper maintenance and operation of the fire alarm system and the payment of fees assessed under this bylaw.
  - (2) Signed certification from the alarm user and the user's designated alarm business charged with selling, leasing, maintaining, servicing, repairing, altering, replacing, moving, installing or monitoring a fire alarm system at a building or property, stating:
    - (a) The date of installation, conversion or takeover of the fire alarm system, whichever is applicable;
    - (b) The name, address, phone number, Massachusetts Alarm Installation license number and the Massachusetts Department of Public Safety registration number of the alarm business performing the fire alarm system installation, conversion or fire alarm system takeover and responsible for providing repair service to the fire alarm system;
    - (c) The name, address and phone number of the alarm business monitoring the alarm system if different from the installing alarm business;
    - (d) That a set of written operating instructions for the fire alarm system, including written guidelines on how to avoid unintentional fire alarms, has been provided to the alarm user by the alarm business; and
    - (e) That the alarm business has trained the alarm user in proper use of the fire alarm system, including instruction on to avoid unintentional fire alarms;
    - (f) That the application shall contain the name, address and telephone number of at least two other persons who are authorized to respond to a signal transmitted by the fire alarm system within 20 minutes under normal weather conditions and who are authorized to gain access to the premises on which the fire alarm system is installed;
    - (g) Any other information that enhances the efficiency of administering this bylaw.
- D. The fire alarm system owner or user, or the alarm company contracting for the servicing of the fire alarm system, shall be responsible for the care and maintenance of the fire alarm system, the master box or other transmitting device as required under this Chapter 42.
- E. The Fire Department will endeavor to insure the proper operation of its alarm receiving equipment but accepts no liability for conditions which prevent proper reception of signals from the fire alarm system owner's or user's premises. Further, the Town of Chelmsford and its departments, officers, agents and employees shall be under no obligation whatsoever concerning the adequacy, operation or maintenance of any supervised fire alarm system or alarm system monitoring facilities of private contractors or within the Fire Department.
- F. Whenever a fire alarm system or equipment is to be disconnected, removed or altered, the owner or user shall notify the Fire Department in accordance with the requirements of MGL c. 148, §§ 10A, 27A, and 28.

- G. No fire alarm system designed to transmit emergency messages or signals directly to the Fire Department or through a dispatch center for the Fire Department shall be worked on, tested or demonstrated without first obtaining permission from the Fire Chief or his/her designee in accordance with MGL c. 148, § 27A. An alarm transmitted when such work is being performed without said permission will constitute an unintentional fire alarm and shall be subject to the fines assessment detailed in § 42-7.
- H. Any violations of this section shall be punishable by a fine of \$200 for each offense. Each day that any violation continues shall constitute a separate offense.

#### **§ 42-7. Unintentional fire alarms.**

- A. The owner of any building which has a fire alarm system shall only be allowed three unintentional fire alarms, as that term is defined in § 42-2, per calendar year.
- B. After the third unintentional fire alarm the owner shall be fined \$50 and shall be fined \$100 for each additional offense thereafter. Each day that any violation continues shall constitute a separate offense.<sup>14</sup>

#### **§ 42-8. Rules and regulations.**

The Fire Chief may make such rules and regulations not inconsistent with the provisions of this chapter as may be necessary to promulgate a comprehensive fire safety code.

#### **§ 42-9. Enforcement; violations and penalties.**

- A. The provisions of this chapter shall be enforced by the Fire Chief or his or her designee, and the Fire Chief shall, in addition to any other remedy available, have full power to initiate noncriminal disposition proceedings as set forth in Chapter 1, General Provisions, § 1-2 of the Code of the Town of Chelmsford.
- B. Except for those sections specifying a greater penalty, any violation of the provisions of this chapter shall be punished by a fine of \$50. Each day any violation continues shall constitute a separate offense.

#### **§ 42-10. Severability.**

It is hereby declared that the provisions of this chapter are severable, and if any provisions of this chapter shall be declared unlawful by a valid judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining provisions of this chapter.<sup>15</sup>

#### **§ 42-11. Fire permits. [Added 10-29-1992ATM by Art. 14]**

- A. Permit for open burning.
  - (1) A permit must be obtained through the Fire Department prior to any open burning. Controlled fires for the sole purpose of cooking are exempt.

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14. Editor's Note: Original Sec. 8, Operation of service stations, garages used for commercial purposes, self-service stations including convenience stores, and Sec. 9, Tanks and containers, which immediately followed this subsection, were deleted 10-21-1999ATM by Art. 37.

15. Editor's Note: Original Sec. 13, Transportation of flammable liquids by a cargo tank, which immediately followed this section and was added 10-29-1992ATM by Art. 14, was deleted 10-21-1999ATM by Art. 37.

- (2) The permit holder must follow the guidelines set forth in 310 CMR, Department of Environmental Protection, which includes but is not exclusive to the following:
    - (a) Burning between 10:00 a.m. and 4:00 p.m. only. Please note: Fire must be completely extinguished by 4:00 p.m.
    - (b) Burning must be at least 75 feet from all dwellings.
    - (c) Burning (with a permit) of the following is allowed: brush, cane and forestry debris from other than commercial or industrial land-clearing operations.
    - (d) Burning of the following materials is prohibited: brush, trees, cane and driftwood from commercial and/or institutional land-clearing operations, grass, hay, leaves, stumps and tires.
    - (e) Stacking, placing or storing combustible materials such that a prudent person would presume that it will be burned is prohibited.
  - (3) Permit holder must attend the fire until completely extinguished and shall have available a water supply, such as pressurized water, pump can or a garden-type hose of sufficient length to reach the fire area. The fire must be completely extinguished before leaving it unattended.
- B. Violations. Any person who violates this section will be warned by a written notice by the Fire Chief or his or her representative. A second violation within any twelve-month period shall be punishable by a fine of no more than \$100 for each offense. Each day that a violation continues shall constitute a separate offense.
- C. Severability. It is hereby declared that the provisions of this section are severable, and if any provisions of this section shall be declared unlawful by a valid judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining provisions of this section.

{END OF CHAPTER}



FORTUNE-TELLERS

**Chapter 46**

**FORTUNE-TELLERS**

**[HISTORY: Adopted by the Special Town Meeting of the Town of Chelmsford 5-4-1995 by Art. 9. Amendments noted where applicable.]**

**§ 46-1. License required.**

- A. No person shall tell fortunes for money unless a license therefor has been granted by the Select Board.  
**[Amended 6-17-2021ATM by Art. 29]**
- B. Licenses shall be granted only to applicants who have resided continuously in the town for at least 12 months immediately preceding the date of the application.
- C. Licenses issued under this chapter may not be transferred or assigned.
- D. The fee for each license granted under this chapter shall be set pursuant to MGL c. 40, § 22F.  
**[Amended 10-17-2005ATM by Art. 19]**

**§ 46-2. Violations and penalties.**

Violation of this chapter shall be punishable by a fine of \$100 for each offense. Each day that such violation continues shall constitute a separate offense.

{END OF CHAPTER}

CHELMSFORD CODE

**Chapter 51**

**FUNDS**

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

## ARTICLE I

**Chelmsford Arts and Technology Education Fund**  
**[Adopted 5-2-1996ATM by Art. 18]****§ 51-1. Establishment; purpose. [Amended 4-24-2017ATM by Art. 27]**

The Town of Chelmsford Arts and Technology Education Fund is established in accordance with the provisions of MGL c. 60, § 3C, as amended by Chapter 218 of the Acts of 2016, to provide supplemental educational funding for local educational needs.

**§ 51-2. Definitions.**

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

**LOCAL EDUCATIONAL NEEDS** — The needs of those schools and students that are under the jurisdiction of the local educational agency (LEA), which is the Chelmsford public schools.

**SUPPLEMENTAL EDUCATIONAL FUNDING** — That which adds to, enhances or continues the educational opportunities provided by the local educational agency and funded by the Town of Chelmsford. Supplemental funding will not take the place of funds requested in the Chelmsford School Committee's annual budget request which support the essential curriculum and programs of the Chelmsford public schools or be used to create new, ongoing programs or reinstitute canceled programs that a future annual budget of the Chelmsford public schools might be expected to support. All requests for supplemental funding must support the mission and beliefs of the Chelmsford public schools and be in accordance with Chelmsford School Committee policy. **[Amended 4-24-2017ATM by Art. 27]**

**§ 51-3. Scope; title. [Amended 4-24-2017ATM by Art. 27]**

The Chelmsford Arts and Technology Education Fund will include the subject areas concerning the liberal and fine arts and technology. Grant requests shall be made through an application process for funding of programs, events, supplies and/or equipment. (Funds are not intended for stipends or salaries.) The Chelmsford Arts and Technology Education Fund will be known hereafter and referred to as the "Chelmsford ATEF."

**§ 51-4. Chelmsford ATEF Committee.**

- A. There will be established a Chelmsford ATEF Committee to administer the Chelmsford ATEF and to authorize the expenditure of its funds.
- B. Members of the Chelmsford ATEF Committee will include the Superintendent of Schools or his/her designee thereof, and eight residents of the Town of Chelmsford that will include at least three parents/grandparents/guardians of children presently enrolled in Chelmsford public schools. **[Amended 4-24-2006ATM by Art. 26]**
- C. Appointment to three-year terms will be made in accordance with the statute. Upon initial formation of the ATEF Committee, terms of members will be arranged so that the terms of as nearly an equal number of members as is possible shall expire each year.
- D. Meetings.
  - (1) The Chelmsford ATEF Committee shall meet as many times as deemed necessary and appropriate for the conduct of ATEF Committee business. **[Amended 4-24-2017ATM by Art.**

**27]**

- (2) Attendance at meetings of the Chelmsford ATEF Committee is strongly encouraged. Absence from 50% of more of its meetings in a given year will result in the dismissal of said appointment, and there will be a new appointment for the remainder of the term.
- (3) A quorum for purposes of transacting business shall consist of five members. Decisions will be based upon a vote of the majority of the members present.
- (4) A Chairperson and a Secretary will be elected by the ATEF Committee annually. **[Amended 4-24-2017ATM by Art. 27]**
- (5) The Town Treasurer-Collector shall provide the ATEF Committee with financial reports on the status of the Chelmsford ATEF. **[Amended 10-21-1999ATM by Art. 31; 4-24-2017ATM by Art. 27]**

**§ 51-5. Requests for funds. [Amended 10-21-1999ATM by Art. 31; 4-24-2017ATM by Art. 27]**

- A. Grant requests shall be presented in the format specified by the Committee requesting funding from the Chelmsford ATEF. Applications shall be available from January to March of each year. They shall be postmarked or stamped no later than March 31 of the same year for review by the ATEF Committee. The final awards shall be implemented in the following fiscal year.
- B. Application for such funds may be made by a school council (as established under MGL c. 71, § 59C) and by members of the professional teaching staff employed by the Chelmsford public schools.
- C. The funds will be dispersed through the Town Treasurer-Collector after the application, presentation and decision process have been completed. The Chelmsford public schools shall create a budget line item from which the approved funds may be withdrawn via proof of purchase or purchase orders.

{END OF CHAPTER}



CHELMSFORD CODE

**Chapter 57**

**GRAFFITI**

**[HISTORY: Adopted by the Annual Town Meeting of the Town of Chelmsford 10-24-1996 by Art. 26. Amendments noted where applicable.]**

**§ 57-1. Findings; duty of property owners.**

Graffiti is hereby determined to constitute a public nuisance and be injurious to neighborhood property and the public health, safety and welfare. It shall be unlawful for any person, partnership or corporation owning any premises to permit, allow to remain or fail to remove any unsightly condition commonly referred to as "graffiti."

**§ 57-2. Definitions.**

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

**GRAFFITI** — Any unauthorized defacing, marring or damaging by the spraying of paint or marking by paint, chalk, dye or similar substance on any building, motor vehicle, bridge, rock, culvert, pole, sign or playground which is in public view.

**§ 57-3. Notice to remove.**

Whenever the Chelmsford Police Department becomes aware of graffiti on any structure or improvement within the town, it shall give notice to remove any such graffiti therefrom. Such notice shall be sent registered mail, return receipt requested, to the owner of record in the Assessor's office and have substantially the following form:

**Notice to Remove Graffiti From Structure or Improvement To the Owner Hereinafter Described**

Your attention is hereby directed to the provisions of Chapter 57 of the Code of the Town of Chelmsford, Massachusetts, on file in the office of the Town Clerk in the town offices.

Pursuant to the provisions of said chapter, you are hereby notified that graffiti exists on premises specifically described at \_\_\_\_\_ which injures neighboring property and the public health, safety and welfare. You are therefore notified at once, and in any such event within 30 days from the date of this notice, to remove said unsightly conditions from the property and thereafter to keep said property free therefrom.

{END OF CHAPTER}

## HAZARDOUS MATERIALS

### Chapter 63

## HAZARDOUS MATERIALS

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

### GENERAL REFERENCES

Firearms and explosives — See Ch. 39.

Waste automobile oil — See Ch. 201, Art. XII.

Solid waste — See Ch. 137.

ARTICLE I  
**Control and Management**  
**[Adopted 5-3-1982ATM by Art. 26]**

**§ 63-1. Purpose.**

There are hereby adopted the following measures to provide adequate safeguards from hazardous materials which pose substantial present or potential hazards to public health, welfare and safety and to the environment and to establish a program to provide for safe management of all such hazardous materials.

**§ 63-2. Definitions. [Amended 10-21-1999ATM by Art. 38]**

In this article, the following terms have the following meanings:

**DISPOSAL** — The unlawful discharge, deposit, injection, dumping, spilling, leaking, incineration or placing of hazardous materials into or on any land or water so that such hazardous materials or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

**HAZARDOUS MATERIAL** — A substance, or combination of substances, which because of its quantity, concentration or physical, chemical or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or pose a substantial present or potential hazard to human health, safety or welfare or to the environment when improperly treated, stored, transported, used or disposed of or otherwise managed, however not to include solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act of 1967, as amended, or source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954. Those substances considered to be hazardous materials shall include but shall not be limited to substances considered to be toxic or hazardous by the Division of Hazardous Waste of the Commonwealth of Massachusetts under the provision of MGL c. 21C.

**STORAGE** — The actual or intended containment of hazardous materials in a safe manner so as to prevent unlawful disposal.

**§ 63-3. Disposal prohibited.**

The disposal of hazardous materials within the Town of Chelmsford is hereby prohibited except at a hazardous waste disposal facility established and maintained in accordance with applicable law. Occupancy of any existing or new premises, other than residential dwellings, is hereby prohibited except in conformance with the provisions of this article.

**§ 63-4. Control standards.**

- A. All hazardous materials shall be properly stored within a building in product-tight containers protected from corrosion, accidental damage or vandalism and shall be used and handled in a manner which does not constitute disposal. An inventory of such hazardous materials stored or handled in quantities that could pose a present or potential hazard shall be maintained and reconciled with purchase, use, sales and disposal records at sufficient intervals to detect product loss. Subsurface fuel and chemical storage facilities in compliance with Article II, Subsurface Material Discharge and Fuel Storage, of this chapter and applicable Massachusetts fire prevention regulations shall be deemed to be in compliance with this standard.



- B. No hazardous materials shall be present in materials disposed on the site. Waste materials composed in part or entirely of hazardous materials shall be retained in product-tight containers for removal and disposal by a hazardous waste licensee or as directed by the Board of Health or its enforcement officer.

**§ 63-5. Administration and enforcement.**

The provisions of this article shall be enforced by the Board of Health or by a designated enforcement officer appointed annually by the Board of Health.

A. Certificate of compliance.

- (1) New premises. Owners or occupants of new premises, other than residential dwellings, for which a building permit is issued after the effective date of this article shall obtain a certificate of compliance prior to occupying the premises.
- (2) Existing premises. Owners or occupants of existing premises, other than residential dwellings, shall obtain a certificate of compliance before January 1, 1983, or upon any change in use or occupancy requiring a certificate of use and occupancy under Section 119.0 of the Massachusetts Building Code, whichever occurs first.
- (3) Requirements. The certificate of compliance shall be issued by the Board of Health or by its enforcement officer upon demonstration by the owner or occupant that the use and occupancy of the premises are in conformance with the requirements of this article or, in the case of existing premises not in compliance, shall specify a compliance schedule which is reasonable with regard to the public health threat involved and the difficulty of compliance.

- B. Compliance review. Application for an original certificate of compliance shall be forwarded by the Board of Health or its enforcement officer to the Select Board, Conservation Commission, Fire Department and Water Department for determination that the proposed use meets all control standards. **[Amended 6-17-2021ATM by Art. 29]**

- (1) All information necessary to demonstrate compliance must be submitted, including but not limited to the following:
  - (a) A complete list of all chemicals, pesticides, fuels and other potentially hazardous materials to be used or stored on the premises in quantities that could pose a present or potential hazard, accompanied by a description of measures to protect from corrosion, accidental damage or vandalism, leakage or any disposal, together with provisions to control any accidental disposals; and
  - (b) A description of hazardous materials to be generated, indicating the type of storage and the method and place of disposal.
- (2) Any information, record or particular part thereof obtained by the Board of Health or its enforcement officer pursuant to the provisions of this article shall, upon request, be kept confidential and not considered to be public record when it is deemed by the Board that such information, record or report relates to secret processes or methods of manufacture or production or that such information, record or report if made public would divulge a trade secret. This subsection shall not prevent disclosure of any information for an enforcement action.
- (3) The Board of Health or its enforcement officer shall act upon an application within 30 days of a filing. Upon failure of the Board of Health or its enforcement officer to act within said 30 days,

the certificate of compliance shall be deemed to be granted.

- C. **Renewal application.** Application shall be made for renewal of the certificate of compliance upon change in use or occupancy requiring a certificate of use and occupancy under the Massachusetts Building Code or upon significant change in materials used or stored on the premises from those described in the original application.
- D. **Report of spills and leaks.** Any person having knowledge of a spill, leak or other disposal of hazardous materials or violation of this article shall report the same to the Board of Health or its enforcement officer within two hours of detection.
- E. **Enforcement.** The Board of Health or its enforcement officer may, according to law, enter upon any premises at any reasonable time to inspect for compliance with the provisions of this article. Upon demand by the owner or person in control of the premises, however, the Board of Health or its enforcement officer shall obtain a warrant authorizing such entry and inspection. Information necessary to demonstrate compliance shall be submitted by the occupant of the premises at the request of the Board of Health or its enforcement officer. If requested, samples of hazardous materials shall be provided to the Board of Health or its enforcement officer for testing. All records pertaining to hazardous materials, disposal and removal shall be retained for no less than five years and shall be made available for review within 48 hours of a request.
- F. **Violation.** Upon determination by the Board of Health of a violation of this article, the Board may issue such order as it deems appropriate to remedy the violation. The order may include a compliance schedule for those activities which the Board of Health deems reasonably necessary to abate the violation.
- G. **Penalty.** Violation of this article shall be punishable by a fine of \$200 for each offense. Each day that such violation continues shall constitute a separate offense.

**§ 63-6. Severability.**

It is hereby declared that the provisions of this article are severable, and if any provisions of this article shall be declared unlawful by a valid judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining provisions of this article.

ARTICLE II  
**Subsurface Material Discharge and Fuel Storage**  
**[Adopted 5-5-1986ATM by Art. 15]**

**§ 63-7. Definitions.**

In this article, the following terms have the following meanings:

DISCHARGE — The discharge, deposit, injection, dumping, spilling, leaking, incineration or placing of substance materials below any surface.

STORAGE — The actual or intended containment of subsurface materials.

SUBSURFACE MATERIAL — Any substance defined as:

- A. A hazardous waste by any federal or state agency, by any federal or state regulation or pursuant to Article I, Control and Management, of this chapter;
- B. Septic wastes, whether or not pretreated;
- C. Industrial wastes; and/or
- D. Any other material found to be hazardous and/or dangerous to the public health, welfare and safety and/or environment by the Board of Health.

**§ 63-8. Subsurface material.**

No subsurface material shall be discharged or stored within 1,200 feet of any wells located within the town, if said wells supply the inhabitants of the town with water, whether through an established water district or municipal wells.

**§ 63-9. Fuel. [Amended 10-21-1999ATM by Art. 38]**

No fuels shall be stored within 1,200 feet of any wells located within the town, if said wells supply the inhabitants of the town with water, whether through an established water district or municipal wells.

**§ 63-10. Enforcement.**

The Board of Health or its enforcement officer may, according to law, enter upon any premises at any reasonable time to inspect for compliance with the provisions of this article. Upon demand by the owner or person in control of the premises, however, the Board of Health or its enforcement officer shall obtain a warrant authorizing such entry and inspection. Information necessary to demonstrate compliance shall be submitted by the occupant of the premises at the request of the Board of Health or its enforcement officer. If requested, samples of subsurfaces materials and/or materials stored shall be provided to the Board of Health or its enforcement officer for testing. All records pertaining to said materials, disposal and removal shall be retained for no less than five years and shall be made available for review within 48 hours of a request.

**§ 63-11. Order to remedy violation.**

Upon determination by the Board of Health of a violation of this article, the Board may issue such order as it deems appropriate to remedy the violation. The order may include a compliance schedule for those activities which the Board of Health deems reasonably necessary to abate the violation.

**§ 63-12. Special permits, variances and building permits.**

The Planning Board, Board of Appeals and Building Inspector shall be prohibited from issuing any special permits, variances or building permits in contravention of this article, and any said permits shall be deemed null and void.

**§ 63-13. Violations and penalties.**

Violation of this article shall be punishable by a fine of \$300 for each offense. Each day that such violation continues shall constitute a separate offense.

**§ 63-14. Severability.**

It is hereby declared that the provisions of this article are severable, and if any provisions of this article shall be declared unlawful by a valid judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining provisions of this article.

{END OF CHAPTER}



**Chapter 68****HISTORIC DISTRICT**

**[HISTORY: Adopted by the Annual Town Meeting of the Town of Chelmsford 5-8-1975 by Art. 34. Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Zoning — See Ch. 195.**

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**§ 68-1. Purpose.**

The purpose of this chapter is to promote the educational, cultural, economic and general welfare of the public through the preservation and protection of the distinctive characteristics of buildings and places significant in the history of the Town of Chelmsford or their architecture through the maintenance and improvement of settings for such buildings and places and the encouragement of design compatible therein.

**§ 68-2. Historic District Commission established.**

- A. There is hereby established under MGL c. 40C, as amended, a Chelmsford Historic District Commission, with all the powers and duties of an historic district commission under such statute. The Commission shall consist of five members and two alternate members. One of the five members shall be a resident or owner of property in an historic district administered by the Commission. One of the five members shall be chosen from two nominees submitted by the Chelmsford Historical Commission. Other members shall be chosen in accordance with the provisions of such statute.
- B. The initial appointments to the Commission shall be as follows: one member appointed for a one-year term; two members appointed for a two-year term each; two members appointed for a three-year term each; one alternate member for a term of two years; and one alternate member for a term of three years. The successors of members and alternate members shall be appointed for terms of three years.

**§ 68-3. Authority of Commission.**

Notwithstanding anything contained in this chapter to the contrary, the authority of the Commission shall not extend to the review of the following categories of building or structures or exterior architectural features:

- A. The color of paint.
- B. The color of materials used on roofs.
- C. The reconstruction substantially similar in exterior design of a building, structure or exterior architectural feature damaged or destroyed by fire, storm or other disaster, provided that such reconstruction is begun within one year thereafter and carried forward with due diligence.
- D. Storm doors and windows and screen doors and windows.

**§ 68-4. Duties of Commission.**

§ 68-4

HISTORIC DISTRICT

- A. The Commission shall review, from time to time, possible additional historic districts and propose, as it deems appropriate, the establishment of additional historic districts or changes in historic districts. The Commission shall report on this activity in the town annual report at least biennially.
- B. The Historic District Commission shall adopt rules and regulations for the conduct of its business, not inconsistent with the provisions of the Historic District Act, MGL c. 40C, as amended, and may, subject to appropriation, employ clerical and technical assistants or consultants and may accept money gifts and expend the same for such purpose.

**§ 68-5. Severability.**

If any section, paragraph or part of this chapter is for any reason determined invalid or unconstitutional by any court of competent jurisdiction, every other section, paragraph or part shall continue in full force and effect.<sup>16</sup>

{END OF CHAPTER}

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16. Editor's Note: The map of the Chelmsford Center Historic District and the boundary description of the district are on file in the office of the Town Clerk.

**Chapter 81****LICENSES AND PERMITS**

**[HISTORY: Adopted by the Special Town Meeting of the Town of Chelmsford 9-25-1986 by Art. 9. Amendments noted where applicable.]**

**§ 81-1. Definitions.**

In this chapter the following terms have the following meanings:

**LICENSE** — Any and all licenses or permits issued by any Town of Chelmsford board, division, officer or department, and shall include all renewals and transfers.

**LICENSING AUTHORITY** — Any Town of Chelmsford board, division, officer or department with jurisdiction over the issuance of any license or permit.

**§ 81-2. Denial, revocation or suspension for failure to pay taxes or other charges.**

- A. The Town of Chelmsford board, division, officer or department with jurisdiction over the issuance of any license shall have the authority to deny any application for, or revoke or suspend, any license within its jurisdiction for any person, partnership, corporation, trust, business entity or enterprise who and/or which has neglected, refused or failed to pay any local taxes, fees, assessments, betterments or any other municipal charge.
- B. The Treasurer-Collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the "Treasurer-Collector," shall annually, and may periodically, furnish to each department, board, commission or division, hereinafter referred to as the "licensing authority," that issues licenses or permits, including renewals and transfers, a list of any person, partnership, corporation, trust, business entity or 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 ninety-day period and that such 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. **[Amended 10-21-1999ATM by Art. 31; 4-24-2017ATM by Art. 26]**
- C. 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 Treasurer-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 Treasurer-Collector; provided, however, that written notice is given to the party and the Treasurer-Collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than 14 days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The Treasurer-Collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. **[Amended 10-21-1999ATM by Arts. 31 and 39]**
  - (1) Any findings made by the licensing authority with respect to such 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.



§ 81-2

LICENSES AND PERMITS

- (2) 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 Treasurer-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.

**§ 81-3. Payment agreements.**

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 shall be given notice and a hearing as required by applicable provisions of law.

**§ 81-4. Waiver. [Amended 6-17-2021ATM by Art. 29]**

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

**§ 81-5. Exceptions.**

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

{END OF CHAPTER}

CHELMSFORD CODE

**Chapter 84**

**LITTERING**

**[HISTORY: Adopted by the Annual Town Meeting of the Town of Chelmsford 1926. Amendments noted where applicable.]**

GENERAL REFERENCES

Solid waste — See Ch. 137.

Unsolicited written material — See Ch. 168.

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**§ 84-1. Deposit of materials on public property.**

No person shall throw posters, handbills, flyers, advertising sheets, waste or rubbish in the public parks, streets or ways of the town.

**§ 84-2. Handbills and flyers.**

No person shall throw, deposit or distribute any commercial or noncommercial handbill or flyer upon any industrial, commercial, fraternal or religious premises or any commercial handbill or flyer upon any private premises without the express permission of the owner or person in charge of said premises.<sup>17</sup>

{END OF CHAPTER}

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17. Editor's Note: A former paragraph dealing with the delivery of advertising or informational material, which immediately followed this section and was added 5-16-1977ATM by Art. 48, was deleted 10-21-1999ATM by Art. 40. See Ch. 168, Unsolicited written material.

## MARIJUANA ESTABLISHMENTS

### Chapter 89

## MARIJUANA ESTABLISHMENTS

**[HISTORY: Adopted by the Annual Town Meeting of the Town of Chelmsford 10-16-2017 by Art.**

**15. Amendments noted where applicable.]**

**§ 89-1. Prohibition of non-medical marijuana establishments.**

Consistent with Massachusetts General Laws Chapter 94G, § 3(a)(2), all types of non-medical "marijuana establishments" as defined in Massachusetts General Laws Chapter 94G, § 1, including marijuana cultivators, marijuana testing facilities, marijuana product manufacturers, marijuana retailers or any other type of licensed marijuana-related businesses, shall be prohibited within the Town of Chelmsford.

{END OF CHAPTER}

CHELMSFORD CODE

**Chapter 96**

**NEWSRACKS**

**[HISTORY: Adopted by the Annual Town Meeting of the Town of Chelmsford 5-1-1997 by Art. 29. Amendments noted where applicable.]**

**§ 96-1. Definitions.**

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

NEWSRACK — A vending machine used for the sale and/or distribution of newspapers or similar printed material.

**§ 96-2. Intent.**

It is not the intent of this chapter to prohibit or interfere with the dissemination of information protected under the United States or state constitutions, but simply to ensure that the location of newsracks protects the public safety of the Town of Chelmsford.

**§ 96-3. Location within public way.**

The location of newsracks within a public way shall conform to the following regulations. No newsrack shall be located:

- A. Within 100 feet of any school bus stop.
- B. Within 10 feet of any fire hydrant, fire or police alarm box or other emergency facility.
- C. In such a manner as to obstruct the clear movement of pedestrians on a sidewalk.
- D. On a public way on which parking is prohibited.

**§ 96-4. Violations and penalties.**

Failure to comply within 30 days of notification shall be subject to a fine of \$50 for each offense. Each day that such offense persists shall constitute a separate offense.

**§ 96-5. Enforcement.**

This chapter may be enforced by any police officer through the noncriminal disposition procedures of Chapter 1, General Provisions, § 1-2 of this Code.

{END OF CHAPTER}

**Chapter 100****NOISE**

**[HISTORY: Adopted by the Annual Town Meeting of the Town of Chelmsford 10-15-2001 by Art. 15. (This article also repealed former Ch. 100, Noise, which consisted of Art. I, Sound-Amplifying Equipment, adopted 1973ATM by Art. 56, as amended.) Amendments noted where applicable.]**

**GENERAL REFERENCES**

Alarm systems — See Ch. 5.

School buildings and grounds — See Ch. 129.

Peace and good order — See Ch. 113.

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**§ 100-1. Causing and permitting prohibited.**

No person owning, leasing, or controlling a source of sound shall willfully, negligently, or through failure to provide necessary equipment, service or maintenance or to take necessary precautions cause, suffer, allow, or permit unnecessary emissions from said source of sound that may cause noise.

**§ 100-2. Applicability.**

This chapter shall pertain to, but shall not be limited to outdoor sound-amplifying equipment, prolonged unattended sounding of burglar alarms, motor vehicle trucks idling for more than five minutes, construction and demolition equipment which characteristically emit sound but may be fitted and accommodated with equipment such as enclosures to suppress sound or may be operated in a manner so as to suppress sound, suppressible and preventable industrial and commercial sources of sound, and other man-made sounds that cause noise.

**§ 100-3. Special restrictions for outdoor sound-amplifying equipment.**

- A. Sound-amplifying equipment shall not be operated within 100 yards of hospitals, nursing homes, public housing for the elderly, schools, and churches without prior approval from the Police Chief or his or her designee.
- B. The volume of the sound shall be controlled so that it will not be audible for a distance in excess of 300 feet from the sound-amplifying equipment and so that said volume is not unreasonably loud, raucous, jarring, disturbing, or a nuisance to persons.

**§ 100-4. Exceptions.**

This chapter shall not apply to sounds emitted during and associated with:

- A. Parades, public gatherings, or sporting events, for which permits have been issued;
- B. Emergency police, fire, and ambulance vehicles;
- C. Police, fire, DPW, and civil and national defense activities;
- D. Domestic equipment, such as lawn mowers and power saws, between the hours of 7:00 a.m. and 9:00

§ 100-4

CHELMSFORD CODE

p.m. weekdays and between the hours of 9:00 a.m. and 9:00 p.m. Sundays;

- E. Places of amusement, parks and recreation areas;
- F. Idling of school buses;
- G. Emergency public utility repair;
- H. Snow removal equipment;

**§ 100-5. Enforcement authority. [Art. 15 (part), ATM 1987: By-Laws Art. XIII (part).]**

The Police Department, Fire Department, Board of Health officials, Building Commissioner or Inspector are hereby authorized to enforce this chapter.

**§ 100-6. Penalties for offenses.**

The penalty for any violations of this chapter shall be \$50 for the first offense, \$100 for the second offense and \$200 for subsequent offenses.

{END OF CHAPTER}

**Chapter 106****OFFICERS, BOARDS AND COMMITTEES**

**[HISTORY: Adopted by the Annual Town Meeting of the Town of Chelmsford 10-15-1990 by Art. 19. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Code of Ethics — See Ch. 29.

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**§ 106-1. Finance Committee.**

The Town Moderator shall appoint a Finance Committee which shall be composed of seven members, each of whom shall serve for a term of not more than three years from the date of appointment.

**§ 106-2. Personnel Board.**

- A. There shall be a Personnel Board consisting of five members, four of whom shall be known as "public members" and shall be appointed by the Select Board. In the beginning, two of these shall be appointed for a term of one year and two shall be appointed for a term of two years. Thereafter, each public member shall be appointed for a term of two years. Each term shall expire at the end of the appropriate fiscal year. **[Amended 5-3-2007ATM by Art. 16; 6-17-2021ATM by Art. 29]**
- B. The fifth member, to be known as the "personnel member," shall be elected by town employees who are subject to the personnel system and whose names appear on the town payroll list for the Wednesday prior to the election or who otherwise are identified as eligible voters. Each voter must be 18 years of age or over on the day of the election. The term of office shall be for two years and shall expire on July 1 of each odd-numbered year. The election of the personnel member shall be secret and shall be supervised by a board of three election officers appointed by the Town Manager. The election shall be held in June to be effective in July. Special elections shall be held to fill the unexpired term of a personnel member who resigns before the term has expired. All elections shall be held between the hours of 10:00 a.m. and 3:00 p.m. on a weekday selected by the above-mentioned board of three election officers. Each permanent full-time employee or part-time regular employee with a work schedule of 20 or more hours per week will be granted one vote. All other eligible voters will be granted 1/2 vote each.
- C. At the first meeting of each fiscal year at which all Personnel Board members are present, a Chairperson of the Personnel Board shall be elected by a majority vote.
- D. All members of the Personnel Board shall be registered voters of the Town of Chelmsford.
- E. No public member of the Personnel Board shall be an employee of the town or hold office, whether appointed or elected. The personnel member of the Personnel Board shall not be an elected official or appointed department head but may otherwise be an employee who is subject to this section.
- F. Members of the Personnel Board shall serve without compensation.
- G. The Personnel Board shall meet regularly as necessary to consider such business as may be presented by town officials, town employees or others.

- H. At any meeting of the Personnel Board, action by a majority of those Board members shall be binding upon the Personnel Board. At least three members of the Board shall be present in order to constitute a legal meeting.

**§ 106-3. Treasurer-Collector. [Amended 10-21-1999ATM by Art. 31]**

The collector of taxes shall be the Town Treasurer-Collector. The Town Treasurer-Collector, within the time limits prescribed by law for the collection of accounts due the town, shall collect all accounts due the town, except those set forth in MGL c. 41, § 38A, as amended. Said Town Treasurer-Collector may settle and adjust any such accounts upon such terms as he or she thinks for the best interests of the town, or he or she may cause legal proceedings to be commenced in his or her name as Town Treasurer-Collector for the collection of any such accounts and may employ counsel for that purpose. The costs of said legal proceedings, including counsel fees, shall be charged to and paid by the Treasurer-Collector from the Treasurer-Collector's expense account. All bills for accounts due the town shall state that all checks, drafts or money orders shall be made payable to or to the order of the Town of Chelmsford.

**§ 106-4. Contracts. [Amended 10-17-2005ATM by Art. 26]**

- A. No officer or board of the town shall make any contract on behalf of the town in which such officer or any member of such board is directly or indirectly financially interested, except by competitive contracts.
- B. Any Town officer or board authorized by the General Laws or the Town Charter or bylaws to enter into contracts for the procurement of goods or services is hereby authorized, pursuant to MGL c. 30B, § 12, to enter into such contracts for terms not to exceed five years, unless a longer term is specifically authorized by a vote of Town Meeting.

**§ 106-5. Agent for suits. [Amended 6-17-2021ATM by Art. 29]**

The Select Board is authorized to act as agent of the town in any suit or suits which may arise, with authority to settle and adjust claims or demands for or against the town and to employ counsel whenever in its judgment it is necessary.

**§ 106-6. Revocation of appointment.**

- A. Whenever an appointment to an uncompensated town office is revoked, the appointing authority shall cause a written notice of that action, along with a statement of the specific reason or reasons therefor, to be sent within 48 hours by registered mail to the affected individual at his or her last known address.
- B. This requirement shall apply to revocation only and not to a decision against reappointment at the expiration of a fixed term.

**§ 106-7. Agricultural Commission. [Added 4-27-2009ATM by Art. 18]**

- A. There shall be an Agricultural Commission to represent the Chelmsford farming community and related interests. Said Commission shall serve as facilitators for encouraging the pursuit of agriculture in Chelmsford. and shall promote agricultural-based economic opportunities in Town.
- B. Said Commission, once appointed, shall develop a work plan to guide its activities. Such activities include, but are not limited to, the following:



§ 106-7

OFFICERS, BOARDS AND COMMITTEES

- (1) Serve as facilitators for encouraging the pursuit of agriculture in Chelmsford;
  - (2) Promote agricultural-based economic opportunities in Town;
  - (3) Act as mediators, advocates, educators, and/or negotiators on farming issues;
  - (4) Work for the preservation of prime agricultural lands; and
  - (5) Pursue all initiatives appropriate to creating a sustainable agricultural community.
- C. The duties and responsibilities of the Commission shall include, but not be limited to:
- (1) Advising the Town Manager in matters related to the care and usage of Town-owned agricultural properties.
  - (2) Advising the Select Board, Planning Board, Zoning Board of Appeals, Conservation Commission, Board of Health, and other local organizations, on projects and activities, including acquisitions and other transactions, involving agricultural lands in Town. **[Amended 6-17-2021ATM by Art. 29]**
  - (3) Engaging in projects and activities to promote the business of farming activities and traditions and farmland protection in Town, including programs and community events.
- D. The Commission shall consist of five members appointed by the Select Board. In the beginning, two members shall be appointed for a term of three years, two members shall be appointed for a term of two years, and one member shall be appointed for a term of one year. Thereafter, each member shall be appointed for a term of three years. Each term shall expire at the end of the appropriate fiscal year. **[Amended 6-17-2021ATM by Art. 29]**

**§ 106-8. Prohibition of meetings during elections. [Added 10-18-2021ATM by Art. 21]**

No multiple-member body of the Town shall conduct a meeting during the election hours of a municipal or state election that is occurring within the Town. For the purpose of this section, election hours of a municipal or state election shall include only the hours in which live voting is taking place on election day, and shall not count early voting prior to election day.

{END OF CHAPTER}

**Chapter 113****PEACE AND GOOD ORDER**

**[HISTORY: Adopted by the Annual Town Meeting of the Town of Chelmsford 1926. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Alarm systems — See Ch. 5.

Firearms and explosives — See Ch. 39.

Alcoholic beverages — See Ch. 8.

Littering — See Ch. 84.

Animals — See Ch. 11.

Noise — See Ch. 100.

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**§ 113-1. Noise; defacement of property; trespassing; removal of trees or plants; disturbing meetings. [Amended 1967ATM by Art. 51]**

No person or persons shall congregate noisily in or about the streets, stores or public places of the town or disturb the public quiet by the unauthorized ringing of bells or blowing of horns unnecessarily or deface, pull down or injure any building, fence or sign or other structure in the town or trespass on any property or wrongfully remove therefrom any tree, plant, shrub, fruit or vegetable or create any disturbance of or in any lawful meeting of the citizens of this town.

**§ 113-2. Loitering. [Amended 1967ATM by Art. 51]**

- A. No person shall stand or loiter in or on any street, sidewalk or public place in such a manner as to obstruct the free passage of travelers thereon, nor shall any person on such street, sidewalk or public place, after being directed by a police officer to move on and disperse, on the same or subsequent day, reassemble to loiter or remain so as to obstruct the free passage of travelers or motor vehicles.
- B. It shall be the duty of any police officer of the town to order any persons offending against the provisions of the preceding subsection to move on and disperse and, if the persons so ordered or requested do not forthwith obey, to remove them or to arrest and cause them to be brought before the Justice of the District Court of Lowell and a complaint made against the provision of the preceding subsection.
- C. The penalty for any violation of this section shall be \$50 for a first offense and \$100 for subsequent offenses. **[Amended 10-21-1999ATM by Art. 42]**

**§ 113-3. Swimming and bathing. [Amended 10-21-1999ATM by Art. 42]**

No person shall swim or bathe in any public or exposed place in a nude condition. The penalty for any violation of this section shall be a fine of \$50.

**§ 113-4. Disorderly conduct.**

- A. No person shall behave in any indecent or disorderly manner or use profane, indecent, threatening or insulting language in any public place or on any sidewalk or street of the town or near any house to the annoyance or disturbance of any other person.

§ 113-4

PEACE AND GOOD ORDER

- B. The penalty for any violation of this section shall be a fine of \$100. **[Added 10-21-1999ATM by Art. 42]**

**§ 113-5. Peeping persons. [Added 1951 STM by Art. 1]**

- A. No person, except an officer of the law in the performance of his or her official duties, shall enter upon the premises of another with the intention of peeping into the windows or other openings of a building or spying upon, in any manner, any person or persons therein.
- B. The penalty for any violation of this section shall be a fine of \$50. **[Added 10-21-1999ATM by Art. 42]**

{END OF CHAPTER}

CHELMSFORD CODE

**Chapter 116**

**PEDDLING, SOLICITING AND SALES**

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

ARTICLE I

**Roadside Sales**

**[Adopted 5-19-1977ATM by Art. 49; amended in its entirety 5-21-1979ATM by Art. 47]**

**§ 116-1. License required; exception.**

- A. No person shall engage in the roadside sale of flowers, blankets, paintings, gifts, fish, food, rugs or trees without first obtaining a license issued by the Select Board, and said license shall be conspicuously displayed by the vendor. **[Amended 6-17-2021ATM by Art. 29]**
- B. Any person having a usual place of business within the town may conduct the aforesaid activities on the same premises in connection with and accessory to his or her primary business without obtaining said license.

ARTICLE II  
**Auctions and Sales**  
**[Adopted 5-13-1985ATM by Art. 13]**

**§ 116-2. Use of public buildings.**

All auctions and sales in public buildings in the Town of Chelmsford are hereby prohibited except for the purpose of town business or such other business as may be deemed proper or necessary by the committee, board or officer having charge of said public building.

## ARTICLE III

**Solicitors****[Adopted 10-1-1990ATM by Art. 8]****§ 116-3. Registration required.**

- A. It shall be unlawful for any person to solicit orders or subscriptions for goods or services, or to sell goods or services door to door, in the town without first having registered with the Police Department. The registrant shall provide proof of identification, his or her signature, the name of his or her employer, the type of products or services which he or she is soliciting and such other information as may be requested by the Police Department. Each person soliciting in the town on behalf of a corporation, business or other for-profit organization shall be required to register with the Police Department.
- B. Each person shall pay to the Police Department at the time of registration an annual registration fee set pursuant to MGL c. 40, § 22F, to the extent permitted by law. **[Amended 10-17-2005ATM by Art. 20]**

**§ 116-4. Permit and identification badge.**

- A. Each person who pays the fee provided herein shall be furnished a permit indicating that he or she has registered and showing the dates covered by such registration.
- B. Each person shall at all times while soliciting in the town carry upon his or her person the registration permit, and the same shall be exhibited by such person whenever required to do so by any police officer or by any person solicited.
- C. In addition to the permit, the town shall issue an identification badge to every person registered hereunder. Permittees shall wear their badges in such a manner that the badges may be easily read while transacting business. If a badge becomes damaged or obscured, the permittee shall return it to the town and receive another badge. Badges issued hereunder shall conspicuously state that the Town of Chelmsford does not endorse the goods or services being solicited.
- D. Permits and identification badges shall be used only by the person to whom they were issued and may not be transferred or extended to include any other person.

**§ 116-5. Hours of operation.**

There shall be no door-to-door solicitation or selling before 9:00 a.m. or after 6:00 p.m.

**§ 116-6. Revocation of permit.**

Any permit issued under this article may be suspended or revoked by the Chief of Police for any of the following reasons:

- A. Fraud or misrepresentation in the application for the permit.
- B. Fraud or misrepresentation in the course of soliciting.
- C. Conducting the business of soliciting contrary to the conditions specified in this article.
- D. Conducting the business of soliciting in such manner as to violate any of the laws or regulations of

the Commonwealth of Massachusetts or the Town of Chelmsford.

**§ 116-7. Violations and penalties.**

Any person who violates any provision of this article shall be punished by a fine not exceeding \$200.



ARTICLE IV  
**Restricted Vendor Areas**  
**[Adopted 5-8-1995ATM by Art. 23]**

**§ 116-8. Designation.**

- A. For the purpose of public safety, no person shall offer for sale or sell any articles on the public ways or town-owned property designated on plans approved by the Select Board during the following periods: **[Amended 6-17-2021ATM by Art. 29]**
- (1) The annual Independence Day celebration.
  - (2) Veterans memorial services.
  - (3) The annual winterfest.
  - (4) Winter prelude.
  - (5) Other events approved by the Select Board.
- B. The Select Board shall review each special event seeking to fall under this article with the sponsor(s) to determine whether a restricted area shall be designated for the event. Should a restricted area be needed, the plan of the proposed area shall be submitted to the Select Board for approval a minimum of one month prior to the event. **[Amended 6-17-2021ATM by Art. 29]**
- C. This article shall not prohibit hawkers, peddlers or vendors from selling their products on the public ways of the town during any period not designated above or in any area outside the area designated on the plans referred to above.

{END OF CHAPTER}



**Chapter 119****POLES AND WIRES**

**[HISTORY: Adopted by the Annual Town Meeting of the Town of Chelmsford 4-26-1999 by Art. 17. Amendments noted where applicable.]**

**§ 119-1. Definitions.**

For purposes of this chapter, the definitions of "person," poles and overhead wires and associated overhead structures" and "utility" shall be the same definitions as those set forth in MGL c. 166, § 22A.

**§ 119-2. Prohibiting installation of new poles and overhead wires.**

- A. No utility shall install or construct, except by way of replacement or upgrading of existing facilities, any poles and overhead wires and associated overhead structures upon, along or across any public way within the parts of the town listed in §§ 119-2B and 119-3A of this chapter. Any poles and overhead wires and associated overhead structures upon, along overhead wires and associated overhead structures installed or constructed in violation of this chapter shall be immediately removed by the utility responsible therefor.
- B. This chapter applies to the following parts of town:
  - (1) Any public way approved by the Planning Board after the effective date of this chapter unless waived by the Planning Board pursuant to the Subdivision Rules and Regulations.<sup>18</sup>
  - (2) Any way in which the wires and utility facilities are underground as of the effective date of this chapter.
- C. Any person who installs or constructs any poles and overhead wires and associated overhead structures which are in violation of this chapter shall be punished by a fine of not less than \$1,000 and not more than \$5,000 for each consecutive fifteen-day period during which the failure continues.
- D. This chapter implements MGL c. 166, § 22C and shall be construed in a manner consistent with the definitions in MGL c. 166, § 22A.

**§ 119-3. Removal of existing poles and overhead wires.**

- A. Any utility presently owning or operating poles or overhead wires and associated overhead structures within the Town of Chelmsford shall remove said poles or overhead wires and associated overhead structures. Said removal shall occur in the area known as Chelmsford Center extending from Larcom Square through the Center, around the Common and north to the intersection of Chelmsford and Fletcher Streets as shown on a plan on file with the Town Clerk entitled "Chelmsford Center Utility Depression Area," dated March 15, 1999.
- B. Any utility that fails to remove any poles or overhead wires and associated overhead structures required to be removed pursuant to § 119-3A of this chapter shall be punished by a fine of not less than \$ 1,000 and not more than \$5,000 for each fifteen-day period during which such failure continues; provided, however, that no utility shall have been deemed to have violated this chapter, provided that:

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**18. Editor's Note: See Ch. 202, Subdivision of Land.**

- (1) If replacement facilities for poles or overhead wires and associated overhead structures required to be removed will be needed in order for a utility to continue its service, the utility shall, within 60 days of the effective date of this chapter, petition the Select Board of the Town of Chelmsford, pursuant to MGL c. 166, § 22, for permission to install, erect or construct under the public ways of the Town of Chelmsford replacement facilities for such poles or overhead wires and associated structures; and **[Amended 6-17-2021ATM by Art. 29]**
- (2) The utility shall file with the Select Board of the Town of Chelmsford a plan (which shall be consistent with § 119-3A of this chapter) for removal of poles or overhead wires and associated overhead structures and, if needed, for their replacement with underground facilities. The removal described on the plan may be implemented in phases, as may from time to time be determined by the Select Board. In determining if the plan shall be implemented in phases, the Select Board shall consider the following factors, among other relevant factors: the total cost of completing the work under the plan; the amount of funds collected by the utility from its customers in the Town of Chelmsford in relation to the total cost of completing the work under the plan; and the progress the utility is making towards completing the work under the plan. Any phasing of the implementation of the plan shall not constitute an amendment of the plan. In determining whether to undertake the removal shown on the plan in phases, the Select Board shall consult with the utility. The decision regarding phasing shall be in the sole discretion of the Select Board; and **[Amended 10-20-2008ATM by Art. 11; 6-17-2021ATM by Art. 29]**
- (3) In each calendar year beginning with the calendar year next following the effective date of this chapter and until all such poles or overhead wires and associated overhead structures shall have been removed, any utility shall, in carrying out its plan, allocate and expend for the direct cost of demolition and construction (over and above the reasonable value of salvage) an amount which shall not be less than 2% of its gross revenues derived during the next preceding calendar year from its customers in the Town of Chelmsford; and
- (4) The utility shall, on or before the last day of March in each year, file with the Select Board of the Town of Chelmsford a statement signed under the penalties of perjury, by its Treasurer, setting forth in detail the amounts spent by the utility during the immediately preceding calendar year in carrying out its plan; the purposes for which such expenditures were made; the gross revenues derived from its customers in the Town of Chelmsford during the immediately preceding calendar year; provided, however, that no utility which enters a cooperative agreement under MGL c. 166, § 22 shall be deemed to have violated this chapter during the term such payments are to be made, so long as said utility shall not be in default of said cooperative agreement. **[Amended 6-17-2021ATM by Art. 29]**
- (5) Commencing with the calendar year beginning January 1, 2009, the funds collected by the utility from its customers in the Town of Chelmsford shall be placed by the utility in a separate interest-bearing account. The interest accrued on such funds shall remain with the account and shall be available for and used by the utility in furtherance of the completion of the plan described in § 119-3A and § 119-3B(2). All funds collected by utility as a surcharge prior to January 1, 2009, shall be transferred as of January 1, 2009, to the interest-bearing account. Commencing with the statement due for the calendar year 2008, the utility shall include in its statement under § 119-3B(4) the following information regarding the interest for the preceding calendar year: the number of customers in the Town of Chelmsford from whom the funds are collected; the name and address of the financial institution or other entity where the interest-bearing account is located; the amount of interest accrued to the account during the immediately preceding calendar year for which the statement is being provided. **[Added 10-20-2008ATM by Art. 11]**

- (6) The statement required under § 119-3B(4) shall not qualify as "setting forth in detail" the required information unless the statement includes the following information: **[Added 10-20-2008ATM by Art. 11]**
- (a) The number of customers in the Town of Chelmsford from whom the surcharge has been collected during the immediately preceding calendar year;
  - (b) The amount of the surcharge collected from the customers in the Town of Chelmsford during the immediately preceding calendar year;
  - (c) The amount of the interest accrued on the surcharge collected from the customers in the Town of Chelmsford during the immediately preceding calendar year;
  - (d) The address of the financial institution or other entity where the interest-bearing account is located;
  - (e) The amount of the interest accrued to the account during the immediately preceding calendar year for which the statement is being provided;
  - (f) The specific purpose and amount for each cost incurred or disbursement made over \$100 regarding implementation of the plan;
  - (g) The name, street mailing address and electronic mail address, if available, of each vendor or other entity to whom a payment over \$100 was made regarding implementation of the plan; and
  - (h) The amount of funds remaining in the interest-bearing account as of December 31 of the preceding calendar year.
- (7) The Select Board may temporarily or permanently suspend the amount collected from the utility's customers in the Town of Chelmsford under § 119-3B(3) above, upon the following: **[Added 10-20-2008ATM by Art. 11; amended 6-17-2021ATM by Art. 29]**
- (a) The Select Board gives notice of and holds a public hearing regarding consideration of such suspension.
  - (b) The notice of the public hearing is published in a newspaper of general circulation in the Town and posted on a Town bulletin board and on the Town's website at least 14 days before the date of the hearing.
  - (c) The notice of public hearing is sent by return receipt requested mail at least 14 days before the date of the hearing to the utility for which the suspension is being considered.
  - (d) After hearing, the Select Board finds that:
    - [1] The utility has collected sufficient funds from the customers in the Town of Chelmsford to carry out the plan described in § 119-3A and § 119-3B(2); or
    - [2] The utility has collected sufficient funds from its customers in the Town of Chelmsford to fund the phase of the plan described in § 119-3A and § 119-3B(2).

{END OF CHAPTER}

**Chapter 124****RECREATION VEHICLES**

**[HISTORY: Adopted by the Annual Town Meeting of the Town of Chelmsford 10-17-2005 by Art. 12. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Noise — See Ch. 100.

Vehicles and traffic — See Ch. 174.

Peace and good order — See Ch. 113.

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**§ 124-1. Purpose.**

The purpose of this chapter is to promote and protect the health, welfare, and safety of the inhabitants of the Town of Chelmsford by reducing the noise, environmental impacts and other adverse effects associated with the unrestricted operation of recreation vehicles. This chapter is intended to be consistent with the provisions of MGL c. 90B, §§ 20 through 35 and 323 CMR 3.01 et seq., as amended.

**§ 124-2. Definitions.**

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

DWELLING — A building designed and occupied as the living quarters of one or more individuals.

OPERATE — To ride in or on and control the operation of, or maintain, suffer or permit the operation of, or to push a recreation vehicle, or, in the case of a person who has custody of a minor between the ages of 10 and 14, to knowingly permit or suffer the operation of a recreation vehicle by such minor between the ages of 10 and 14 without direct supervision by a person 18 years old or older, and, when acting as a supervising person under MGL c. 90B, § 26, to knowingly permit a person supervised to violate any state law or Town bylaw regulating operations.

OWNER — A person, other than a lien holder, having the property or title to a recreation vehicle entitled to the use or possession thereof.

RECREATION VEHICLE — Any vehicle designed or modified for use over unimproved terrain if used for recreation or pleasure off a public way as defined in MGL c. 90, and all legally registered motor vehicles when used off a way, as defined under MGL c. 90. This definition shall include vehicles designated recreation vehicles under MGL c. 90B, including vehicles commonly known as "dirt bikes" and "all-terrain vehicles" (or "ATVs") and "snowmobiles." Vehicles used for agriculture, forestry, lumbering or construction shall be excluded from this definition when used for such purpose.

**§ 124-3. Restrictions on operation of recreation vehicles.**

A. Age limit: No person under 14 years of age shall operate a recreation vehicle except as provided below:

- (1) A person between the ages of 12 and 14 years old may operate a recreation vehicle wearing a helmet and if directly supervised (as defined in 323 CMR 3.02) by a person 18 years old or older;

§ 124-3

RECREATION VEHICLES

- (2) A person between the ages of 10 and 12 years may operate a recreation vehicle wearing a helmet and if directly supervised (as defined in 323 CMR 3.02) by a person 18 years old or older and the vehicle is operated on land on which the operator is domiciled; or
  - (3) A person under 14 years of age may operate a recreation vehicle in a sanctioned race, rally or organized event which has been authorized or approved by the appropriate local authority.
  - (4) No person under 10 years of age shall operate a recreation vehicle under any circumstances.
- B. Distance from dwelling: No person shall operate a recreation vehicle on any public or private land within 150 feet of a dwelling without the permission of the owner of such dwelling, such owner's agent, or such owner's lessee, except in cases of emergency, when directly departing or returning to such residence or when operating on the property of another for which permission has been granted. Such permission may be granted to an individual, association, or other organization, for the benefit of members thereof.
- C. Noise: No recreation vehicle shall be operated which makes an unusual or excessive noise or which emits obnoxious fumes.
- D. Muffler requirement: No person shall use a muffler cut-out, by-pass, straight pipe or similar device on a recreation vehicle.

**§ 124-4. Violations and penalties.**

- A. Any person who violates any of the provisions of this chapter shall be fined as set forth below, or, alternatively, such violation may be enforced in accordance with MGL c. 40, § 21D.
- B. Fines imposed pursuant to this section shall be assessed as follows:
- (1) First offense: \$100.
  - (2) Second offense: \$250.
  - (3) Third offense: \$300.
  - (4) Fourth offense: confiscation of recreation vehicle by the Chelmsford Police Department, pursuant to state-law authority.

**§ 124-5. Enforcement.**

The provisions of this chapter shall be enforced by the Chelmsford Police Department.

END OF CHAPTER

**Chapter 127****RIGHT TO FARM**

**[HISTORY: Adopted by the Annual Town Meeting of the Town of Chelmsford 4-25-2011 by Art. 19. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Community Preservation Committee — See Ch. 19.

Zoning — See Ch. 195.

Trees — See Ch. 161.

Subdivision of land — See Ch. 202.

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**§ 127-1. Legislative purpose and intent.**

- A. The purpose and intent of this bylaw is to state with emphasis the right to farm accorded to all citizens of the commonwealth under Article 97, of the Constitution,<sup>19</sup> and all state statutes and regulations thereunder including but not limited to MGL c. 40A, § 3, Paragraph 1; c. 90, § 9; c. 111, § 125A; and c. 128, § 1A. We the citizens of the Town of Chelmsford restate and republish these rights pursuant to the Town's authority conferred by Article 89<sup>20</sup> of the Articles of Amendment of the Massachusetts Constitution, ("Home Rule Amendment").
- B. This general bylaw encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmlands within the Town of Chelmsford by allowing agricultural uses and related activities to function with minimal conflict with abutters and Town agencies. This bylaw shall apply to all jurisdictional areas within the Town.

**§ 127-2. Definitions.**

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

**FARMING** — Shall encompass activities including, but not limited to, the following:

- A. Operation and transportation of slow-moving farm equipment over roads within the Town;
- B. Control of pests, including, but not limited to, insects, weeds, predators and disease organism of plants and animals;
- C. Application of manure, fertilizers and pesticides;
- D. Composting of farm and non-farm compostable materials;
- E. Conducting agriculture-related educational and farm-based recreational activities, including agri-tourism, provided that the activities are related to marketing the agricultural output or services of the farm;
- F. Processing and packaging of the agricultural output of the farm and the operation of a farmer's market

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19. Editor's Note: See Art. XCVII of the Amendments to the Constitution.

20. Editor's Note: See Art. LXXXIX of the Amendments to the Constitution.



or farm stand including signage thereto;

- G. Maintenance, repair, sale and storage of seasonal equipment, or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management, or sale of the agricultural products; and on-farm relocation of earth and the clearing of ground for farming operations;
- H. Burning of brush in a controlled and safe manner after issuance and receipt of a permit issued from the Chelmsford Fire Department that such burning shall satisfy all of the conditions of the regulations and guidelines of the Chelmsford Fire Department and as set forth in 310 CMR 7.07(3)(b) and (c).

FARMING or AGRICULTURE or their derivatives — Shall include, but not be limited to, the following:

- A. Farming in all its branches and the cultivation and tillage of the soil;
- B. Dairying;
- C. Production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities;
- D. Growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations;
- E. Raising of livestock including horses;
- F. Keeping of horses as a commercial enterprise; and
- G. Keeping and raising of poultry, swine, cattle, ratites (such as emus, ostriches and rheas) and camelids (such as llamas and camels), and other domesticated animals for food and other agricultural purposes, including bees and fur-bearing animals.

### **§ 127-3. Right to farm declaration.**

The right to farm is hereby recognized to exist within the Town of Chelmsford. The above-described agricultural activities may occur on holidays, weekdays, and weekends by night or day and shall include the attendant incidental noise, odors, dust, and fumes associated with normally accepted agricultural practices. It is hereby determined that whatever impact may be caused to others through the normal practice of agriculture is more than offset by the benefits of farming to the neighborhood, community, and society in general. The benefits and protections of this bylaw are intended to apply exclusively to those commercial agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. Keeping and raising of poultry, swine, cattle, ratites (such as emus, ostriches and rheas) and camelids (such as llamas and camels), and other domesticated animals for food and other agricultural purposes, including bees and fur-bearing animals, shall not be governed by local animal fee bylaw. Moreover, nothing in this Right To Farm Bylaw shall be deemed as acquiring any interest in land, or as imposing any land use regulation, which is properly the subject of state statute, regulation, or local zoning law.

### **§ 127-4. Disclosure notification.**

On an annual basis notification will be printed in two local newspapers:

"It is the policy of this community to conserve, protect and encourage the maintenance and improvement of agricultural land for 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 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 commercial agricultural operations including the ability to access water services for such property under certain circumstances."

**§ 127-5. Resolution of disputes.**

- A. Any person who seeks to complain about the operation of a farm may, notwithstanding pursuing any other available remedy, file a grievance with the Select Board, the Zoning Enforcement Officer, or the Board of Health, 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 that the aggrieved may have. The Zoning Enforcement Officer or Select Board may forward a copy of the grievance to the Agricultural Commission or its agent, 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 6-17-2021ATM by Art. 29]**
- 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 or its agent, 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.

**§ 127-6. Severability.**

If any part of this bylaw is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this bylaw. The Town of Chelmsford hereby declares the provisions of this bylaw to be severable.

{END OF CHAPTER}

## SCHOOL BUILDINGS AND GROUNDS

### Chapter 129

## SCHOOL BUILDINGS AND GROUNDS

**[HISTORY: Adopted by the Annual Town Meeting of the Town of Chelmsford 5-1-1989 by Art. 24. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Alcoholic beverages — See Ch. 8.

Graffiti — See Ch. 57.

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#### **§ 129-1. Certain activities prohibited.**

The use of school grounds for the following activities is prohibited except where the user receives written authorization from the Superintendent or his or her designee:

- A. Operation of any uninsured or unregistered motorized vehicle, including but not limited to automobiles, trucks, motorcycles, minibikes, snowmobiles and all-terrain vehicles.
- B. Racing of motor vehicles, including but not limited to automobiles, trucks, motorcycles, minibikes, snowmobiles and all-terrain vehicles.
- C. Operation of any motor vehicles, including but not limited to automobiles, trucks, motorcycles, minibikes, snowmobiles and all-terrain vehicles, off the driveways and parking areas.
- D. Repair and maintenance of any vehicle.
- E. Horseback riding.
- F. Camping.
- G. Golfing.
- H. Powered model airplane or rocket activities.
- I. Skateboarding.
- J. Any non-school-related use of school grounds while school is in session.

#### **§ 129-2. Violations and penalties. [Added 10-21-1999ATM by Art. 43]**

The penalty for any violation of this chapter shall be a fine of \$25.

{END OF CHAPTER}

**Chapter 130****SCENIC ROADS**

**[HISTORY: Adopted by the Annual Town Meeting of the Town of Chelmsford 4-30-2012 by Art. 30. Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Historic District** — See Ch. 68.

**Trees** — See Ch. 161.

**Streets and sidewalks** — See Ch. 142.

**Zoning** — See Ch. 195.

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**§ 130-1. Purpose.**

This bylaw is adopted pursuant to the Town's Home Rule authority under Section 8 of Article 89 of the Amendments to the Massachusetts Constitution and MGL c. 40, § 15C. The purpose of this bylaw is to protect the scenic quality and character of certain public ways in the Town by regulating the cutting or removal of trees, the tearing down or destruction of stone walls and the construction of any new driveway or private way or the alteration of any existing driveway or private way insofar as such alteration takes place within the right-of-way when such work involves the cutting down of trees or the destruction of stone walls, within designated scenic roads, including any such activities which would not otherwise be subject to Planning Board consent under MGL c. 40, § 15C. This bylaw is intended to ensure that;

- A. Ways will be recommended for designation as a scenic road on stated criteria.
- B. Ways so designated will not be altered without following proper procedures and without adherence to proper considerations; and
- C. Ways so designated will not be altered by the decision of any person, organization, or agency without the consent of the Planning Board.

**§ 130-2. Definitions.**

**CUTTING OR REMOVAL OF TREES** — The removal of one or more trees, regardless of whether or not repair, maintenance, reconstruction or paving work is involved, having a diameter of six inches or greater measured four feet above ground level, and the trimming of any major branches or the cutting of roots within or along the boundary of a right-of-way. It shall not, however, pertain to any plant appearing on the Massachusetts Prohibited Plant List as prepared and maintained by the Massachusetts Department of Agricultural Resources, dated January 1, 2006, or as subsequently revised.

**REPAIR, MAINTENANCE, RECONSTRUCTION, OR PAVING WORK** — Any work within the right-of-way by any person or agency, public or private, and the construction of any new driveway or private way or the alteration of any existing driveway or private way insofar as such alteration takes place within the right-of-way when such work involves the cutting down of trees or the destruction of stone walls.

**ROAD** — A right-of-way or any way used and maintained as a public way.

**SCENIC ROAD** — Any road so designated by the Town under MGL c. 40, § 15C.

**TEARING DOWN OR DESTRUCTION OF STONE WALLS** — The destruction of more than five feet of stone wall, whether or not contiguous, within or along the boundary of a right-of-way regardless of whether

or not repair, maintenance, reconstruction or paving work is involved.

**§ 130-3. Criteria for designation as scenic road.**

The Planning Board, Conservation Commission, or Historical Commission shall, in determining which roads or portions of roads should be recommended as scenic roads, consider the following criteria:

- A. Roads bordered by trees of exceptional quality;
- B. Roads bordered by stone walls;
- C. Roads bordered by any other natural or man-made features of aesthetic or historical value;
- D. Roads for which alteration is being planned or is likely to be planned in the future.

**§ 130-4. Designation as scenic road.**

- A. Adoption of new scenic roads shall be in accordance with the MGL c. 40, § 15C.
- B. The Planning Board shall take the following steps within 30 days after a road(s) has been designated a scenic road:
  - (1) Notify all municipal departments that may take any action with respect to the road(s);
  - (2) Notify the Massachusetts Department of Transportation;
  - (3) Publish in a paper having circulation within the Town notice that the road(s) have been so designated.

**§ 130-5. Scenic road permit.**

- A. Filing. Any person, organization, state, or municipal agency seeking the written consent of the Planning Board regarding the cutting or removal of trees, the tearing down or destruction of stone walls and the construction of any new driveway or private way or the alteration of any existing driveway or private way insofar as such alteration takes place within the right-of-way when such work involves the cutting down of trees or the destruction of stone walls, or portions thereof, shall file a written request with the Planning Board together with the following:
  - (1) Text of a legal notice identifying the location of the proposed action in terms enabling the readers to locate the area with reasonable accuracy and a description of the proposed changes to trees, stone walls, natural surroundings, man-made objects or features;
  - (2) A statement of the purpose(s) for such changes;
  - (3) A list of owners of properties, as certified by the Board of Assessors, located in whole or in part within 300 feet of the proposed action;
  - (4) A fee, as established by the Planning Board, to cover the cost of advertising, notification, and administration;
  - (5) Any further explanatory material useful to adequately inform the Planning Board.
- B. Notice. The Planning Board shall, as required by statute, give notice of its public hearing by advertising twice in two consecutive weeks in a newspaper of general circulation in the area. The

public hearing may coincide with the hearing(s) for proposed construction of homes or other buildings. Copies of the notice of public hearing shall also be sent to the Select Board, Conservation Commission, Historical Commission, Director of Public Works, Tree Warden, and owners of property as appearing on the most recent property listing of the Board of Assessors within 300 feet of the proposed action. **[Amended 6-17-2021ATM by Art. 29]**

- C. Time of notice. Publication of the required notice shall be completed least seven days prior to the date of the public hearing.
- D. Time of hearing. The Planning Board shall hold a public hearing within 30 days of the receiving the hearing request.
- E. Timing of decision. The Planning Board shall make a decision on the request within 21 days of the closing of the public hearing.
- F. Public Shade Tree Law. Whenever possible, the notices and hearings required under this bylaw shall be filed and held in conjunction with those of the Tree Warden acting under MGL c. 87. The consent of the Planning Board to a proposed action shall not be regarded as inferring consent by the Tree Warden, or vice versa. The Planning Board decision shall contain a condition that no work should be done until all applicable provisions of said Chapter 87 (Public Shade Tree Law) have been complied with.

#### **§ 130-6. Considerations.**

The Planning Board's decision on any application for proposed action affecting scenic roads shall be based on consideration of the following:

- A. Preservation of natural resources;
- B. Environmental values;
- C. Scenic and aesthetic characteristics;
- D. Historical values;
- E. Public safety;
- F. Compensatory actions proposed, such as replacement of trees or walls;
- G. Other sound planning considerations.

#### **§ 130-7. Actions exempt from hearing requirements.**

- A. Tree removal. The Tree Warden may take immediate action without hearing to remove trees or branches of any size that in his opinion present a danger to the public. This would include trees or limbs which threaten public utilities such as power lines. Action taken under this section still requires compliance with § 130-5.
- B. Stone wall removal. No hearing is required if in the opinion of the Director of Public Works or designee the removal of up to 15 feet of stone wall for a driveway, or up to six feet for a walkway, is warranted. No hearing is required for temporary removal of a portion of stone wall not to exceed 10 feet in length, or drainage emergency repairs per the Director of Public Works' determination, provided that the wall is restored to its original condition within 60 days of the removal.

§ 130-8

SCENIC ROADS

**§ 130-8. General.**

The Planning Board may adopt more detailed regulations for carrying out the provisions hereunder.

**§ 130-9. Enforcement.**

The Building Inspector or designee shall be the enforcing authority. Without waiving any other enforcement authority, violations of the Scenic Road bylaw may be subject to noncriminal disposition, in accordance with Article II, § 1-2, of the Town Code. In addition, the property owner or whoever is responsible for the violation shall be required within a reasonable amount of time but not less than 60 days to:

- A. Restore any altered stone walls to the condition they were in prior to the alterations; and
- B. Plant new trees of similar species to those which may have been cut or removed; or
- C. Implement other mitigating measures to the satisfaction of the Planning Board.

**§ 130-10. Approved scenic roads. [Amended 10-16-2017 by ATM, Art. 18]**

- A. The following list of roads have been designated as scenic roads pursuant to MGL c. 40, § 15C:

Byam Road from Robin Hill Road to Acton Road  
Garrison Road from Littleton Road to Hunt Road  
Crooked Spring Road from School Street to Meadowbrook Road  
Worthen Street in its entirety  
Crosby Lane in its entirety  
High Street from Acton Road to Locust Road  
Parker Road from Concord Road to Acton Road  
Robin Hill Road in its entirety  
Mill Road from Boston Road to the former Old Billerica Road \* *entire length of Mill Road*  
Main Street from Lovett Lane to the Westford line  
School Street from Graniteville Road to Main Street

- B. A map of the approved scenic roads, dated November 29, 2011, is on file with the Planning Board.<sup>21</sup>

{END OF CHAPTER}

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21. Editor's Note: Said map was also amended 10-16-2017 by ATM, Art. 18.

## CHELMSFORD CODE

**Chapter 131****SEALER OF WEIGHTS AND MEASURES**

**[HISTORY: Adopted by the Annual Town Meeting of the Town of Chelmsford 4-24-2023 by Art. 18. Amendments noted where applicable.]**

**§ 131-1. Fees.**

Sealer of Weights and Measures fees:

<b>Device/Inspection Type</b>	<b>Fee Per Device</b>
Over 10,000 pounds	\$225
5,000 to 10,000 pounds	\$125
1,000 to 5,000 pounds	\$100
100 to 1,000 pounds	\$75
10 to 100 pounds	\$50
10 pounds or less	\$35
Avoirdupois	\$10
Gas pumps	\$40
Oil trucks/per truck	\$50

<b>Device/Inspection Type</b>	<b>Fee Per Inspection</b>
Price verification, 1 to 3 electronic checkouts	\$100
Price verification, 4 to 11 electronic checkouts	\$200
Price verification, 12 or more electronic checkouts	\$300

{END OF CHAPTER}



**Chapter 132****SEWAGE DISPOSAL**

**[HISTORY: Adopted by the Annual Town Meeting of the Town of Chelmsford 5-23-1983 by Arts. 52 and 53. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Health regulations — See Ch. 201.

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**§ 132-1. Maintenance of wastewater and sewage disposal systems.**

To ensure compliance with the requirements of the Board of Health, every owner, agent or occupant of premises on which there is a private wastewater or sewage disposal system shall keep such system in proper operational order and shall provide a reasonable means of access for inspection and pumping. Residential properties shall have such system pumped when necessary. All commercial, industrial and other nonresidential establishments shall have their systems pumped every two years. Such pumping shall be made by private operators duly licensed by the Board of Health. More frequent pumpings may be ordered as deemed necessary by the Board of Health for the proper operation of the subsurface septic system.

**§ 132-2. Connection to public sewer. [Amended 10-19-2020ATM by Art. 19]**

The Board of Health may order any person to connect with the public sewer at any time if it is deemed to be in the best interest of the Town, and if it is informed by the Sewer Division of the Department of Public Works that a connection to the public sewer is reasonably available (which shall be defined as the Town having sufficient available sewer capacity to allow the connection and whether sewer infrastructure is located within 300 feet of the subject property) upon giving 30 days' notice to do so. The Board of Health shall not require a connection to the public sewer for properties which have existing and properly functioning septic systems or private wastewater treatment facilities. If a connection to the public sewer is reasonably available (as defined above), the Board of Health may require a connection for septic systems which are not properly functioning, and which are located within environmentally sensitive areas (as determined by the Board of Health), rather than allowing such improperly functioning septic system to be repaired and replaced.

**§ 132-3. Grinder pumps. [Added 4-28-2014ATM by Art. 25]**

- A. The preferred method of discharge of sewage from an individual building or group of buildings to the Town's sewer system is gravity flow. Grinder pumps shall be approved only after alternatives for gravity service connections have been thoroughly considered and, in the opinion of the Town of Chelmsford Department of Public Works, such alternatives cannot reasonably discharge to the Town's sewer system by gravity flow. Grinder pumps shall only be used in accordance with regulations established by the Town of Chelmsford Department of Public Works. **[Amended 10-19-2015ATM by Art. 7]**
- B. Licensed drain layers shall submit required documentation to the Department of Public Works, apply for a sewer connection permit and install the grinder system. The owner shall be responsible for all

of the costs related to the connection to the Town's sewer system. **[Amended 10-19-2015ATM by Art. 7]**

- C. Grinder pumps remain the private property of the homeowner. Existing single- or two-family residential grinder pumps, installed controls and new single- or two-family DPW-approved residential grinder pumps and installed controls shall be maintained, repaired or replaced by the Town of Chelmsford at the election of the Department of Public Works. The Town of Chelmsford shall not be responsible for the maintenance or repair of grinder pumps or systems servicing commercial properties and residential properties comprised of three or more units. **[Amended 10-19-2015ATM by Art. 7]**
- D. Items that may cause damage to the Town's sewer system or grinder pump system shall not be introduced into any sewer system either directly or through a drain or waste disposal, including: **[Amended 10-19-2015ATM by Art. 7]**
  - (1) Glass, metal or plastic.
  - (2) Diapers, sanitary napkins, tampons or baby wipes.
  - (3) Socks, rags or clothes.
  - (4) Explosives or flammable material.
  - (5) Lubricating oils or grease.
  - (6) Strong chemicals or gasoline.
  - (7) Seafood shells or kitty litter.
- E. The property owner shall be responsible for any and all costs to repair and/or replace a grinder pump as a result of improper disposal of materials into the sewer system.
- F. Allegations of misuse or abuse of any grinder pump system pursuant to Chelmsford Bylaw Chapter 132, § 132-3, Subsection E shall comply with the following procedure. **[Amended 6-21-2021ATM by Art. 32]**
  - (1) The Town of Chelmsford shall send prior written notice of its intent to charge a property owner for the repair or replacement of any grinder pump or grinder pump system pursuant to Chelmsford Bylaw Chapter 132, § 132-3, Subsection E. Such notice shall be sent by certified mail, return receipt requested. Copies of Chelmsford Bylaw Chapter 132, § 132-3 and any repair reports completed by grinder pump repair technicians shall be provided with said notice. Property owners have the right to contest any charges to be assessed by the Town of Chelmsford for the repair or replacement of a grinder pump or grinder pump system. The three-level review process for contesting such charges is as follows:
    - (a) First, within 30 days of the Town's written notice of intent to assess a grinder pump charge, a property owner may file a written request for relief with the Superintendent of the Department of Public Works Sewer Division, together with copies of any documentation or information the property owner wishes to submit in support thereof. The Superintendent shall review the request and supporting materials and respond in writing within 30 days.
    - (b) Secondly, if a property owner remains aggrieved by the Superintendent's response to a request for relief, he or she may appeal that response in writing to the Director of the Department of Public Works within 14 days. Upon receipt of that appeal, the Director shall

schedule a grinder pump hearing to be held within 21 days. The Director shall direct the grinder pump technician who repaired or replaced the property owner's grinder pump or grinder pump system to attend the grinder pump hearing. The property owner may attend the grinder pump hearing (with or without counsel), call witnesses, question any Town witnesses or technicians, and offer any evidence regarding the request for relief. The Director shall issue a decision in writing on the appeal within 30 days after the close of the grinder pump hearing. The attendance of the technician shall be at no cost to the property owner, and if the technician cannot attend due to sickness, vacation, or other comparable reason, the hearing shall be rescheduled at a mutually convenient date for both the Director, the technician, and the property owner. If the technician cannot attend due to death, serious injury, or because he/she is no longer employed by the entity responsible for the grinder pump repair, or other comparable reason, the Director shall direct another technician to attend, who has comparable experience in servicing grinder pumps and can review the prior technician's report and be capable of testifying in the prior technician's stead.

- (c) Thirdly, if a property owner remains aggrieved by the Director's decision on appeal, he or she may submit a further appeal in writing to the Town Manager within 14 days. The Town Manager shall review the proceedings and decision below and, within 30 days, issue a decision in writing. The Town shall not assess any charges for the repair or replacement of a grinder pump or grinder pump system until the conclusion of this three-level process.
- (2) Regardless of whether a property owner pursues the three-level review process described above, he or she also has the right to contest a sewer assessment by filing an application for an abatement on an approved form with the Chelmsford Board of Assessors, pursuant to MGL c. 59, § 59. For deadlines for filing such applications, contact the Chief Assessor.
- (3) Finally, if the Board of Assessors denies an application for an abatement of a sewer assessment, either in whole or in part, an applicant may appeal to the Appellate Tax Board upon the same terms and conditions as a person aggrieved by a refusal of the Assessors to abate a tax. MGL c. 83, § 16E.

{END OF CHAPTER}

**Chapter 137****SOLID WASTE**

**[HISTORY: Adopted by the Annual Town Meeting of the Town of Chelmsford 1952 by Art. 35. Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Hazardous materials** — See Ch. 63.

**Dumpsters** — See Ch. 201, Art. V.

**Littering** — See Ch. 84.

**Residential refuse collection** — See Ch. 201, Art. XI.

**Unsolicited written material** — See Ch. 168.

**Waste automobile oil** — See Ch. 201, Art. XII.

**Unregistered vehicles** — See Ch. 180.

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**§ 137-1. Dumping. [Amended 5-1-1989ATM by Art. 34]**

It shall be unlawful for any person to dump any refuse or other solid waste, as defined in MGL c. 16, § 18, on either public or private property other than an area approved and licensed by the Board of Health or the Department of Environmental Quality Engineering. Violators of this section shall be punishable by a fine of \$300 for each offense and shall be required to remove the illegally dumped refuse and dispose of it in accordance with town, state and federal regulations. Any violator shall be responsible for all costs and expenses incurred in the removal and disposal of said waste. Said penalties shall be cumulative with fines and penalties under any federal or state criminal or civil statute.

**§ 137-2. Recycling. [Added 5-6-1974ATM by Art. 25; amended 5-16-1977ATM by Art. 32; 5-16-1977ATM by Art. 34; 5-21-1979ATM by Art. 48; 10-17-2005ATM by Art. 22; 5-3-2007ATM by Art. 17]**

Restricted material: To insure compliance with the state solid waste facility regulation, 310 CMR 19.017, which prohibits the disposal as trash of certain recyclable materials, it shall be unlawful to have the following materials disposed of in, or collected with the trash. The Town shall direct its contracted waste hauler, which is obligated to comply with all state and local laws, not to collect any such visible recyclable materials with the trash. It shall be unlawful for any person other than the contracted recycling hauler to remove any such recyclable materials placed out for collection for the contracted recycling hauler. Violation of this subsection shall be punishable by a fine of \$25 for the first offense and subsequent offenses \$100.

- A. Glass containers: glass bottles and jars, excluding light bulbs, Pyrex cookware, plate glass, drinking glasses, windows, windshields and ceramics;
- B. Metal containers: aluminum, steel or bimetal beverage and food containers;
- C. Recyclable paper: all paper, cardboard, and paperboard products (e.g., office paper, newspaper, unwaxed cardboard and cereal boxes), excluding tissue paper, paper towel, paper plates, cups and other low-grade paper products which become unusable to paper mills as a result of normal intended use;
- D. Single resin narrow-necked plastic: all narrow-necked plastic containers of any resin type. Narrow-

necked containers are those for which the diameter of the opening is smaller than the diameter of the base (e.g., a soda bottle is narrow-necked but a yogurt container is not);

- E. Whole tires: unshredded motor vehicle tires, meaning tires which have not been cut, sliced or ground into four or more pieces such that the circular form of the tire has been eliminated;
- F. Yard waste and leaves: grass clippings, weeds, garden materials, shrub trimmings and brush one inch or less in diameter, deciduous and coniferous leaves;
- G. Cathode ray tubes (CRTs): any intact, broken, or processed glass tube used to provide the visual display in televisions, computer monitors and certain scientific instruments such as oscilloscopes (310 CMR 19.006);
- H. Lead-acid batteries: lead-acid batteries used in motor vehicles or stationary applications; and
- I. White goods: large appliances, including refrigerators, freezers, dishwashers, clothes washers and dryers, gas or electric ovens and ranges and hot water heaters (310 CMR 19.0006).

**§ 137-3. Municipal waste collection. [Added 6-11-1990ATM by Art. 14]**

- A. All residents, excepting those in structures or complexes with five or more dwelling units, shall use the town-provided solid waste collection services unless the town is provided with proper documentation that solid waste is being disposed of in accordance with all applicable municipal, state and federal laws. It shall be unlawful for any resident to use town-provided solid waste collection services without paying the applicable fee for such services.
- B. Violation of this section shall be punishable by a fine of \$100 for each offense.

**§ 137-4. Town programs. [Added 10-28-1991ATM by Art. 12]**

- A. The Town of Chelmsford shall continue its program of curbside pickup and disposal of solid household waste through the use of a private contractor or contractors.
- B. The Town of Chelmsford shall continue a program that encourages all residents to recycle specified items.
- C. The Town of Chelmsford shall continue its program for the disposal of household hazardous waste and related items.
- D. Funding for the above programs shall be through the appropriation of funds by an Annual or Special Town Meeting and/or the establishment of an annual or other periodic user or subscriber fee or charge.
  - (1) In the event that funding for any or all solid waste programs is derived from a Proposition 21/2 override, then those funds shall be exclusively used for such services for the fiscal year initially authorized for and all future years. All such solid waste programs shall include service to all single-family residences and all multifamily complexes. However, the Town shall not provide solid waste collection services to non-governmental multifamily complexes with four or more rental units. **[Added 4-27-1992STM by Art. 2; amended 10-23-2017ATM by Art. 22]**
    - (a) The Town Manager shall, when presenting a budget to Town Meeting, specifically account for such funds.
    - (b) In the event that Town Meeting shall fail to appropriate all or any part of the funds for

such services, the unused amount of the proposition override shall not be raised nor shall it be used for any other purpose.

- (2) Any and all funds received by the town from the sale of materials collected and/or marketed through any of the solid waste programs shall be used only for the purposes contained in this section. **[Added 4-27-1992STM by Art. 2]**
  - (3) In the event that a user or subscriber fee or charge is established, said funds will be accounted for and maintained in a program-specific enterprise fund or account. Such fund shall be administered by the Town Accountant in accordance with applicable state laws, rules and regulations concerning this type of account.
  - (4) Notwithstanding the above, the Manager may negotiate contractual terms whereby the town's selected contractor manages and administers the annual fee for the collection, transportation and/or disposal or marketing of solid wastes and recyclables, in which event fees may be made directly to the contractor and shall be accounted for under the terms of the contract. **[Added 4-27-1992STM by Art. 3]**
- E. No program shall significantly subsidize another program, except as follows:
- (1) Billing. In the event that an annual user or subscriber fee is established for household solid waste, the incidental cost of billing and payment processing for other programs shall be borne by the household solid waste program, provided that such billing and payment processing is included as part of the household solid waste program's billing and payment schedule.
  - (2) Administration of programs. In the event that an annual user or subscriber fee is established for household solid waste, the cost of administering the various nonhousehold solid waste programs shall be borne by the solid waste program. In the event that the actual or projected costs of administering these other nonhousehold solid waste programs exceeds 20% of the total cost of administration, the town shall either fund such excess amount through an increase in nonhousehold solid waste fees or other appropriation.
  - (3) Equipment. Equipment used to administer, support and manage the solid waste program may be utilized by other departments of the town. Said use shall be under the direction of the Town Manager.
- F. The Board of Health shall regulate and license trash haulers in accordance with the state laws. Said regulations shall provide for an annual or multi-year licensing period that runs concurrently with the annual user fee, if such a fee or charge is made.<sup>22</sup>
- G. The Town Manager shall be responsible for the establishment and overall management of the various programs provided for in this section. The Board of Health shall be responsible for providing overall direction and enforcement of those areas of any of the programs that are assigned to it by state law, local bylaw, the Select Board or the Town Manager. **[Amended 6-17-2021ATM by Art. 29]**
- H. The Town Manager shall, based upon information provided to him or her by the Town Finance Director, Town Accountant and other sources, recommend to the Select Board the amount of the annual or other periodic user fee and/or charge. The Select Board shall establish this fee and/or charge prior to the Annual Spring Town Meeting. The Town Manager shall, when presenting his or her budget to the Annual Spring Town Meeting or any other Town Meeting, include in his or her budget

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22. Editor's Note: See Ch. 201, Health Regulations, Art. XI, Residential Refuse Collection.

a provision allowing for the appropriation of funds from general town funds for any of the programs included in this section. The Town Manager shall implement such changes and adjust any fees and/or other charges accordingly. **[Amended 6-17-2021ATM by Art. 29]**

- I. All user and other fees assessed and/or charged under the terms of this section shall be against the assessed owner of the property. In the event that a property owner shall fail to pay a fee or charge made under this section, the Town Manager shall be authorized to suspend the service that has not been paid for. The Town Manager shall give the property owner 10 days' notice by first class mail of the action to be taken. The Town Manager shall notify the Board of Health of the proposed action.
- J. A property owner may elect to use an alternate trash hauler to comply with the terms of this section and requirements of the Board of Health for the disposal of household trash, provided that the alternate trash hauler has been licensed by the Board of Health and appropriate documentation is provided to the Town Manager within 30 days of the start of the annual or other service period established by the Town Manager. In the event that a property owner fails to provide the appropriate documentation, it shall be presumed that the property owner is participating in the town programs. The Town Manager shall have the authority to establish appropriate rules and regulations for the implementation of this provision and the apportionment of fees and/or charges based upon partial year use. The Town Manager shall be authorized to establish rules and regulations that allow for abatements and payment deferral based on hardship or other similar circumstances.
- K. In the event that a property owner wishes to appeal a decision of the Town Manager, the Select Board, upon written request by the property owner, shall hear such appeal and modify the Town Manager's decision, provided that such decision shall be based upon the terms of this section and applicable laws, rules and regulations as they pertain to the programs included in this section. An affirmative vote of three members of the Select Board shall be required to alter a decision of the Town Manager. **[Amended 6-17-2021ATM by Art. 29]**
- L. In the event that the programs shall be totally funded by general funds available to the town and that no user fee or other charge shall be required in a given fiscal year, the nonfinancial assets of the program shall be given to the town at no cost or charge. Any surplus of funds in the enterprise account shall be returned to the users as a credit against their real estate taxes and/or other fees and betterments by the Town Treasurer-Collector. **[Amended 10-21-1999ATM by Art. 31]**
- M. Interpretation and implementation of the terms this section shall be made by the Town Manager. This section shall go into effect at the earliest date permissible by applicable state law. All funds collected for the current year's programs shall be handled in accordance with the provisions of this section.
- N. The Town Manager shall, within 120 days of the adoption of this section, prepare and make available the rules and regulations implementing the various programs included in this section.

{END OF CHAPTER}

CHELMSFORD CODE

**Chapter 141**

**STORMWATER MANAGEMENT**

**[HISTORY: Adopted by the Town Meeting of the Town of Chelmsford 6-17-2021 by Art. 31. Amendments noted where applicable.]**



ARTICLE I  
**General Provisions**

**§ 141-1. Purpose and objective.**

- A. The purpose of this bylaw is to protect public health, safety, general welfare, and the environment by regulating illicit connections and discharges to the storm drain system, as well as to control the adverse effects of construction site stormwater runoff and post-construction runoff. Stormwater runoff can be a major cause of:
- (1) Impairment of water quality and flow in lakes, ponds, streams, rivers, coastal waters, wetlands, groundwater and drinking water supplies;
  - (2) Contamination of drinking water supplies;
  - (3) Contamination of downstream coastal areas;
  - (4) Alteration or destruction of aquatic and wildlife habitat;
  - (5) Overloading or clogging of municipal stormwater management systems; and
  - (6) Flooding.
- B. The objectives of this bylaw are to:
- (1) Protect water resources;
  - (2) Comply with state and federal statutes and regulations relating to stormwater discharges including total maximum daily load requirements and with the General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems in Massachusetts, issued by the U.S. Environmental Protection Agency and the Massachusetts Department of Environmental Protection ("MS4 Permit");
  - (3) Prevent and reduce pollutants from entering the Chelmsford municipal separate storm sewer system (MS4);
  - (4) Establish minimum construction and post construction stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;
  - (5) Establish provisions for the long-term responsibility for, and maintenance of, structural stormwater control facilities and nonstructural stormwater best management practices to ensure that they continue to function as designed, and pose no threat to public safety; and
  - (6) Recognize Chelmsford's legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.

**§ 141-2. Definitions.**

Unless a different definition is indicated in other sections of this bylaw, the following definitions and provisions shall apply throughout this bylaw:

**ADMINISTRATIVE LAND DISTURBANCE APPROVAL** — Review and approval by the DPW Director of a land disturbance activity that does not require a land disturbance permit because of its size and/or scope.

**ALTERATION OF DRAINAGE CHARACTERISTICS** — Any activity on an area of land that changes the water quality, force, direction, timing or location of runoff flowing from the area. Such changes include: change from distributed runoff to confined or discrete discharge; change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater on the area.

**APPLICANT** — Any person, individual, partnership, association, firm, company, corporation, trust, authority, agency, department, or political subdivision, of the commonwealth or the federal government, to the extent permitted by law, requesting a land disturbance permit or administrative land disturbance approval.

**AS-BUILT DRAWING** — Drawings that completely record and document applicable aspects and features of conditions of a project following construction using stormwater management plans derived from a land disturbance permit.

**BEST MANAGEMENT PRACTICE (BMP)** — Schedules of activities, practices (and prohibitions of practices), structures, vegetation, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

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

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

**CLEARING** — Any activity that removes the vegetative surface cover.

**COMMON PLAN OF DEVELOPMENT** — A "larger common plan of development or sale" is a contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan.

**DISCHARGE OF POLLUTANTS** — The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or commonwealth from any source.

**EROSION** — The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.

**EROSION AND SEDIMENTATION CONTROL PLAN** — A document containing narrative, drawings and details developed by a qualified professional engineer (PE) or a certified professional in erosion and sedimentation control (CPESC), which includes best management practices, or equivalent measures designed to control surface runoff, erosion and sedimentation during pre-construction and construction related land disturbing activities.

**GRADING** — Changing the level or shape of the ground surface.

**GROUNDWATER** — Water beneath the surface of the ground.

**GRUBBING** — The act of clearing land surface by digging up roots and stumps.

**HAZARDOUS MATERIAL** — Any material which, because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health,

safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as "toxic" or "hazardous" under MGL c. 21C and c. 21E, and the regulations at 310 CMR 30.00 and 310 CMR 40.00.

**ILLICIT CONNECTION** — A surface or subsurface drain or conveyance which allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water, and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this bylaw.

**ILLICIT DISCHARGE** — Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in § 142-6B(6). The term does not include a discharge in compliance with an NPDES stormwater discharge permit or resulting from firefighting activities and other activities exempted pursuant to § 142-6B(6).

**IMPERVIOUS SURFACE** — Any surface that prevents or significantly impedes the infiltration of water into the underlying soil. This can include but is not limited to: roads, driveways, parking areas and other areas created using nonporous material; buildings, rooftops, structures, and compacted gravel or soil.

**INFILTRATION** — The act of conveying surface water into the ground to permit groundwater recharge and the reduction of stormwater runoff from a project site.

**LAND DISTURBANCE PERMIT** — A permit issued by the DPW Director pursuant to this bylaw prior to commencement of land disturbing activity.

**LAND DISTURBING ACTIVITY** — Any activity that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material; results in an increased amount of runoff or pollutants; measurably changes the ability of a ground surface to absorb waters; involves clearing, grading, or excavating, including grubbing; or results in an alteration of drainage characteristics.

**LOW-IMPACT DEVELOPMENT or LID** — Site planning and design strategies that use or mimic natural processes that result in the infiltration, evapotranspiration or use of stormwater in order to protect water quality and associated aquatic habitat. LID employs principles such as preserving and recreating natural landscape features, minimizing effective imperviousness to create functional and appealing site drainage that treat stormwater as a resource rather than a waste product. LID practices include but are not limited to bioretention facilities, rain gardens, vegetated rooftops, rain barrels and permeable pavements.

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

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT** — A permit issued by the EPA that authorizes the discharge of pollutants to waters of the United States.

**NEW DEVELOPMENT** — Any construction activities or land alteration on an area that has not previously been developed to include impervious cover.

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

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

**OPERATION AND MAINTENANCE PLAN** — A plan setting up the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to ensure that it continues to function as designed.

**OWNER** — A person with a legal or equitable interest in property.

**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.

**POINT SOURCE** — Any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft from which pollutants are or may be discharged.

**POLLUTANT** — Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, animal waste, oil and other automotive fluids, yard waste, biological materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, construction wastes and residues including discarded building materials, concrete truck wash out, chemicals, litter, and sanitary wastes and industrial, municipal and agricultural waste discharged into water.

**PRE-CONSTRUCTION** — All activity in preparation for construction.

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

**REDEVELOPMENT** — Development, rehabilitation, expansion, demolition, construction, land alteration, or phased projects that disturb the ground surface, including impervious surfaces, on previously developed sites.

**RUNOFF** — Rainfall, snowmelt, or irrigation water flowing over the ground surface.

**SEDIMENT** — Mineral or organic soil material that is transported by wind or water, from its origin to another location; the product of erosion processes.

**SEDIMENTATION** — The process or act of deposition of sediment.

**SITE** — The areal extent of construction activities, including but not limited to the creation of new impervious cover and improvement of existing impervious cover.

**SOIL** — Any earth, sand, rock, gravel, or similar material.

**STORMWATER** — Stormwater runoff, snow melt runoff, and surface runoff and drainage.

**STORMWATER AUTHORITY** — The Town of Chelmsford Department of Public Works Director (DPW) or its authorized agent(s).

**STORMWATER MANAGEMENT PLAN** — A document containing narrative, drawings, details and reporting requirements developed by a qualified professional engineer (PE), which describes structural and nonstructural best management practices designed to control the discharge of pollutants from impervious surfaces and on-site activities as well as the volume and peak rate of surface runoff from a site on an ongoing basis after construction has been completed.

**TOTAL MAXIMUM DAILY LOAD or TMDL** — Section 303(d) of the Clean Water Act authorizes the EPA to assist states, territories and authorized tribes in listing impaired waters and developing total maximum daily loads (TMDLs) for these water bodies. A TMDL establishes the maximum amount of a pollutant that a waterbody can accept and still meet water quality standards for protecting public health and maintaining the designated beneficial uses of those waters for drinking, swimming, recreation, and fishing.

A TMDL includes waste load allocations for point source discharges, Load allocations for nonpoint sources and/or natural background and must include a margin of safety and account for seasonal variations.

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

**WATERS OF THE COMMONWEALTH** — All waters within the jurisdiction of the commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, groundwater, and waters of the United States as defined under the Federal Clean Water Act as hereafter amended.

### **§ 141-3. Authority.**

This bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Massachusetts home rule statute.

### **§ 141-4. Responsibility for administration.**

- A. The DPW Director or its authorized agent shall administer, implement and enforce this bylaw. Any powers granted to or duties imposed upon the DPW Director may be delegated by the DPW Director to its employees or agents.

### **§ 141-5. Waivers.**

- A. The DPW Director, or its authorized agent, may waive strict compliance with any requirement of this bylaw or the rules and regulations promulgated hereunder, where such action is:
  - (1) Allowed by federal, state and local statutes and/or regulations and the MS4 Permit; and
  - (2) In the public interest; and
  - (3) Not inconsistent with the purpose and intent of this bylaw.
- B. Any person seeking a waiver must submit a written waiver request. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of the bylaw does not further the purposes or objectives of this bylaw.
- C. If in the opinion of the DPW Director or its authorized agent, additional time or information is required for review of a waiver request, the DPW Director may request additional time for review. In the event the applicant objects to a continuance, or fails to provide requested information, the waiver request shall be denied.

### **§ 141-6. Regulations.**

- A. The DPW Director shall adopt, and may periodically amend, regulations, rules and/or written guidance relating to the terms, conditions, definitions, enforcement, fees, procedures and administration of this Stormwater Management bylaw.
- B. Stormwater management regulations, rules or guidance shall identify requirements for administrative land disturbance approval and land disturbance permits required by this bylaw and consistent with or more stringent than the relevant requirements of the most recent MS4 Permit.
- C. Stormwater Management regulations may identify one or more categories of projects requiring an administrative land disturbance approval that, because of their size, scope and common features or

characteristics, may be approved the DPW Director. For such projects, the DPW Director will identify minimum stormwater management standards pursuant to this bylaw, compliance with which is required before the project is approved.

#### **§ 141-7. Enforcement.**

The DPW Director or its authorized agent shall enforce this bylaw, and any associated regulations, orders, violation notices, and enforcement orders and may pursue all civil and criminal remedies for such violations.

##### **A. Criminal and civil relief.**

- (1) Any person who violates the provisions of this bylaw, or any associated regulations, permit, or order issued thereunder, may be subject to criminal penalties and prosecution in a court of competent jurisdiction and/or a fine of not more than \$300 per violation. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- (2) The DPW Director may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

##### **B. Orders.**

- (1) The DPW Director or its authorized agent may issue a written order to enforce the provisions of Article II of this bylaw or any associated regulations or permit. Violations include, without limitation, failure to obtain a land disturbance permit or administrative review for an activity subject to this bylaw, or failure to follow the requirements of a land disturbance permit and the related erosion and sedimentation control plan, or operations and maintenance plan or any other authorization issued pursuant to this bylaw or regulations issued hereunder. The written order may require the violator to remediate the noncompliance and/or any adverse impact caused by it, including without limitation:
  - (a) A requirement to cease and desist from the land-disturbing activity until there is compliance with the bylaw and provisions of the land disturbance permit or other authorization;
  - (b) Maintenance, installation or performance of additional erosion and sediment control measures;
  - (c) Monitoring, analyses, and reporting;
  - (d) Remediation of erosion and sedimentation resulting directly or indirectly from the land-disturbing activity;
  - (e) Construction, reconstruction, repair or maintenance of stormwater BMPs or any other aspect of the post-construction stormwater management system;
  - (f) Remediation of adverse impacts resulting from improper construction or operation of the post-construction stormwater management system; and/or
  - (g) A requirement to eliminate discharges, directly or indirectly, into the MS4, a watercourse or into the waters of the commonwealth.
- (2) If the DPW Director or its authorized agent determines that abatement or remediation of

contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further provide that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Chelmsford may, at its option, undertake such work, and expenses thereof shall be charged to the violator.

- (3) Within 30 days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the DPW Director within 30 days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within 30 days following a decision of the DPW Director affirming or reducing the costs, or from a final decision of a court of competent jurisdiction affirming or reducing the costs, the costs shall constitute a municipal charge for purposes of MGL c.40, § 58, and a lien may be imposed on the property for the amount of the unpaid charge, pursuant to MGL c.40, § 58. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in MGL c. 59 § 57 on the 31st day after the costs first become due.
- C. Noncriminal disposition. As an alternative to criminal prosecution or civil action, the Town of Chelmsford may elect to utilize the noncriminal disposition procedure set forth in MGL c. 40, § 21D, in which case the designated agents of the DPW Director shall be the enforcing persons. The penalty for the first violation shall be a warning. The penalty for the second violation shall be \$100. The penalty for the third and subsequent violations shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- D. Entry to perform duties under this bylaw. To the extent permitted by local, state or federal law, or if authorized by the owner or other party in control of the property, the DPW Director, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this bylaw and regulations and may make or cause to be made such examinations, surveys or sampling as the DPW Director deems reasonably necessary.
- E. Appeals. The decisions or orders of the DPW Director shall be final. Further relief shall be appealed to a court of competent jurisdiction pursuant to MGL c. 249, s. 4.<sup>23</sup>
- F. Remedies not exclusive. The remedies listed in this section are not exclusive of any other remedies available under any applicable federal, state or local law.

#### **§ 141-8. Severability.**

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

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23. Editor's Note: So in original.

## ARTICLE II

**Stormwater Management and Land Disturbance****§ 141-9. Applicability.**

- A. These regulations shall apply to all construction activity or land disturbance that individually or as part of a common plan of development resulting in disturbance of land in excess of the thresholds below.
- (1) Administrative land disturbance approval is required for projects disturbing between 20,000 square feet and one acre (43,560 square feet) of land.
  - (2) A land disturbance permit is required for disturbance of one acre (43,560 square feet) or more of land, or for the disturbance of more than 5,000 square feet of land where the proposed use is a land use of higher potential pollutant loads pursuant to the Massachusetts Stormwater Management Standards or the DPW Director determines that an administrative land disturbance approval is not sufficient.
- B. The following activities are exempt from the provisions of Subsection A:
- (1) Maintenance of existing landscaping, gardens or lawn areas associated with a single-family dwelling conducted in such a way as not to cause a nuisance;
  - (2) Construction of fencing that will not substantially alter existing terrain or drainage patterns;
  - (3) Construction of utilities other than drainage (gas, water, electric, telephone, etc.) which will not alter terrain or drainage patterns or result in discharge of sediment or other pollutants to the MS4 or, directly or indirectly, to a watercourse or waters of the commonwealth;
  - (4) Normal maintenance and improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act regulation 310 CMR 10.04.
  - (5) Municipal roadway maintenance including crack sealing, milling, paving and sidewalk construction and repair.
  - (6) Maintenance of a stormwater treatment structure conducted in such a way that does not cause discharge of sediment or other pollutants to the MS4, or, directly or indirectly, to a watercourse or waters of the commonwealth;
- C. Any person that fails to follow the requirements of a land disturbance permit and the related erosion and sedimentation control plan, and operations and maintenance plan, shall be in violation of this bylaw.

**§ 141-10. Review or permit.**

- A. An administrative land disturbance approval or land disturbance permit must be obtained prior to the commencement of any construction activity or land disturbance for which such a review or permit is required. An applicant seeking a review or permit shall file an appropriate application with the DPW Director in a form and containing information as specified in this bylaw and in regulations adopted by the DPW Director.
- B. Each application must be accompanied by the appropriate application fee as established by the DPW Director. Applicants shall pay the application fee before the review process commences. The DPW



Director is authorized to retain a registered professional engineer (PE) or other professional consultant to advise the DPW Director on any or all aspects of the application and/or the project's compliance with conditions of a review or permit. The DPW Director may require the applicant to pay reasonable costs to be incurred by the DPW Director for the employment of outside consultants pursuant to DPW Director regulations as authorized by MGL c. 44, § 53G.

- C. Required submittals to obtain a land disturbance permit shall include (without limitation) an erosion and sedimentation control plan, a stormwater management plan, and an operation and maintenance plan. To obtain a land disturbance permit, the applicant must show that site design, construction site stormwater runoff control and post-construction stormwater management will meet the standards set by the DPW Director in its regulations, rules and/or guidance, which shall be at least as stringent as the relevant requirements of the MS4 Permit and may also address relevant environmental considerations including (without limitation) protection of aquifers and sensitive water bodies, climate resilience, and prevention of flooding.
- D. The land disturbance permit shall include measures to ensure adequate long-term operation and maintenance of stormwater management design features and BMPs. The DPW Director may impose requirements including (without limitation) the following:
- (1) A requirement that funds for future operation and maintenance be set aside in a dedicated fund or escrow account;
  - (2) A permanent permit condition requiring compliance with an operation and maintenance plan;
  - (3) A permanent permit condition requiring that the property owner submit an annual report or certification regarding operation and maintenance;
  - (4) A requirement to record the operation and maintenance plan (or notice thereof);
  - (5) A requirement that a legal instrument be put in place establishing responsibility for operation and maintenance of a stormwater BMP serving more than one lot; and
  - (6) A requirement that an easement be recorded allowing the Town to access a stormwater BMP to remedy any operational failure or maintenance problem.

#### **§ 141-11. Consent to entry onto property.**

By signing the permit application, an applicant consents to the entry of members of the DPW Director or its authorized agents in or on the site while the application is under review to verify the information in the application, and at any time after a review or permit is issued to inspect for compliance with review or permit conditions.

#### **§ 141-12. Inspection and site supervision.**

The DPW Director or its designated agent shall make inspections to verify and document compliance with the administrative land disturbance approval or land disturbance permit.

#### **§ 141-13. Surety.**

The DPW Director may require the applicant to post before the start of land disturbance or construction activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the bond shall be approved by the DPW Director and be in an amount deemed sufficient by the DPW Director to ensure that the work will be completed in accordance with the permit. If the project is phased, the DPW

Director may release part of the bond as each phase is completed in compliance with the permit. If the permittee defaults on any obligations imposed by the land disturbance permit, the DPW Director may (after notification of the permittee) inform the holder of the security (and the municipal treasurer if the treasurer is not holding the funds) of the default, in which event the Town shall be entitled to the security funds.

**§ 141-14. Final reports.**

Upon completion of the work and no later than one year after completion of construction, the holder of a land disturbance permit shall submit a report (including certified as-built construction plans) from a professional engineer (PE), surveyor, or certified professional in erosion and sedimentation control (CPESC), certifying that the project has been completed in accordance with the conditions of the land disturbance permit. The as-built drawings must depict all on site controls, both structural and nonstructural, designed to manage the stormwater associated with the completed site (post construction stormwater management). Any discrepancies with the approved permit plans shall be noted in the cover letter submitting the report and as-built plans.



CHELMSFORD CODE

**Chapter 142**

**STREETS AND SIDEWALKS**

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

**GENERAL REFERENCES**

**Littering — See Ch. 84.**

**Vehicles and traffic — See Ch. 174.**

**Newsracks — See Ch. 96.**

**Subdivision of land — See Ch. 202.**

**Peddling, soliciting and sales — See Ch. 116.**

**Traffic rules and orders — See Ch. 203.**

ARTICLE I  
**General Provisions**  
**[Adopted 1926 ATM]**

**§ 142-1. Throwing snowballs or other missiles; obstructing public ways.**

No person shall play ball or throw snowballs, balls, stones or other missiles within or upon any streets or public ways of the Town or play at any games obstructing free passage of the same.

**§ 142-2. Pasturing of animals on public ways.**

No person shall pasture any cattle, horses or other animals, either with or without a keeper, upon any street or way in the Town.

**§ 142-3. Use of public ways under repair.**

No person shall ride, drive or cause to be driven any horse or vehicle over that part of the street which is being mended, repaired or paved if a watchperson or signs prohibiting passage are placed.

**§ 142-4. Coasting. [Amended 1973ATM by Art. 57; 6-17-2021ATM by Art. 29]**

No person shall coast or slide on any sled or other vehicle in or about any public street or way in the Town unless the Select Board shall have designated such street or way as one upon which coasting or sliding is permitted.

**§ 142-5. Riding animals on public ways. [Added 1954ATM by Art. 90]**

All persons shall be prohibited from riding or driving any animal on a public way in the Town of Chelmsford after sunset or before sunrise without having some suitable reflectors or lights attached to rider, driver, animal or vehicle which are clearly visible to a motorist or pedestrian for a distance of at least 100 feet. The penalty shall be a fine not to exceed \$20.

**§ 142-6. Discharge of water to public ways or sidewalks; discharges to storm sewer system. [Added 1973ATM by Art. 54; amended 4-26-2010ATM by Art. 13]**

A. No water shall be intentionally discharged onto or into any public ways or sidewalks of the Town so as to cause a dangerous and/or defective condition.

B. Discharges to the municipal storm sewer system.

(1) Definitions.

AUTHORIZED ENFORCEMENT AGENCY — The Chelmsford Department of Public Works (DPW), its employees, or agents designated to enforce this bylaw.

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

CLEAN WATER ACT — The Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) as may be amended from time to time.

DISCHARGE OF POLLUTANTS — The addition, from any source of any pollutant, or combination of pollutants, into the municipal storm sewer system or into the waters of the

United States or commonwealth.

**GROUNDWATER** — Water beneath the surface of the ground.

**ILLCIT CONNECTION** — A surface or subsurface drain or conveyance which allows an illicit discharge into the municipal storm sewer system, including without limitation, sewage, process wastewater, or wash water, and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this bylaw.

**ILLCIT DISCHARGE** — Direct or indirect discharge to the municipal storm sewer system that is not composed entirely of stormwater, except as exempted in Subsection B(6). The term does not include a discharge in compliance with an NPDES Stormwater Discharge Permit or a Surface Water Discharge Permit, or resulting from fire-fighting activities exempted pursuant to Subsection B(6)(a) of this bylaw.

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

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM or MUNICIPAL STORM SEWER SYSTEM** — A conveyance or system of conveyances (including roads with drainage system, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

- (a) 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 tribal organization of a designated and approved management agency under Section 208 of the CWA that discharges to waters of the United States;
- (b) Designated or used for collecting or conveying stormwater;
- (c) Which is not a combined sewer;
- (d) Which is not part of a publicly owned treatment works (POTW) as defined at 40 CFR 122.2.

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

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

**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.

**POLLUTANT** — Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works or waters of the

commonwealth. Pollutants shall include without limitation:

- (a) Paints, varnishes, and solvents;
- (b) Oil and other automotive fluids;
- (c) Nonhazardous liquid and solid wastes and yard wastes;
- (d) Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, accumulations, and floatables;
- (e) Pesticides, herbicides, and fertilizers;
- (f) Hazardous materials and wastes, sewage, fecal coliform and pathogens;
- (g) Dissolved and particulate metals;
- (h) Animal wastes;
- (i) Rock, sand, salt, and soils with the exception of winter salting and sanding;
- (j) Construction wastes and residues; and
- (k) Noxious or offensive matter of any kind.

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

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

**STORMWATER** — Rainfall runoff, snowmelt runoff, and surface water runoff and drainage. Runoff shall mean rainfall or snowmelt water flowing over the ground surface.

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

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

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

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

**WASTEWATER** — Any sanitary waste, sludge, or septic tank or cesspool overflow and process wastewater.

- (2) Applicability. This bylaw shall apply to flows entering the municipal separate storm sewer system.
- (3) Responsibility for administration. The DPW shall administer, implement and enforce this bylaw. Any powers granted to or duties imposed upon the DPW may be delegated in writing by the DPW to employees or agents of the DPW.
- (4) Regulations. The DPW may promulgate rules and regulations to effectuate the purposes of this bylaw. Failure by the DPW to promulgate such rules and regulations shall not have the effect of suspending or invalidating this bylaw.
- (5) Prohibited activities.
  - (a) Illicit discharges. No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal separate storm sewer system (MS4), into a stormwater BMP on public or private property, into a watercourse or into the waters of the commonwealth.
  - (b) Illicit connections. No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm sewer system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.
  - (c) Obstruction of municipal storm sewer system. No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm sewer system without prior written approval from the DPW.
- (6) Exemptions.
  - (a) Discharge or flow resulting from fire-fighting activities.
  - (b) The following nonstormwater discharges or flows are exempt from the prohibition of non-stormwaters provided that the source is not a significant contributor of a pollutant to the municipal storm sewer system.
    - [1] Waterline flushing.
    - [2] Flow from potable water sources.
    - [3] Springs.
    - [4] Natural flow from riparian habitats and wetlands.
    - [5] Diverted stream flow.
    - [6] Rising groundwater.
    - [7] Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater.
    - [8] Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air-conditioning condensation.
    - [9] Discharge from landscape irrigation or lawn watering.



- [10] Water from individual residential car washing.
  - [11] Discharge from dechlorinated swimming pool water (less than one ppm chlorine) provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance or erosion.
  - [12] Discharge from street sweeping.
  - [13] Dye testing, provided verbal notification is given to the DPW prior to the time of the test.
  - [14] Non-stormwater discharge permitted under a NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Massachusetts Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations. **[Amended 10-18-2010ATM by Art. 20]**
  - [15] Discharge for which advanced written approval is received from the DPW as necessary to protect public health, safety, and welfare, or the environment.
- (7) Emergency suspension of storm sewer system access. The DPW may suspend municipal storm sewer system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to public health, safety, or welfare, or the environment. In the event any person fails to comply with an emergency suspension order, the DPW may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.
  - (8) Notification of spills. Notwithstanding other requirements of local law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of or suspects a release of materials at that facility or operation resulting in, or which may result in discharge of pollutants to the municipal storm sewer system or waters of the commonwealth, the person shall take all necessary steps to ensure containment and cleanup of the release. In the event of a release of nonhazardous materials, the reporting person shall notify the DPW no later than the next business day. The reporting person shall provide to the DPW written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator shall retain on site a written record of the discharge and the actions taken to prevent its recurrence. Such reports shall be retained for at least three years from the date of the spill.
  - (9) Enforcement. The DPW, or its authorized agent, shall enforce this bylaw, resultant regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.
    - (a) Civil relief. If a person violates the provisions of this bylaw, regulation, permit, notice, or order issued thereunder, the DPW may seek injunctive relief in a court of competent jurisdiction restraining the person from activities that would create further violations or compelling the person to perform abatement or remediation of the violation.
    - (b) Orders.

[1] The DPW or its authorized agent may issue a written order to enforce the provisions

of this bylaw or the regulations hereunder, at the expense of the violator or property owner which may include:

- [a] Elimination of illicit connections or discharges to the MS4;
  - [b] Performance of monitoring, analyses, and reporting;
  - [c] That unlawful discharges, practices, or operations shall cease and desist; and
  - [d] Remediation of contamination in connection therewith.
- [2] If the enforcing agent determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that should the violator or property owner fail to abate or perform remediation within the specified deadlines, the Town of Chelmsford may, at its option, undertake such work, and expenses thereof shall be charged to the violator.
- [3] Within 30 days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town of Chelmsford, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the DPW within 30 days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within 30 days following a decision of the DPW affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in MGL c. 59, § 57 after the 31st day at which the costs first become due.
- (c) Criminal penalty. Any person who violates any provision of this bylaw, regulation, order or permit issued hereunder, shall be punished by a fine of not more than \$300 per offense. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- (d) Noncriminal disposition. As an alternative to criminal prosecution or civil action, the Town of Chelmsford may elect to utilize the noncriminal disposition procedure set forth in MGL c. 40, § 21D, in which case the DPW or authorized agent of the Town shall be the enforcing person. The penalty for the first violation shall be a written warning and/or a fine of \$100. The penalty for the second violation shall be a fine of \$200. The penalty for the third and subsequent violations shall be a fine of \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- (e) Entry to perform duties under this bylaw. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the DPW, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this bylaw and regulations and may make or cause to be made such examinations, surveys or sampling as the DPW deems reasonably necessary.
- (f) Appeals. The decisions or orders of the DPW shall be final. Further relief shall be to a court of competent jurisdiction.

- (g) Remedies not exclusive. The remedies listed in this bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.
- (10) Transitional provisions. Residential property owners shall have 180 days from the effective date of this bylaw to comply with its provisions.

## ARTICLE II

**Street Openings****[Adopted 5-9-1974ATM by Art. 34]****§ 142-7. Permit required; applicability. [Amended 6-8-1976ATM by Art. 43; 10-15-1990ATM by Art. 18]**

- A. No person or individual, corporation or other type of entity shall open a trench in, or disturb the surface of, any existing street or way, or any proposed way or street in a proposed subdivision, for any of the following purposes, but not restricted thereto, until a permit therefor is granted by the Select Board or its designee and the Director of the Department of Public Works, except in an emergency as determined by the Director of the Department of Public Works: installing, repairing and/or maintaining any duct, conduit, sleeve, pipe or other structure to be used for distribution or transmission of wastewater or sewage, surface water or stormwater, potable water, a brook or watercourse, gas, oil or any of its by-products in any form, electrical power or service or telephone or telegraph service. **[Amended 6-17-2021ATM by Art. 29]**
- B. This article does not apply to the placing or replacing of poles.

**§ 142-8. Issuance of permit; time frame for completion of work.**

- A. Permits will be issued only in accordance with this article to the owners of the utility or the utility company by whom the utility installation is wanted, or others as described in § 142-7, or to their duly authorized agents only. No permit shall be issued to the contractor.
- B. All work covered by the permit shall commence within one month of the date of the issuance of the permit and be pursued diligently until completed. Time of completion shall be stated in the permit, and upon expiration of said time a new permit will have to be issued under conditions and terms as required by this article and its amendments in effect at the renewal date. For the purpose of this article, a cable television company or corporation shall be considered a utility.

**§ 142-9. Conformance with other rules and regulations.**

The owners of the utility and/or utility company or others, as described in § 142-7, shall exercise this permit subject to all the rules and regulations made from time to time by the State Department of Public Safety, Department of Public Works and Department of Public Utilities, and nothing in this permit shall be construed as authorizing any installations or maintenance thereof except in strict conformity with all federal, state and municipal laws, ordinances, articles and regulations.

**§ 142-10. Permit to be kept on site. [Amended 6-8-1976ATM by Art. 43; 10-15-1990ATM by Art. 18; 6-17-2021ATM by Art. 29]**

No work shall begin or continue in any street or way unless the permit, legally and duly issued, or a duplicate copy, is on the site of the work and shall be shown to any police officer or other authorized municipal person upon request thereby. A legally and duly issued permit shall be a permit which states the name and business address of the applicant, a specific date of issuance, a specific date of completion and a general description of the work to be done that is signed by not fewer than three Select Board members, or their designee, and the Director of the Department of Public Works.

**§ 142-11. Application for permit; approval of application and work. [Amended 6-8-1976ATM by**

**Art. 43; 10-15-1990ATM by Art. 18; 6-17-2021ATM by Art. 29]**

All applications for any permit shall be in quadruplicate. All applications and work to be done under any permit issued must meet with the approval of the Select Board majority or its designee and the Director of the Department of Public Works, or a unanimous vote of the Select Board.

**§ 142-12. Relocation of existing pipe or other structures.**

If, during the progress of the work to be done under the initial permit, any existing duct, conduit, sleeve, pipe or other structure used for the distribution or transmission of wastewater or sewage, surface water or stormwater, potable water, a brook or watercourse, gas, oil or any of its by-products in any form, electrical power or service or telephone or telegraph service is encountered and must be relocated and/or modified in any way so that the work will function properly and as intended upon completion, a separate legally and duly issued permit must be obtained for each proposed relocation and/or modification.

**§ 142-13. Application fee. [Amended 10-21-1999ATM by Art. 44; 4-29-2002ATM by Art. 13; 10-17-2005ATM by Art. 21; 6-17-2021ATM by Art. 29]**

All applications for any permit shall be accompanied by a certified check payable to the Town of Chelmsford in the amount of \$5 per linear foot, with a minimum fee set by the Select Board pursuant to MGL c. 40, § 22F. If work is to be done on more than one way or street, a separate legally and duly issued permit must be obtained for each way or street. Permits required under § 142-12 and the first renewal of any legally and duly issued permit are not subject to the application fee as provided for in this section. Failure of work to commence within one month of the date of issuance automatically voids the permit and will result in forfeiture of 10% of the application fee to the Town of Chelmsford.

**§ 142-14. Outstanding permits. [Amended 10-15-1990ATM by Art. 18; 6-17-2021ATM by Art. 29]**

All outstanding permits issued by the Select Board, Director of the Department of Public Works or any other Town governmental board, committee or body which has and/or had authorization to issue permits to open a trench in, or to disturb the surface of, any existing and/or proposed way or street that have not been exercised, either in whole or in part, prior to this article being adopted by the Town and filed with the Secretary of State and/or Attorney General of the Commonwealth of Massachusetts to be effective shall be void.

**§ 142-15. Performance of work. [Added 5-1-1989ATM by Art. 21; amended 10-15-1990ATM by Art. 18]**

All construction work performed under this article shall be performed by a contractor licensed by the Director of the Department of Public Works.

**§ 142-16. Insurance; performance bond. [Added 5-1-1989ATM by Art. 21; amended 10-15-1990ATM by Art. 18]**

- A. Contractors licensed to perform work under this article shall carry comprehensive public liability with minimum limits as follows:
  - (1) Bodily injuries: \$100,000 per person and \$300,000 aggregate.
  - (2) Property damage: \$100,000 per occurrence.
- B. The contractor shall deliver a current certificate of insurance to the Director of the Department of

Public Works before performing work under this article and shall post a performance bond of \$5,000 with the Town securing work to be performed within the public right-of-way. On projects where the Director of the Department of Public Works determines that the cost of construction is \$10,000 or greater, the contractor shall post a performance bond payable to the Town securing 100% of the construction cost. The bond shall be released upon approval of the work by the Director of the Department of Public Works.

**§ 142-17. Revocation of contractor's license. [Added 5-1-1989ATM by Art. 21; amended 10-15-1990ATM by Art. 18]**

Violations of the provisions of this article shall result in the revocation, by the Director of the Department of Public Works, of the contractor's license to perform work in the Town of Chelmsford.

**§ 142-18. Plans to accompany application. [Amended 5-1-1989ATM by Art. 21; 10-15-1990ATM by Art. 18]**

- A. Unless specifically waived by the Director of the Department of Public Works, all applications for a permit under this article shall be accompanied with the following:
- (1) A separate sheet, 24 inches by 36 inches in size, for each street or way to be included within the proposed work, said sheet to show a plan view, with North point, and profile of the street or way at a horizontal scale of 40 feet to an inch and a vertical scale of four feet to an inch, with existing center-line grades in fine solid lines, with existing elevations, derived from actual field survey, at fifty-foot stations shown by figures.
    - (a) Said plan view of the proposed work and installation shall show the location of the work in reference to existing utilities and structures, i.e., sanitary sewers, storm sewers and drains, water mains, any locatable utility installations and their appurtenances, easements, property and street right-of-way lines, bounds and/or property markers and other necessary physical features, such as curblines, sidewalks, water gates, gas gates, utility poles and trees of diameter greater than six inches.
    - (b) Said profile of the proposed work and installation shall show the location of the work in reference to existing utilities and structures, i.e., sanitary sewers, storm sewers and drains, water mains, any locatable utility installations and their appurtenances.
    - (c) Both plan view and profile shall extend at least 250 feet beyond the end limits of the proposed work and installation. All information pertaining to existing lines and utilities shall be shown in fine lines, and all proposed work shall be shown in heavy lines. The plan view shall be on the upper portion of the sheet and the profile on the lower portion of the sheet.
  - (2) Offset lines and/or ties from locatable or relocatable points must be shown, e.g., bound points and property lines.
  - (3) Cross sections and/or details of proposed conduits, structures, etc., must be shown. Details and dimensions of outsized structures, including manholes and vaults, must be shown. All outsized structures, including manholes and vaults, must be shown. All cross sections and details must be drawn to scale on a separate sheet, 24 inches by 36 inches in size.
  - (4) All vertical control shall be based on the Town of Chelmsford datum.

- (5) All horizontal control shall be based on the Town of Chelmsford coordinate system.
  - (6) Construction standards as hereinafter detailed must be visually detailed and/or inscribed on the plan view and/or profile.
  - (7) Each sheet shall have a border of 1 1/2 inches on the left and a border of 1/2 inch along the remainder of the sheet. The lower right-hand corner of each sheet shall contain the name of the street or way, the type of proposed utility installation, the name and address of the applicant for the permit, the date, scale, name and address of the surveyor, the name and address of the engineer and the sheet number in a block four inches by six inches in size. If the proposed work and installation involves more than 5,000 linear feet of street or way, a title sheet, 24 inches by 36 inches in size, shall be the first sheet of the plans, with a locus plan of the work at a scale of 2,000 feet to an inch.
  - (8) Names of all abutters to the street or way proposed for the work shall be shown on each plan as they appear in the most recent tax list.
  - (9) Each sheet of the plans shall be signed and stamped by a registered land surveyor and registered professional engineer with seals of registration for the Commonwealth of Massachusetts. Those portions of the plan representing engineering design shall be prepared by a registered professional engineer.
  - (10) A letter-size locus plan of the work, at a scale of 2,000 feet to an inch, in quadruplicate, must accompany the permit application.
  - (11) Eight prints, dark line on white background, of sheets shall be submitted with the application.
- B. If deemed necessary by the Select Board, the Department of Public Works Director or their duly authorized representative, a baseline or center line of construction for both vertical and horizontal control of the work will be established prior to construction by a registered land surveyor. This baseline or center line will be shown on final construction plans. No variation from the baseline or center line of construction shall be made unless written permission is given by the Select Board, Director of the Department of Public Works or their duly authorized representative. All plans are to be submitted to the Select Board and the Director of the Department of Public Works for review prior to issuance of the permit. **[Amended 6-17-2021ATM by Art. 29]**
- C. When the proposed location of installation is in the sidewalk area or in any other location where accuracy of bounds, bound points, property markers, etc., may be jeopardized, the Director of the Department of Public Works shall require that a registered land surveyor locate and properly reference tie all such points prior to construction. Upon completion of all construction, the bounds, bound points, property markers, etc., will then be checked against the reference ties, and any variation of said points will be duly recorded by the registered land surveyor. A legible copy of all field notes and ties recorded by the registered land surveyor, upon completion of his or her work, shall become the property of the Department of Public Works Director. Original field notes are to be available for examination by duly authorized representatives of the Director of the Department of Public Works upon request.

**§ 142-19. Town to be notified prior to start of construction. [Amended 10-15-1990ATM by Art. 18]**

Written notification of one week prior to commencing construction will be required. This notification shall be sent to the Department of Public Works Director and Police Chief and shall contain the name, address and telephone number of the contractor or party who or which is to perform the work as well as the

telephone number for emergency calls which may arise when the contractor is absent from the work site.

**§ 142-20. Work hours. [Amended 10-15-1990ATM by Art. 18]**

- A. All work to be performed hereunder shall be done between the hours of 7:30 a.m. and 4:30 p.m.; provided, however, that different work hours for the performance of such work may be agreed upon or required for good cause by the Director of the Department of Public Works, and said requirement shall be stated in writing at the time of issuance of the permit.
- B. No Saturday, Sunday or legal holiday work will be allowed unless an emergency or accommodation situation arises and permission is given by the Director of the Department of Public Works. Said permission may be granted orally; however, a written confirmation that such permission has been granted shall be made by the Director of the Department of Public Works as soon as practicable thereafter.
- C. In regard to Saturday, Sunday or legal holiday work, the Director of the Department of Public Works shall determine whether an emergency or accommodation situation exists. "Emergency" is an unforeseen combination of circumstances which calls for an immediate action, a pressing necessity.
- D. No excavation, trenching, etc., shall be allowed in any street or way, accepted or unaccepted, or proposed way or street between November 15 and April 1, except in the case of an emergency, which shall be determined by the Director of the Department of Public Works.

**§ 142-21. Photographs.**

- A. If required by the Select Board and/or the Director of the Department of Public Works, a sufficient number of photographs must be taken prior to the excavation to serve as reference to ensure restoration of designated areas to their former condition. **[Amended 10-15-1990ATM by Art. 18; 6-17-2021ATM by Art. 29]**
- B. The required photographs within the work limits shall be taken prior to the commencement of the work and shall be of a size, type, quality and number as determined by the Director of the Department of Public Works. **[Amended 10-15-1990ATM by Art. 18]**
- C. All expenses incurred by the requirements of this section shall be borne by the permittee.

**§ 142-22. Inspector.**

- A. A full-time inspector shall be assigned to each trench opening or excavation site in any way or street, accepted or unaccepted, or proposed way or street by the Director of the Department of Public Works. **[Amended 10-15-1990ATM by Art. 18]**
- B. The inspector's duties will be as determined by the Director of the Department of Public Works. In general, the inspector will be the Town's agent who will ensure compliance of the work with the provisions of this article. **[Amended 10-15-1990ATM by Art. 18]**
- C. The inspector will file daily written reports with the Director of the Department of Public Works and a copy to the Select Board and will be responsible for reporting any violations of the provisions of this article in said daily written reports. **[Amended 10-15-1990ATM by Art. 18; 6-17-2021ATM by Art. 29]**
- D. Safety and the use of proper construction methods and/or techniques are not the responsibility of the inspector.



- E. Failure of the Director of the Department of Public Works to assign an inspector to a trench opening or excavation site in any way or street, accepted or unaccepted, or proposed way or street does not in any way relieve the permittee of the responsibility of full compliance with the provisions of this article. **[Amended 10-15-1990ATM by Art. 18]**
- F. The fee and incidental expenses of the inspector shall be borne by the permittee and payable, by check or money order, to the Town of Chelmsford. These fees and those included in § 142-13 shall be deposited in a revolving fund maintained for the purpose of paying the expenses relative to inspections. **[Amended 4-28-1997ATM by Art. 15]**
- G. The permittee is solely responsible for notifying the Director of the Department of Public Works, in writing, of any scheduled testing of any work under permit at least 48 continuous hours prior to the time of the scheduled test. Failure of the permittee to do so could result, if deemed necessary by the Director of the Department of Public Works, in the retesting of those portions of the work for which the testing was unobserved by the Director of the Department of Public Works or his or her duly authorized representative. **[Amended 10-15-1990ATM by Art. 18]**

**§ 142-23. Maintenance of traffic flow; safety precautions.**

- A. The permittee shall so prosecute his or her work that traffic, both pedestrian and vehicular, will be maintained over and through the work with a maximum of safety and convenience.
- B. Every opening made in a street or way, accepted or unaccepted, or proposed street or way shall be enclosed with sufficient barriers, sufficiently lighted at night and posted with necessary signs, to guard the public against all accidents from the beginning to the completion of the work. The responsibility of maintaining sufficient safety features around the work is solely that of the permittee and in no way the responsibility of the Town of Chelmsford.
- C. Uniformed police shall be present to maintain two-way traffic in the roadway during the hours work is being done under the permit.
  - (1) At least one week prior to commencing construction, the permittee shall give written notification with all pertinent information regarding the work to the Police Chief so that the Police Chief may prepare a roster of police officers assigned to the excavation site.
  - (2) If, in his or her opinion and judgment, the Police Chief deems necessary the assigning of more than one police officer to the excavation site, the Police Chief may do so in the best interest of public safety.
  - (3) The permittee may request a waiver of the requirement for uniformed police at the excavation site in writing to the Police Chief, who must evaluate the request for a waiver and reply to the permittee, in writing, within five days of receipt of the request for waiver.
    - (a) If the Police Chief grants the waiver and at some future time during the progress of the work the Police Chief visits the excavation site and deems necessary that a uniformed police officer be present to maintain two-way traffic in the roadway, the Police Chief may immediately rescind, suspend or modify this waiver.
    - (b) A request for a waiver does not relieve the permittee in any way of the responsibility of having uniformed police at the excavation site until said waiver has been granted, in writing, by the Police Chief.
  - (4) The fee and incidental expenses of the uniformed police assigned to the excavation site shall be

borne by the permittee and payable, by check or money order, to the Town of Chelmsford.

- D. Pavement, fire hydrants, catch basins and sidewalk areas shall be kept reasonably clear of excavated materials. Pedestrians must be able to walk by, or a boardwalk must be constructed over any excavation authorized hereunder.
- E. Proper access at all times should be maintained to both public and private property, with all driveways and streets to be opened at night. In cases where necessity deems a roadway trench be kept open overnight, express written permission from the Director of the Department of Public Works and written notification to the Police and Fire Departments will be necessary. **[Amended 10-15-1990ATM by Art. 18]**
- F. Any snow or ice condition that may occur during construction must be properly controlled through sanding and/or salting or plowing to points 250 feet beyond either end limit of the construction area, unless otherwise decided by the Director of the Department of Public Works or his or her duly authorized representative. **[Amended 10-15-1990ATM by Art. 18]**
- G. The permittee shall be responsible for instructing all employees in the principles of first aid and safety and in the specific operational procedure necessary to prevent accidents. The permittee shall provide for the availability and maintenance of adequate first aid supplies at the excavation site at all times.

**§ 142-24. Construction standards.**

- A. Grassed areas. Any grassed areas, where entered and disturbed, either public or private, shall be properly compacted as hereinafter described and loamed to a minimum depth of six inches, seeded and fertilized. The permittee is responsible for maintaining these areas until a satisfactory crop of grass has been grown to the satisfaction of the Director of the Department of Public Works. The seed shall be sown only between the periods from April 15 to June 1 and from August 15 to October 15 or as directed by the Director of the Department of Public Works. **[Amended 10-15-1990ATM by Art. 18]**
- B. Trees. The issuance of the permit does not authorize the trimming or removal of any trees or shrubs. The necessary removal of any tree shall be under the supervision of the Tree Warden or his or her duly authorized representative. Hand digging shall be required around the roots of trees and shrubs.
- C. Fences. Any fence requiring removal for satisfactory prosecution of the work shall be removed and then reset by the permittee. Any materials removed shall be utilized in the fence reset, except that, where necessary, new posts and bases shall be furnished by the permittee. Any materials damaged or lost during or subsequent to the removal shall be replaced by the permittee at his or her own expense. All new materials required shall be equal in quality and design to the materials in the present fence.
- D. Saw cutting of pavement. Where required by the Director of the Department of Public Works, the roadway and/or sidewalk pavement are to be saw cut to neat, true lines as directed. All newly resurfaced roadways shall be saw cut. Such cutting shall be to a depth below the pavement as to prevent tearing of the surface when the excavation is begun. **[Amended 10-15-1990ATM by Art. 18]**
- E. Maximum trench opening. The excavation is to be kept as neat as existing conditions permit, and not more than 150 feet shall be left open at any time during working hours and not more than 20 feet of trench shall be left open overnight without written permission of the Director of the Department of Public Works. **[Amended 10-15-1990ATM by Art. 18]**

- F. Roadway dust control. The permittee shall furnish and apply calcium chloride as a dust-control material at all locations where directed by the Director of the Department of Public Works or his or her duly authorized representative. Calcium chloride shall be uniformly applied either by hand methods or by approved spreading devices at a rate of no more than one pound per square yard. **[Amended 10-15-1990ATM by Art. 18]**
- G. Unsuitable material. All excavated material is to be discarded unless otherwise suitable, and if not suitable shall be replaced with the following material acceptable to the Department of Public Works Director or equivalent, namely, one-half-inch to three-fourths-inch crushed processed gravel for the bed and also above the item placed in the excavation for a depth not less than six inches below the bottommost portion of the item and for a depth not less than six inches above the topmost portion of the item to be standard. Any excavated materials not required or not suitable for backfilling shall be removed from the site of the work and disposed of by the permittee. The permittee will not be allowed to store excess excavated material on the public highways. All excavated material which is not to be used in a reasonable amount of time, as determined by the Director of the Department of Public Works or his or her duly authorized representative, for backfilling shall be hauled away and stored until such time as the material is to be used for backfilling by the permittee. **[Amended 10-15-1990ATM by Art. 18]**
- H. Disposal of discarded materials. The permittee shall be held responsible for all discarded materials, rubbish and debris that are dumped or fall within the limits of the project. Such materials shall be removed from the site and disposed of at the permittee's expense.
- I. Backfill material. The backfill material used shall be of a quality satisfactory to the Director of the Department of Public Works and shall be free from large or frozen lumps, wood, organic matter and other extraneous material and shall contain no boulders or broken ledge greater than 1/2 cubic yard. All stones, boulders or broken ledge greater than one cubic foot in size must be a minimum of 1 1/2 feet above the topmost portion of the item placed in the excavation and a minimum of two feet below the pavement surface grade. **[Amended 10-15-1990ATM by Art. 18]**
- J. Sheeting. Lumber sheeting shall be installed where trench excavation would cause failure to adjacent pavement. Unless otherwise directed, sheeting shall be driven to such depth as to be two feet below normal excavation. The sheeting shall be securely and satisfactorily braced to withstand all pressures to which it may be subjected and shall be sufficiently tight to prevent any flow of water or material into the work space. Upon completion of the work, sheeting shall be driven down or cut off 18 inches below pavement grade and left in place, or as directed by the Director of the Department of Public Works. No sheeting may be left so as to create a possible hazard to the safety of the public, obstruction to flow of water or a hindrance to traffic of any kind. **[Amended 10-15-1990ATM by Art. 18]**
- K. Compaction of backfill. Backfill shall be uniformly distributed in successive layers, each layer being thoroughly compacted before the succeeding layer is placed. The entire width of the trench shall be mechanically or hand tamped in six-inch lifts a minimum of two feet above the utility installation and mechanically tamped the remainder of the fill in lift depths not greater than two feet.
- L. Grading, rolling and finishing. **[Amended 5-1-1989ATM by Art. 21]**
- (1) The word "approved" as appearing in this section shall mean conforming to Massachusetts Department of Public Works specifications, as amended.
  - (2) The trench in the street must be filled and temporarily resurfaced on the same day it is opened unless otherwise directed by the Director of the Department of Public Works or his or her

designee. The trench shall be backfilled with approved excavated materials to within 19 1/2 inches of the top. Eighteen inches shall consist of approved gravel (State Department of Public Works Specification M1.03.0 Type B), and the remaining 1 1/2 inches shall consist of temporary bituminous surface. Road surface shall be precut to avoid damaging surfaces surrounding the trench. **[Amended 10-15-1990ATM by Art. 18]**

- (a) If the temporary road surface is not placed the first day, then as soon as directed by the Director of the Department of Public Works the gravel subbase shall be excavated to the required grade in order to place 1 1/2 inches of temporary bituminous surface. The temporary pavement shall be placed and raked to a uniform surface and rolled to the required thickness and to a grade that will match the existing bituminous road surface. The permittee shall maintain the temporary surfacing and shall promptly fill with similar material any depressions and holes that may occur so as to keep the surfacing in a safe and satisfactory condition for traffic.
- (b) Temporary resurfacing must be a minimum of 1 1/2 inches compacted thickness and may consist of either so-called "cold patch" or plant-mixed hot asphalt aggregate, all as produced in accordance with the standard specifications of the Massachusetts Department of Public Works. The bituminous concrete surface shall not be placed until the expiration of 30 days from the date of completion of the temporary surface. The temporary subbase shall be excavated to the grade required by this article prior to placement of the bituminous concrete surface.

M. Restoration of permanent paving. **[Amended 5-1-1989ATM by Art. 21; 10-15-1990ATM by Art. 18; 4-28-1997ATM by Art. 17]**

- (1) The permittee shall remove and dispose of, in accordance with acceptable construction standards, all excavated material before proceeding with the remainder of the work and shall thoroughly compact the surface of the subbase. Any broken or irregular edges of existing pavements shall be cut away in straight lines as directed by the Director of the Department of Public Works, leaving a solid vertical face.
- (2) The bituminous concrete base and top shall be laid and rolled in two courses. The binder (base course) shall not be less than the existing roadway base course and shall not be less than two inches in depth, and the top course shall be 1 1/2 inches in depth. The minimum total thickness of both courses, measured after rolling, shall be 3 1/2 inches.
- (3) The base course of the permanent pavement shall be placed and carefully raked to minimum surface and thoroughly rolled to the required thickness. Before placing the base course of the permanent pavement, the edge of the original bituminous surfacing shall receive an application of approved asphalt emulsion so that the new pavement material may be properly bonded to the existing pavement. All seams shall be sealed with an approved emulsified liquid asphalt and sand. The top course of the permanent paving shall be placed to a grade that will match the existing bituminous surface after rolling. The permanent paving shall not overlap the existing pavement and shall not have to be applied with a mechanical spreader unless otherwise directed by the Director of the Department of Public Works.
- (4) The permittee shall furnish, place, grade and compact bituminous concrete pavement of Class I, Type I-1, as shown and specified in the latest Massachusetts State Department of Public Works Standard Specifications for Highways and Bridges. Unless otherwise approved by the Director of the Department of Public Works, a full width overlay will be required if greater than 50% of the roadway pavement width will be disturbed. In these cases, pavement overlay shall consist of

1 1/2 inches of dense-graded bituminous concrete and shall extend at least 30 feet beyond the street opening. Excavations shall be made in open cut. Tunneling will be allowed by special permission of the Director of the Department of Public Works. All excavations and trenches shall be braced and sheathed when necessary as required by Occupational Safety and Health Administration (OSHA) specifications.

- (5) Street openings shall be maintained by the permittee for a period of five years from the date of completion, except for work that requires a curb-to-curb overlay, in which case the maintenance period shall be two years. No additional permits shall be issued to the permittee or contractor who has any outstanding unmaintained street openings. After new full-width permanent surface is laid, street surface openings shall be prohibited for a period of five years for all roads, except in cases where a variance is obtained pursuant to § 142-30 of this article. The list of streets as classified by the Director of the Department of Public Works shall be kept on file at the Department of Public Works. **[Amended 10-21-1999ATM by Art. 44; 4-24-2017ATM by Art. 25]**
- (6) All permanent pavement markings, including but not limited to crosswalks, traffic and center lines, that are obliterated or damaged during construction shall be repainted by or under the direction of the Director of the Department of Public Works at the expense of the permittee.
- N. Reinforced concrete pavement replacement. If reinforced concrete pavement is encountered during the work, it shall be replaced in accordance with acceptable construction standards or as directed by the Director of the Department of Public Works.
- O. Bituminous concrete sidewalk replacement. When work is performed in sidewalk areas, the entire sidewalk shall be replaced as follows. The entire trench area shall be thoroughly compacted to a point nine inches below the finish grade. Six inches of compacted processed gravel subbase shall then be placed. Forms shall be installed where deemed necessary to assist in securing proper alignment and adequate compaction of the base and surface courses. Bituminous concrete Type I shall then be laid in two courses to a depth of three inches, each course consisting of 1 1/2 inches. The walk shall have a pitch of 3/16 of an inch per foot of width to provide for proper drainage toward the gutter. The surface of each course shall be rolled with a self-propelled tandem roller weighing not less than 1 1/2 tons and not more than five tons. In places not accessible to a power roller, compaction shall be obtained by means of hand tampers weighing not less than 50 pounds and having a tamping face not exceeding 100 square inches.
- P. Concrete sidewalk replacement. Cement concrete sidewalks shall be repaired by making a new concrete block or blocks through the trench passes. Preformed expansion joints, when deemed necessary, will be installed against buildings, walls, steps, foundations or existing concrete blocks. The new cement concrete square shall consist of entrained Class A (3500 pounds per square inch) mix. All concrete must be cured by covering all material in accordance with acceptable construction standards or as directed by the Director of the Department of Public Works. All walks shall be laid over a minimum of 12 inches of well-compacted gravel. Cement concrete shall be treated with silicone or linseed oil sealer for salt damage prevention. **[Amended 5-1-1989ATM by Art. 21; 10-15-1990ATM by Art. 18]**
- Q. Bituminous concrete berm. The construction requirements, dimensions and cross section of bituminous concrete berm shall be as directed by the Director of the Department of Public Works. **[Amended 10-15-1990ATM by Art. 18]**
- R. Curb. When work is performed adjacent to granite curbing, extreme care is to be taken to ensure that curbing remains undisturbed both horizontally and vertically. Curbing which has been chipped,

marred or cracked during construction shall be replaced when so directed by the Director of the Department of Public Works. Disturbed curbing shall be reset to line and grade by accepted methods. The permittee shall be held responsible for any settlement or horizontal movement of granite curb due to washout or trench settlement after completion of construction for a period of time acceptable to the Director of the Department of Public Works. **[Amended 10-15-1990ATM by Art. 18]**

- S. Time limit for sidewalk paving. Sidewalk repaving and/or replacement must follow as close behind installation as conditions permit. Excessive linear footage of sidewalk left unrepaired will not be allowed.
- T. Disturbing existing utilities. The permittee shall exercise special care during excavation to avoid injury to underground structures, such as water or gas mains, pipes, conduits, manholes, catch basins, etc. When necessary the permittee shall cooperate with representatives of public service companies in order to avoid damage to their structures by furnishing and erecting suitable supports, props, shoring and other means of protection. The permittee shall be liable for repair of any damage to such utilities, either public or private, to the satisfaction of the Director of the Department of Public Works. The construction and/or reconstruction of any Town of Chelmsford catch basin or manhole shall be in accordance with the Town of Chelmsford standards. **[Amended 10-15-1990ATM by Art. 18]**

#### **§ 142-25. Damage to private property.**

Liability for damage to private property abutting the construction and caused by the permittee, his or her agents or servants shall be borne solely by the permittee performing the work.

#### **§ 142-26. Indemnification of Town. [Amended 10-15-1990ATM by Art. 18; 6-17-2021ATM by Art. 29]**

The issuance of the permit to an individual, utility or the utility company and/or its agents or others as described in § 142-7 of this article shall constitute an agreement with the Town of Chelmsford whereby the utility or the utility company and/or its agents, an individual or others shall indemnify and save harmless the Town of Chelmsford against all claims for damages for injuries to persons or property and against all costs, suits, expenses and losses occasioned by or arising from entering streets and/or ways and from occupancy and use of said streets and/or ways and further agree to pay all costs and damages which may be recovered against the Town of Chelmsford by reason of entering said streets and/or ways and on account of occupancy of said premises and shall further be required to provide insurance therefor, unless otherwise determined by the Select Board and Director of the Department of Public Works.

#### **§ 142-27. Enforcement; order to comply.**

- A. If an examination of the work reveals that it does not comply with or violates the provisions of this article, the Select Board and/or the Director of the Department of Public Works shall notify and order, in writing, the permittee and its duly authorized supervisor at the work site, who shall take such appropriate measures as necessary to assure compliance with the provisions of this article. **[Amended 10-15-1990ATM by Art. 18; 6-17-2021ATM by Art. 29]**
- B. If a further examination of the work, not less than 48 continuous hours after the issuance of orders, reveals that no positive action and/or appropriate measures are or were being taken by the permittee or its duly authorized supervisor at the work site to assure compliance with the provisions of this article, the Select Board and/or the Director of the Department of Public Works shall rescind, suspend or modify, through the imposition of conditions, the permit. **[Amended 10-15-1990ATM by Art. 18; 6-17-2021ATM by Art. 29]**

- C. Every order issued to enforce the provisions of this article shall be in writing and shall be served on the permittee and its duly authorized supervisor at the work site and/or all persons responsible for the violation of this article.
- D. Every order issued to enforce the provisions of this article shall include a statement of the violation or defect, shall allot a reasonable time for any action necessary to effect compliance and may suggest action which, if taken, will effect compliance with this article.

**§ 142-28. Hearings. [Amended 10-15-1990ATM by Art. 18]**

- A. Any person to whom any order to comply with the provisions of this article is issued or any person who objects to the issuance of a variance may request a hearing before the Select Board and the Department of Public Works Director or their designee by filing a written application within 10 days of the receipt of the order or within 10 days of the filing of the notice of the granting of the variance. **[Amended 6-17-2021ATM by Art. 29]**
- B. Upon receipt of written application, the Select Board, the Director of the Department of Public Works or their designee shall establish a time and place for such hearing and inform the petitioner thereof in writing. The hearing shall be commenced not later than 30 days after the day on which the application was filed. **[Amended 6-17-2021ATM by Art. 29]**
- C. At the hearing the petitioner shall be given the opportunity to be heard and to show why the order or variance should be modified or withdrawn.
- D. After the hearing, the Select Board and the Director of the Department of Public Works shall sustain, modify or withdraw the order or variance and may rescind, suspend or modify, through the imposition of conditions, the permit and shall inform the petitioner, in writing, of the decision. **[Amended 6-17-2021ATM by Art. 29]**
- E. Every notice, order and other record prepared by the Select Board and/or the Director of the Department of Public Works or their designee in connection with the hearing shall be entered as a matter of public record in the office of the Director of the Department of Public Works. **[Amended 6-17-2021ATM by Art. 29]**

**§ 142-29. Violations and penalties.**

- A. Any permittee who violates or refuses to comply with any provision of this article and orders hereunder promulgated shall forfeit and pay to the use of the Town of Chelmsford a sum of \$50 for each violation.
- B. Each day, or portion of a day, that any violation is allowed to continue shall constitute a separate violation of this article.

**§ 142-30. Variances.**

- A. The Select Board and the Director of the Department of Public Works, upon their own initiative or upon application to them by any individual, utility or others as described in § 142-7, after due notice and public hearing, may vary any provision of this article as they deem necessary with respect to any particular case when, in their opinion, the enforcement thereof would do manifest injustice or cause undue hardship, provided that their decision shall not conflict with the spirit of this article. The burden of proof of the manifest injustice or causes of hardship shall be the responsibility of the applicant. **[Amended 10-15-1990ATM by Art. 18; 6-17-2021ATM by Art. 29]**

- B. Variances, when granted, shall be in writing and shall be effective for not more than one year. Notice of the grant of a variance shall be filed with the Town Clerk within 10 days after the variance has been granted.

**§ 142-31. Severability.**

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

**§ 142-32. Municipal departments. [Amended 5-1-1989ATM by Art. 21]**

Municipal departments of the Town of Chelmsford shall be exempt from the fees associated with this article but shall conform to all other aspects of this article.

**§ 142-33. Inconsistent bylaws repealed.**

All provisions of the bylaws of the Town of Chelmsford, as amended, which are not inconsistent with this article shall continue in effect, but all provisions of said bylaws inconsistent are repealed.



ARTICLE III

**Snow and Ice**

**[Adopted 5-6-1991ATM by Art. 24]**

**§ 142-34. Deposit on public ways and fire hydrants.**

No person shall pile, push, throw, shovel or by any other method or means cause snow to be deposited or placed on any public roadway or sidewalk or fire hydrant or other similar device in the Town so as to impede, obstruct or interrupt or otherwise adversely affect the unrestricted flow of traffic, or conceal any fire hydrant or other similar device, or the safe travel of any pedestrian on such roadway or sidewalk.

**§ 142-35. Violations and penalties. [Amended 4-25-2016ATM by Art. 19]**

Violations of this article shall be punishable by a fine of not more than \$50 for each violation. Each instance or new day shall constitute a separate violation.

ARTICLE IV

**Utility Poles**

**[Adopted 10-20-1997ATM by Art. 11]**

**§ 142-36. Location restricted; exception. [Amended 6-17-2021ATM by Art. 29]**

No public or private organization or utility company shall place or allow more than one pole to exist within five feet of another utility pole on any public or private way within the Town of Chelmsford without the permission of the Select Board, which may contain conditions. There is excepted from this provision the temporary emergency replacement of a damaged utility pole.

**§ 142-37. (Reserved)<sup>24</sup>**

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**24. Editor's Note: Former § 142-37, Order to remove, relocate or alter, was repealed 10-19-2023ATM by Art. 24.**

## ARTICLE V

**Vision Obstructions****[Added 10-16-2000ATM by Art. 13]****§ 142-38. Use restrictions.**

In order to provide an unobstructed sight distance for motorists, nothing shall be erected, placed, planted or allowed to grow in such a manner as to block vision of operators of motor vehicles between a height of 2 1/2 and 10 feet above grades of the intersecting streets in the area bounded by the street lines of said real estate and a line joining points 20 feet along said street lines from the point of intersection of said street lines. Buildings existing as of the effective date of this article are exempt from this article.

**§ 142-39. Violations and penalties. [Amended 6-17-2021ATM by Art. 29]**

Any person who violates this provision and after being notified by the Select Board in writing of such violation, permits such violation to continue for 30 days after receipt of said notice, may be punished by a fine of \$50. For the purposes of this section, each successive day during which any violations committed or continued shall be deemed a separate offense. Violations of this provision may be enforced through noncriminal disposition, in accordance with MGL c. 40, § 21D, and Article II, § 1-2 of the Chelmsford General By-Laws. The Select Board or its designee, Chelmsford police officers and the Director of the Department of Public Works may enforce this section.

{END OF CHAPTER}



SUSTAINABLE COMMUNITY

**Chapter 144**

SUSTAINABLE COMMUNITY

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

## ARTICLE I

**Plastic Bag Reduction In Business Establishments**  
**[Adopted 10-24-2019ATM by Art. 32]****§ 144-1. Purpose and intent.**

This bylaw is enacted for the purpose of eliminating the use of thin film single-use plastic bags by all business establishments in the Town of Chelmsford. The production and use of thin film single-use plastic checkout bags have significant impacts on the environment, including, but not limited to: contributing to pollution of the land environment; creating a burden to solid waste collection and recycling facilities; clogging storm drainage systems; causing the potential death of marine animals through ingestion and entanglement; and requiring the use of millions of barrels of crude oil nationally for their manufacture.

**§ 144-2. Definitions.**

**BUSINESS ESTABLISHMENT** — The following business uses as defined in § 195-108 of the Chelmsford Zoning Bylaw: a retail store; supermarket and general department store; restaurant; and take-out retail.

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

**THIN FILM SINGLE-USE PLASTIC BAGS** — Bags, typically with plastic handles, with a thickness of 4.0 mils or less and which are intended for single-use transport of purchased products purchased at a business establishment.

**§ 144-3. Use regulations.**

- A. Effective July 1, 2020, thin film single-use plastic bags shall not be distributed, provided, or sold for checkout or other purposes at any business establishment within the Town of Chelmsford.
- B. Thin film plastic bags used to contain dry cleaning, newspapers, produce, meat, bulk foods and other similar merchandise, typically without handles, are permissible.
- C. Customers are encouraged to bring their own reusable bags to stores. Business establishments are encouraged to provide reusable thick plastic, paper, fabric, or other types of bags.

**§ 144-4. Enforcement; violations and penalties.**

- A. The Inspector of Buildings or his designee is hereby designated and authorized as the officer charged with the enforcement of this bylaw.
- B. Penalty for violation. Whoever violates any provision of this bylaw shall be punished by a fine not exceeding \$100 for each offense. Nothing contained herein shall preclude the Building Inspector from seeking equitable relief to enforce this bylaw.
- C. Noncriminal disposition. In addition to the procedure for enforcement as described above, the provisions of this bylaw may also be enforced by noncriminal disposition, as provided in MGL c. 40, § 21D. The penalty for such violation shall be \$25 for the first offense, \$50 for the second offense, and \$100 for the third and each subsequent offense.

**§ 144-5. (Reserved)**

## ARTICLE II

**Polystyrene in Food Establishments**  
**[Adopted 10-15-2018ATM by Art. 22]****§ 144-5.1. Purpose and intent.**

This bylaw is enacted for the purpose of eliminating the distribution of polystyrene containers by all food establishments in the Town of Chelmsford:

- A. Whereas, the Town has a duty to protect the health of its citizens and the natural environment.
- B. Whereas, Styrofoam is the brand name for polystyrene (Dow Chemical Co.), a synthetic plastic that biodegrades so slowly (hundreds of years) it is considered to be nonbiodegradable.
- C. Whereas, expanded polystyrene containers are not part of the Town's regular recycling program.
- D. Whereas, styrene, the key ingredient in expanded polystyrene, was recently added to the National Toxicology Program's list of carcinogens (United States Department of Health and Human Services). Styrene can leach from polystyrene containers into food and beverages. It has become a major component of plastic debris in the ocean and animals often mistake it for food. It is also hazardous to marine life, transferring toxic chemicals to the food chain.
- E. Whereas, several communities in Massachusetts have banned disposable food service containers, including Amherst, Brookline, Great Barrington, Nantucket, Somerville, South Hadley, Williamstown as well as major cities such as Los Angeles, Chicago, Miami Beach, New York City, Portland, and Seattle. This bylaw is patterned after similar ones enacted in Massachusetts.
- F. Whereas, appropriate alternative products are readily available from vendors and are already being used by many of our businesses.

**§ 144-5.2. Effective date.**

This bylaw shall take effect July 1, 2019.

**§ 144-5.3. Definitions.**

**DISPOSABLE FOOD SERVICE CONTAINER** — Shall mean single-use disposable products for serving or transporting prepared, ready-to-consume food or beverages, including, without limitation, take-out foods and/or leftovers from partially consumed meals prepared by a food establishment. This includes, but is not limited to plates, cups, bowls, trays, hinged or lidded containers, cups, lids, straws, and utensils. It does not include single-use disposable packaging for unprepared foods.

**EXPANDED POLYSTYRENE** — Shall mean blown polystyrene (polystyrene that has been expanded or blown using a gaseous blowing agent into a solid foam) and expanded and extruded forms, which are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques, including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, form molding, and extrusion blow molding (extruded foam polystyrene). The term also includes clear or solid polystyrene, which is also known as "oriented," or referenced in this bylaw as "rigid polystyrene." Rigid polystyrene is generally used to make clear clamshell containers, lids, and cutlery.

**FINEABLE OFFENSE** — Is defined as a knowing common use of item or items restricted by the bylaw. Common use refers to item or items that are part of one's normal or daily use.

**FOOD ESTABLISHMENT** — Shall mean any operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption, as further defined in 105 CMR 590.002. Any establishment requiring a permit to operate in accordance with the State Food Code, 105 CMR 590.000, et seq., shall be considered a food establishment for purposes of this bylaw.

**PREPARED FOOD** — Shall mean any food or beverage prepared on the food establishment's premises using any cooking or food preparation technique. Prepared food does not include any raw uncooked meat, fish or eggs unless provided for consumption without further food preparation. Prepared food may be eaten on or off the food establishment's premises.

**TOWN FACILITY** — Shall mean any building, structure, land, or recreational area owned, leased, or operated by the Town of Chelmsford.

#### **§ 144-5.4. Prohibitions.**

- A. Except as provided herein, food establishments are prohibited from dispensing prepared food and drink in disposable food service containers made from expanded polystyrene. All food establishments are strongly encouraged to use reusable food service containers and cutlery, and when possible biodegradable, compostable alternatives. Compostable materials must meet ASTM (American Society of the International Association for Testing and Materials) Standards for compostability.
- B. Town departments or agencies shall not purchase or use disposable food service containers made from expanded polystyrene while in the performance of official Town duties.
- C. Individuals, contractors, vendors, or other entities shall not use disposable food service containers made from expanded polystyrene in a Town facility or Town property while acting or performing under a Town contract, lease, license, permit, grant, or other agreement.
- D. Nothing in this section shall prohibit someone from purchasing or using said containers for personal use, nor shall it prohibit any individual from purchasing or using said containers for a private function or when serving food on property owned by that person.

#### **§ 144-5.5. Variance.**

- A. Any food establishment or Town Department and its agencies may make a written application to the Board of Health for a variance from this bylaw.
- B. Every application for a variance is subject to a public hearing. Notice of the hearing shall be posted as part of a public notice of the Board of Health meeting at which the application will be considered. Notice shall be posted no less than 48 hours before the meeting.
- C. By vote of a majority of its full authorized membership, the Board of Health may grant a variance in cases where a suitable biodegradable, compostable, reusable or recyclable alternative does not exist for a specific usage, and/or enforcement of this bylaw would cause undue hardship to that food establishment or Town Department.
- D. A variance may be granted for up to six months and extended for like periods upon submission of a renewal application.
- E. Any variance granted by the Board shall be in writing.
- F. A copy of the variance granted under this section shall be available for public inspection on the premises for which it is issued.



**§ 144-5.6. Enforcement, penalties and fines.**

- A. Enforcement. The Board of Health or its designee shall have primary responsibility for enforcement of this bylaw. This shall include: establishment of regulations or administrative procedures, inspections, and issuance of citations for violations.
- B. Penalty for violation.
  - (1) Whoever violates any provision of this bylaw shall be punished as follows: first offense: \$100; second offense: \$200; third and subsequent offenses: \$300 for each offense.
  - (2) Offenses occurring within two years of the date of first reported offense will be considered as subsequent offenses. Each day or portion thereof shall constitute a separate offense. Nothing contained herein shall preclude the Board of Health from seeking equitable relief to enforce this bylaw.
- C. Noncriminal disposition. In addition to the procedure for enforcement as described above, the provisions of this bylaw may also be enforced by noncriminal disposition, as provided in Massachusetts General Laws, Chapter 40, § 21D. The penalty for such violation shall be \$25 for the first offense, \$50 for the second offense, and \$100 for the third and each subsequent offense.
- D. Hearing to suspend or revoke license or permit. The Board of Health, after a hearing conducted in accordance with the procedures set forth in 105 CMR 590.14 and CMR 590.15, may suspend or revoke the license or permit for any establishment failing to comply with this bylaw.

**§ 144-6. (Reserved)**

## ARTICLE III

**Retail Use of Single-Use Plastic Beverage Straws and Stirrers****[Adopted 10-15-2018ATM by Art. 23]****§ 144-6.1. Purpose and intent.**

This bylaw is enacted for the purpose of eliminating the distribution of single-use plastic straws and stirrers by all business establishments in the Town of Chelmsford, except upon request. The production and use of single-use plastic straws and stirrers have significant impacts on the environment, including, but not limited to: contributing to pollution of the land environment; creating a burden to solid waste collection and recycling facilities; entering storm drains that lead to waterways leading to the ocean causing the potential death of marine animals through ingestion; and requiring the use of millions of barrels of crude oil nationally for their manufacture.

**§ 144-6.2. Definitions.**

**BUSINESS ESTABLISHMENT** — Means the following businesses as defined in § 195-108 of the Chelmsford Zoning Bylaw: a retail store; supermarket; general department store; restaurant; and take-out restaurant, serving liquid, slurry, frozen, semi-frozen, or other forms of beverages to the public for consumption, not including nursing homes or nursing care or assisted living facilities or doctors or nurses or emergency medical technicians providing straws to patients.

**TOWN-SPONSORED EVENT** — Means any event organized or sponsored by the Town of Chelmsford or any department of the Town of Chelmsford.

**PLASTIC BEVERAGE STRAW** — Means a tube made predominantly of plastic derived from either petroleum or a biologically based polymer, such as corn or other plant sources, for transferring a beverage from its container to the mouth of the drinker. "Plastic beverage straw" includes compostable and biodegradable petroleum or biologically based polymer straws, but does not include straws that are made from nonplastic materials, such as, but not limited to, paper, sugar cane, and bamboo.

**PLASTIC STIRRER** — Means a device that is used to mix beverages, intended for only one-time use, and made predominantly of plastic derived from either petroleum or a biologically based polymer, such as corn or other plant source. "Plastic stirrer" includes compostable and biodegradable petroleum or biologically based polymer stirrers, but does not include stirrers that are made from nonplastic materials, such as, but not limited to, paper, sugar cane, and bamboo.

**§ 144-6.3. Use regulations.**

- A. Effective July 1, 2019, plastic beverage straws and plastic stirrers shall not be used or dispensed or sold except upon request in conjunction with the serving by business establishments or at any town-sponsored event of liquid, slurry, frozen, semi-frozen, or other forms of beverages to the public for consumption.
- B. Nothing in this bylaw prohibits the sale of plastic straws by supermarkets and general department stores in packages not in conjunction with the service of liquid, slurry, frozen, semi-frozen, or other forms of beverages to the public for consumption.
- C. Nothing in this bylaw prohibits customers from using their own straws of any material for personal use in any business establishment.

**§ 144-6.4. Enforcement.**

- A. The Board of Health or its designee is hereby designated and authorized as the officer charged with the enforcement of this bylaw.
- B. Penalty for violation.
  - (1) Whoever violates any provision of this bylaw shall be punished as follows: first offense: \$100; second offense: \$200; third and subsequent offenses: \$300 for each offense.
  - (2) Offenses occurring within two years of the date of first reported offense will be considered as subsequent offenses. Each day or portion thereof shall constitute a separate offense. Nothing contained herein shall preclude the Board of Health from seeking equitable relief to enforce this bylaw.
- C. Noncriminal disposition. In addition to the procedure for enforcement as described above, the provisions of this bylaw may also be enforced by noncriminal disposition, as provided in Massachusetts General Laws, Chapter 40, § 21D. The penalty for such violation shall be \$25 for the first offense, \$50 for the second offense, and \$100 for the third and each subsequent offense.
- D. Hearing to suspend or revoke food service permit. The Board of Health, after a hearing conducted in accordance with the procedures set forth in 105 CMR 590.14 and 590.15, may suspend or revoke the food service permit for any business establishment failing to comply with this bylaw.



## SWIMMING POOLS

### Chapter 146

## SWIMMING POOLS

**[HISTORY: Adopted by the Annual Town Meeting of the Town of Chelmsford 10-22-1998 by Art. 27. Amendments noted where applicable.]**

**§ 146-1. Enclosure required.**

Any constructed pool located above or below the ground, whether portable or fixed, used or capable of being used for swimming, wading or bathing purposes and having a depth of at least two feet and a capacity of at least 200 cubic feet in volume shall be subject to the following requirements:

- A. Every outdoor swimming pool shall be completely surrounded at all times, whether or not filled with water, by a fence or wall not less than four feet in height, unless the pool wall itself is four feet or more above grade at all points.
- B. Every such fence, wall, door or gate shall be constructed so as not to have openings, holes or gaps larger than two inches in a horizontal dimension and four inches in a vertical dimension or shall be otherwise designed, constructed and maintained to be nonclimbable by small children. The wire sizes for all fences and doors fabricated with wire mesh shall not be less than No. 16 wire. The gates or door openings in the fence shall be at least of the same height and construction as the fence or wall and shall be equipped with a self-closing and self-latching device located at least four feet above the underlying ground and inaccessible from the outside to small children. Every gate or door shall be kept locked at all times when the swimming pool enclosure is not in use.
- C. All ladders used to gain access to aboveground pools shall be removed or placed so as not to allow entrance by small children when the pool is not in use. No permanent ladders may be attached to aboveground pools on the outside unless the pool is surrounded by a separate fence as specified above.

{END OF CHAPTER}

**Chapter 154****TOWN MEETING**

**[HISTORY: Adopted by the Annual Town Meeting of the Town of Chelmsford 10-15-1990 by Art. 19. Amendments noted where applicable.]**

**§ 154-1. Annual election.**

The annual election shall be held on the first Tuesday of April.

**§ 154-1.5. Posting of Town Meeting warrants. [Added 10-19-2023ATM by Art. 22]**

The Town Constable shall notify and warn the inhabitants of the Town of Chelmsford by posted attested copies of Town Meeting warrants at each of the Town's designated polling locations, police station, fire stations, libraries, and Town offices.

**§ 154-2. Warrant articles.**

- A. Submission deadline. All warrant articles shall be in the hands of the Select Board no later than the first Monday in January for the Town Meeting to be held in April and the first Monday in August for the Town Meeting to be held in October. The Select Board may waive this requirement if deemed in the best interest of the Town or as required by statute. **[Amended 6-17-2021ATM by Art. 29]**
- B. Publication. The warrant article shall be included in the Finance Committee report which shall be made available to Town Meeting members and the public not less than one week before either Town Meeting. The warrant articles for any Special Town Meeting shall be made available to the Town Meeting members not less than 14 days before the Special Town Meeting. **[Amended 10-21-1999ATM by Art. 24]**

**§ 154-3. Time of meetings.**

- A. The Representative Annual Town Meetings shall be held on the last Monday in April and on the third Monday in October in each year. Adjourned sessions of any Town Meeting shall be scheduled for only a Monday or Thursday, unless an alternate date is approved by a two-thirds vote of the Town Meeting representatives present and voting. The April Town Meeting is expected to be primarily concerned with the determination of matters involving the expenditure and commitment of Town funds, including but not limited to the adoption of an annual operating budget for all Town agencies. **[Amended 10-21-1991ATM by Art. 3]**
- B. The Select Board may, in any manner provided under the laws of the commonwealth or the Charter, for the purpose of acting upon the legislative business of the Town in an orderly and expeditious manner, call the Representative Town Meeting into session at other times by the issuance of warrants therefor. **[Amended 6-17-2021ATM by Art. 29]**

**§ 154-4. Motions.**

- A. Order of precedence of motions. At all sessions of Town Meeting, the following motions shall be recognized and shall have precedence in the order in which they are arranged in this subsection:

<b>Order of Precedence of Motions</b> <b>[Amended 10-24-1996 ATM by Arts. 27, 28 and 29]</b>					
<b>Motion</b>	<b>Privileged</b>	<b>Debatable</b>	<b>Can be Amended</b>	<b>Can be Reconsidered</b>	<b>Vote Required</b>
Adjourn (unqualified)	Yes	No	No	No	Majority
Adjourn at or to a certain time	Yes	Yes	Yes	No	Majority
Recess	Yes	No	Yes	No	Majority
Question of privilege, order of information	Yes*	No	No	No	None
Take out of order	Yes	Yes	No	No	Majority
Reconsider	Yes	Yes	No	Yes	Majority
Lay on or take from the table	No	No	No	No	Majority
Previous question	No	No	No	No	2/3
Limit or extend debate	No	No	No	Yes	2/3
Postpone to a certain time	No	Yes	Yes	No	Majority
Commit, recommit or refer	No	Yes	Yes	Yes	Majority
Amend	No	Yes	Once	Yes	Majority
Main motion	No	Yes	Yes	Yes	Majority

## NOTES:

\*The privileged motions marked by an asterisk may interrupt the speaker.

- B. The above table of motions in order of their precedence must be included in the Finance Committee report for each of the Annual Town Meetings. **[Amended 10-21-1999ATM by Art. 25]**
- C. The following listing of common motions, classified according to their objectives, must be included in the Finance Committee report for the Annual Town Meetings: **[Amended 10-21-1999ATM by Art. 25]**

### Common Motions Classified According to Their Objectives

To modify or amend	(a)	Amend
	(b)	Commit or refer
To defer action	(a)	Postpone to a certain time
	(b)	Lay on the table
	(c)	Commit or refer
To suppress or limit debate	(a)	Previous question (to close debate now) (2/3 vote)

**Common Motions Classified According to Their Objectives**

	(b)	Limit debate (2/3 vote)
To suppress the question	(a)	Previous question (2/3 vote) and reject question
	(b)	Lay on the table
To consider a question a second time	(a)	Take from the table
	(b)	Reconsider

- D. Reconsideration. A motion at any adjourned Town Meeting for reconsideration or rescinding of any action taken at a previous session of the adjourned Town Meeting shall not be entertained or allowed by the Town Moderator.

**§ 154-5. Amendments.**

- A. Any article appearing in the warrant and considered at any Town Meeting may be amended and any portion thereof may be deleted or added to by a vote of the Town Meeting members; provided, however, that in said notice the words "or act in relation thereto" or "do anything pertaining thereto" or words of similar import appear at the end of said article.
- B. An amended amendment cannot be amended, and no motion or proposition of a subject different from that under consideration shall be entertained under color of an amendment.
- C. Amendment of bylaws. Town bylaws may be amended or rescinded by a majority vote of those present and voting at any Town Meeting, provided that the proposed action was published in the warrant of that Town Meeting, and further provided that any such amendment is in compliance with the Charter.

**§ 154-6. Reports.**

- A. When the report of a committee is placed in the hands of the Town Moderator it shall be deemed to be received, and a vote to accept the report shall discharge the committee unless the report is one of progress and not final, in which case the committee continues to serve unless the Town Meeting members vote to discharge the same.
- B. All reports, resolutions, motions or amendments submitted to the Town Meeting for consideration involving the expenditure of money shall be presented, in writing, to the Town Moderator.

**§ 154-7. Appropriations.**

- A. No money shall be transferred at a Special Town Meeting except by a majority vote of those present and voting.
- B. All motions on articles involving bond or note issues shall require a two-thirds vote of those present and voting.
- C. Appropriations at Special Town Meetings. No money shall be appropriated at a Special Town Meeting except by a two-thirds vote of the voters present and voting.



**§ 154-8. Attorneys and Town Counsel.**

- A. Attorneys speaking. Any person who is employed as an attorney by another interested in any matter under discussion at a Town Meeting shall disclose the fact of his or her employment before speaking thereof.
- B. Town Counsel. The Select Board shall assure that the guidance of the Town Counsel is available both to the Town Moderator and to the body at all Town Meetings whenever practical. **[Amended 6-17-2021ATM by Art. 29]**

**§ 154-9. Dates proposed for continuance of meeting. [Added 10-21-1991ATM by Art. 2]**

Dates and times proposed for continuance of the Town Meeting shall be announced when the warrant is posted.

**§ 154-10. End of session. [Added 10-21-1991ATM by Art. 2]**

No warrant article may be introduced for consideration after 11:00 p.m. without a majority vote of Town Meeting representatives present and voting to allow such consideration.

**§ 154-11. Lobbying. [Added 10-21-1991ATM by Art. 2]**

Distribution of material and lobbying on warrant articles or issues not related to warrant articles being considered at that Town Meeting will be prohibited within an area of 100 feet outside the entrance to the building housing the meeting. An area will be established inside the building but outside the meeting place where one individual from each group supporting or opposing an issue may distribute material or discuss the issue. Handout material should be dated and signed by the organization or individuals preparing the material.

**§ 154-12. Voting. [Added 10-21-1991ATM by Art. 2; amended 5-1-1997ATM by Art. 28; 4-25-2011ATM by Art. 16]**

- A. Voting process. Voice votes shall not be used. The Moderator shall take all votes by a raising of hands or use of an electronic tally and display system, except as may otherwise be voted by Town Meeting under § 154-16.
- B. Electronic tally and display system. Votes taken by an electronic tally and display system shall be visible to the Town Meeting members and any members of the public present at the meeting. The display shall show each Town Meeting member's name; precinct; "yes," "no" or "abstain" vote; and a tally of all votes.
- C. Matters requiring a two-thirds vote by statute. In matters requiring a two-thirds vote by statute, the Moderator may declare the vote based upon the raising of hands. If seven or more members of Town Meeting question the vote, the Moderator shall count the vote. If an electronic tally and display system is used, the tally shall constitute a counted vote; if such a vote is questioned by seven or more members of Town Meeting, the Moderator shall manually tally the electronically recorded votes.
- D. Record of votes taken by electronic tally. The Town Clerk shall make available in the Town Clerk's office and on the Town's website within a reasonable time after a session in which a vote(s) was taken by the use of an electronic tally and display system a list, organized by precinct, which shall disclose how each Town Meeting member voted.

§ 154-12

CHELMSFORD CODE

- E. Regulations. After a public hearing, the Moderator, in consultation with the Select Board and Town Clerk, shall be authorized to adopt regulations for the purpose of facilitating implementation of this bylaw and ensuring the security and integrity of the voting process. [Amended 6-17-2021ATM by Art. 29]

**§ 154-13. Presentations. [Added 10-21-1991ATM by Art. 2]**

- A. When Town property or assets are to be purchased or sold, the name of the purchaser or seller, if known, must be disclosed by the sponsor.
- B. The sponsor of any warrant article shall speak initially to explain the article.
- C. Zoning bylaw presentations by the sponsor must show a map denoting the existing zoning and the proposed changed zoning, including definitions of zones and explanations of changes.
- D. All sponsors of bylaw changes must show the language of the existing bylaw and the language of the change and an explanation of the change in the presentation.
- E. All recurring operating budget articles regularly presented at the Spring Annual Town Meeting to defray Town expenses for the upcoming fiscal year must be presented showing the following: dollars budgeted and expended for the last two years and for the current year, proposed budget dollars and the revenue generated by the department requesting the budget.
- F. Visual aids used in any presentation must be large enough to be viewed from the back of the hall or handouts shall be distributed.<sup>25</sup>

**§ 154-14. Recommendations by Select Board and Finance Committee. [Added 10-21-1991ATM by Art. 2; 6-17-2021ATM by Art. 29]**

The Select Board and Finance Committee shall have an opportunity to state their position on each article and are encouraged to state their reasons for their position. The Finance Committee is not required to speak on a nonfinancial article.

**§ 154-15. Rules of decorum. [Added 10-21-1991ATM by Art. 2]**

The Moderator may distribute additional rules of debate or decorum not controverting any bylaw or statute to help guide debate of issues before the Town Meeting.

**§ 154-16. Roll call ballot. [Added 10-21-1991ATM by Art. 2]**

A main motion on any article shall be voted upon by roll call ballot if 40 Town Meeting representatives so vote at the end of debate of that main motion and before a motion under the next article.

**§ 154-17. Pledge of Allegiance. [Added 4-28-2003ATM by Art. 1]**

Each session of Town Meeting shall begin with the recitation of the United States Pledge of Allegiance.

{END OF CHAPTER}

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25. Editor's Note: Former Subsection G, regarding a question and answer period of the sponsor of an article, which immediately followed, was repealed 4-24-2017ATM by Art. 28.

## TRAILERS AND TRAILER CAMPS

### Chapter 158

## TRAILERS AND TRAILER CAMPS

**[HISTORY: Adopted by the Annual Town Meeting of the Town of Chelmsford 1954 by Art. 96. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Zoning — See Ch. 195.

Subdivision of land — See Ch. 202.

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#### **§ 158-1. Permits required. [Amended 10-21-1999ATM by Art. 45]**

No house trailer space or trailer camp shall be allowed in a residential or farming district or in any business or industrial area for a period of more than 30 days unless permits are granted by the Board of Appeals and the Board of Health. A Police Department permit must be obtained within 48 hours of the date of arrival of such trailer. Any trailer that is to be used permanently at a particular location must have running water and a sewage disposal system approved by the Board of Health.

{END OF CHAPTER}

**Chapter 161****TREES**

**[HISTORY: Adopted by the Annual Town Meeting of the Town of Chelmsford 1960 by Art. 49; amended in its entirety 4-30-2012ATM by Art. 16. Subsequent amendments noted where applicable.]**

**§ 161-1. Intent and purpose.**

It is the intent of this bylaw to sustain environmental health, enhance the economic well-being and maintain the quality of life for the citizens of the Town of Chelmsford. Public trees make an important contribution to the character and heritage of Chelmsford's neighborhoods. This bylaw establishes policy for ensuring the health and longevity of the Town's trees.

**§ 161-2. Tree Warden.**

The care and management of public trees shall be the responsibility of the Tree Warden, or that official's designee. The Tree Warden is responsible for planting, maintaining and removing trees from streets, parks and other designated public places in accordance with MGL c. 87, § 2.

**§ 161-3. Public shade trees.**

It shall be the policy of the Town of Chelmsford to encourage the conservation of public shade trees (as defined in MGL c. 87, § 1) and to establish a planned program of replacement on a one-for-one basis of all public shade trees removed due to disease, death, public nuisance, construction or safety. The Tree Warden shall determine the type and size of the replacement tree. While the goal under this policy is to have a public shade tree replanted in the same location as the removed tree, it may be replanted in an alternate location at the discretion of the Tree Warden if necessary.

**§ 161-4. Tree Replacement, Establishment and Enhancement (TREE) Committee.**

- A. There shall be a Tree Replacement, Establishment and Enhancement (TREE) Committee to facilitate and encourage the long-term health of Chelmsford's public trees.
- B. Said Committee, once appointed, shall develop and administer a comprehensive tree management program to guide the Town and the Committee's activities. Such activities include, but are not limited to, the following:
  - (1) Facilitating and encouraging the long-term health of Chelmsford's public trees and promoting native tree species;
  - (2) Performing tree surveys, inventories, and evaluations;
  - (3) Creating manuals or guidance for planting, maintaining and removing trees from streets, parks and other designated public places;
  - (4) Developing best management practices for urban forestry and silvicultural work;
  - (5) Working in conjunction with the Tree Warden to seek grants or other assistance concerning the preservation and maintenance of trees in Town; and
  - (6) Performing public education and coordination with civic groups to promote Arbor Day and

other special events related to public trees.

C. The duties and responsibilities of the Commission shall include, but not be limited to:

- (1) Writing and updating an annual community forestry work plan;
- (2) Advising the Town Manager in matters related to the care and management of Town-owned properties that contain public trees;
- (3) Advising the Select Board, Department of Public Works, Conservation Commission, and other local organizations on projects and activities involving public trees in Town; **[Amended 6-17-2021ATM by Art. 29]**
- (4) Advising the Tree Warden on planting, maintaining and removing trees from streets, parks and other appropriate public places; and
- (5) Engaging in projects and activities that promote sustainable forestry and the long-term health of public trees in Town, including programs and community events.

D. The Committee shall consist of five members appointed by the Town Manager. In the beginning, two members shall be appointed for a term of three years, two members shall be appointed for a term of two years, and one member shall be appointed for a term of one year. Thereafter, each member shall be appointed for a term of three years. Each term shall expire at the end of the appropriate fiscal year.

#### **§ 161-5. Private tree planting.**

All contractors, builders, companies, corporations or individuals who or which promote the construction of multiple houses, housing units or developments or the erection of three or more houses in a given area shall be required to plant one tree for each lot and two trees for every corner lot. Such planting shall be done before the street is paved and must be in accordance with the specifications as prescribed by the Tree Warden.

#### **§ 161-6. Willow trees.**

Any willow tree found growing within 50 feet of any portion of a Town-maintained drainage system or within 50 feet of any drainage easement, whether granted to the Town by specific deed or included on a definitive plan submitted pursuant to the provisions of the Subdivision Control Law,<sup>26</sup> is hereby declared to be a nuisance, and it shall be unlawful to permit any such willow tree to grow or remain in any such location. It shall be the duty of the Tree Warden to serve, or cause to be served, notice upon the owner of any premises on which willow trees are permitted to grow in violation of the provisions of this section and demand abatement of this nuisance within 30 days.

{END OF CHAPTER}

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26. Editor's Note: See Ch. 202, Subdivision of Land.

CHELMSFORD CODE

**Chapter 168**

**UNSOLICITED WRITTEN MATERIAL**

**[HISTORY: Adopted by the Annual Town Meeting of the Town of Chelmsford 5-21-1984 by Art. 55. Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Littering — See Ch. 84.**

**Peddling, soliciting and sales — See Ch. 116.**

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**§ 168-1. Delivery after written notice prohibited.**

It shall be unlawful for any person or corporation to deliver or cause to be delivered, except through the services of the United States Postal Service, any unsolicited written materials to any residential dwelling or business located within the town after written notice has been sent to said person or corporation by the owner, lessee or tenant of said residential dwelling or business that said written materials should not be delivered to that address. The required notice shall be sent by regular mail, postage prepaid, to any residence or usual place of business of the person or corporation delivering or causing to be delivered said unsolicited written material. Any delivery of unsolicited materials after the mailing of said written notice shall be deemed a nuisance, and placing said materials on private property within the town after said notice shall be deemed littering the property and shall be punished by a fine of \$100 for each offense.

{END OF CHAPTER}

**Chapter 174****VEHICLES AND TRAFFIC**

**[HISTORY: Adopted by the Annual Town Meeting of the Town of Chelmsford 1954 by Art. 74. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Trailers and trailer camps — See Ch. 158.

Traffic rules and orders — See Ch. 203.

Unregistered vehicles — See Ch. 180.

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**§ 174-1. Defacement of traffic signs.**

Any person who willfully defaces, injures, moves, obstructs or interferes with any official traffic sign, signal or marking shall be liable to a penalty not exceeding \$20 for each and every offense.

**§ 174-2. (Reserved)<sup>27</sup>****§ 174-3. Vehicles on Freeman Lake. [Added 5-12-1977STM by Art. 3; amended 4-26-1978ATM by Art. 28; 10-21-1999ATM by Art. 46]**

It shall be unlawful for any person to operate a marine or recreational vehicle powered by an engine, including snowmobiles, on any portion of Freeman Lake at any time.

**§ 174-4. Leaving vehicles in private ways or fire lanes. [Added 5-21-1979ATM by Art. 62]**

- A. It shall be unlawful to leave any motor vehicle unattended within the limits of any private way furnishing means of access for fire apparatus to any building.
- B. Fire lanes. **[Amended 5-5-1986ATM by Art. 28]**
  - (1) It shall be unlawful to obstruct or park a motor vehicle in any fire lane, such fire lane to be designated by the Chief of the Fire Department and to be posted as such. Said fire lane shall be not less than 18 feet wide for all buildings in any shopping center, bowling alley, theater, nursing home, office building or other public building.
  - (2) The establishment of fire lanes as set forth above shall be at the sole discretion of the Chief of the Fire Department, and fire lanes shall run from the wall of the building or any overhang of the building or any sidewalk adjacent thereto. Any fire lane in excess of 18 feet wide shall have the approval of the property owner or person in control of such property.
  - (3) The Chief of the Fire Department shall notify all record owners of the designation of fire lanes.
  - (4) The record owner of each building, upon notification of the designation of a fire lane by the Chief of the Fire Department, shall provide markings and signs that comply with specifications and plans approved by the Fire Chief. **[Amended 10-21-1999ATM by Art. 46]**

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27. Editor's Note: Former § 174-2, Closing of Pond Street, added 4-26-1956STM by Art. 3, was repealed 5-3-2007ATM by Art. 15.

- C. The Police Department and all members thereof assigned to traffic duty are hereby authorized to remove and tow away, or have removed and towed away by commercial towing service, at the sole expense of the owner of said motor vehicle, any motor vehicle left unattended or parked in any designated fire lane or within the limits of any private way furnishing means of access for fire apparatus to any building. Motor vehicles so towed away shall be stored in a safe place and restored to the owner or operator thereof upon payment by the owner or operator of the expenses incurred in said removal and storage.
- D. Violations of this article shall be punishable by a fine of \$25. **[Amended 10-21-1999ATM by Art. 46]**
- E. In the absence of the operator of any motor vehicle violating any provision of this section, it shall be deemed prima facie evidence that the registered owner of such vehicle was the operator. **[Added 5-5-1980STM by Art. 14]**

**§ 174-5. Handicapped parking. [Added 5-13-1985ATM by Art. 32]**

- A. It shall be unlawful to park a motor vehicle in a parking space reserved and designated for use by vehicles of handicapped persons, whether located on public or private ways or properties, unless authorized to do so by the terms of this section or the General Laws of the Commonwealth of Massachusetts.
- B. A fine of \$200 shall be imposed for the unauthorized parking of a motor vehicle in a space reserved and designated for use by vehicles of handicapped persons, pursuant to the authority of MGL c. 40, § 21. **[Amended 4-29-1993ATM by Art. 30; 4-26-2010ATM by Art. 16]**
- C. The Police Department and all members thereof assigned to traffic duty are hereby authorized to remove and tow away, or have removed and towed away by commercial towing service, at the sole expense of the owner of said motor vehicle, any motor vehicle left unattended or parked in a parking space reserved and designated for use by a vehicle of a handicapped person, unless said vehicle shall be designated as a vehicle of a handicapped person. Motor vehicles so towed away shall be stored in a safe place and restored to the owner or operator thereof upon payment by the owner or operator of the expenses incurred in said removal and storage.
- D. Number of spaces to be provided.
  - (1) The person or body that has lawful control of a public or private way or of improved or enclosed property used as off-street parking areas for businesses, shopping malls, theaters, auditoriums, sporting or recreational facilities, cultural centers, residential dwellings or for any other place where the public has a right of access as invitees or licensees shall reserve parking spaces in said off-street parking areas for any vehicle owned and operated by a handicapped person whose vehicle bears the distinguishing license plate authorized by MGL c. 90, § 2, according to the following formula:

<b>Total Number of Spaces</b>	<b>Number of Handicapped Spaces</b>
More than 15 but not more than 25	1
More than 25 but not more than 40	5% of such spaces but not fewer than 2



Total Number of Spaces	Number of Handicapped Spaces
More than 40 but not more than 100	4% of such spaces but not fewer than 3
More than 100 but not more than 200	3% of such spaces but not fewer than 4
More than 200 but not more than 500	2% of such spaces but not fewer than 6
More than 500 but not more than 1,000	1 and 1/2% of such spaces but not fewer than 10
More than 1,000 but not more than 2,000	1% of such spaces but not fewer than 15
More than 2,000 but less than 5,000	3/4 of 1% of such spaces but not fewer than 20
More than 5,000	1/2 of 1% of such spaces but not less than 30

- (2) Parking spaces designated as reserved under the provisions of Subsection D(1) shall be:
- (a) Identified by the use of above-grade signs with white lettering against a blue background bearing the words "Handicapped parking; special plate required. Unauthorized vehicles may be removed at owner's expense";
  - (b) As near as possible to a building entrance or walkway;
  - (c) Adjacent to curb ramps or other unobstructed methods permitting sidewalk access to a handicapped person; and
  - (d) Twelve feet wide or two eight-foot-wide areas with four feet of crosshatch between them.
- E. Violation of Subsection D shall be punishable as provided in Chapter 1, General Provisions, Article II, General Penalty. **[Amended 10-21-1999ATM by Art. 46]**
- F. In the absence of the operator of any motor vehicle violating any provisions of this section, it shall be deemed that the registered owner of such vehicle was the operator.
- G. Any motor vehicle bearing a handicapped parking permit or motor vehicle registration plate designating the vehicle as one used by a handicapped person shall be authorized to park in a designated handicapped parking space. The Chief of Police, his or her designee or the Town Clerk may issue a temporary handicapped parking permit to any person upon application with supporting medical affidavit signed by a licensed physician designating the applicant as physically handicapped. Said temporary permit shall be issued with an expiration date not to exceed 180 days from the date of issue and shall be displayed in the front right windshield of any vehicle parked in a designated handicapped parking space. **[Amended 4-29-1993ATM by Art. 30]**
- H. The unauthorized use of a temporary permit shall be punishable by a fine of \$100. **[Amended 4-29-1993ATM by Art. 30]**
- I. Each day that any violation continues shall constitute a separate offense.

**§ 174-6. Obstruction of fire lanes, handicap parking spaces, crosshatches or sidewalks. [Added 10-15-2001ATM by Art. 16]**

- A. It shall be unlawful to obstruct or otherwise adversely affect the unrestricted flow of traffic or safe travel of any pedestrian in any fire lane, handicap parking space, exterior accessible route (as defined in CMR 521, Sec. 5.5) or sidewalks within the Town of Chelmsford. The depositing or displaying of goods, snow, wares, or other items shall constitute an obstruction of the designated areas.
- B. Individuals, business or property owners responsible for any such obstruction shall be subject to a fine of \$100 for said violation for the first offense. Subsequent violations within one year of the first offense shall be subject to a fine of \$200.

{END OF CHAPTER}

**Chapter 180****VEHICLES, UNREGISTERED**

**[HISTORY: Adopted by the Special Town Meeting of the Town of Chelmsford 9-19-1988 by Art.**

**11. Amendments noted where applicable.]**

**§ 180-1. Storage restricted. [Amended 12-3-1990STM by Art. 2]**

Except as may be provided herein, not more than one unregistered motor vehicle shall be placed, stored or kept on property, except property used for business or industrial purposes. No unregistered motor vehicle shall be stored, placed or kept on a paper street or private way. All privately owned unregistered motor vehicles shall be stored, placed and kept on private property.

**§ 180-2. Permit.**

- A. Subject to the conditions herein set forth, the Select Board may issue a permit authorizing an applicant to place, store or keep more than one such motor vehicle on such property. **[Amended 6-17-2021ATM by Art. 29]**
- B. Any such permit may be issued by the Select Board only after said Board has: **[Amended 6-17-2021ATM by Art. 29]**
  - (1) Held a public hearing on the application therefor, 14 days' notice of the time, place and subject matter of which has been given at the expense of the applicant by publication in a newspaper of general circulation in the town and by registered or certified mail to the last known address of all owners of land abutting upon the property in question as appearing upon the Assessor's most recent tax list; and
  - (2) Determined that the presence of more than one such motor vehicle on such property:
    - (a) Will not constitute a danger to the safety and welfare of the inhabitants of the town; and
    - (b) Will not create or continue a condition detrimental and injurious to the neighborhood in which the property in question is located.
- C. Each such permit that may be issued by said Board:
  - (1) Shall be issued as a personal privilege of the applicant and not as a grant attached to and running with the land;
  - (2) Shall include a reasonable time limit, but not for a period longer than one year; and
  - (3) May specify a location on the property where such motor vehicle or vehicles will not be exposed to the view of abutting residents or the general public.

**§ 180-3. Applicability.**

This chapter does not apply to:

- A. Motor vehicles in enclosed buildings; or
- B. Motor vehicles on property where the principal business use is a farm, garden or nursery, provided that such motor vehicle is necessary to the operation of such business.

**§ 180-4. Enforcement; violations and penalties.**

- A. The enforcing authority under this chapter shall be the Chelmsford Police Department.
- B. The enforcing authority shall give written notice of any violation of this chapter to the person committing the violation. Thirty days after receipt of such notice of violation, the person receiving the notice shall be liable to a penalty of \$50 for each separate offense. Each day of a continuing violation shall constitute a separate offense.<sup>28</sup> **[Amended 10-21-1999ATM by Art. 47]**

{END OF CHAPTER}

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28. Editor's Note: Original Section 8, which immediately followed this subsection and stated that violations would be punishable as provided in Chapter 1, General Provisions, was deleted 10-21-1999ATM by Art. 47.

WATER WITHDRAWAL (COMMERCIAL)

**Chapter 185**

**WATER WITHDRAWAL (COMMERCIAL)**

**[HISTORY: Adopted by the Annual Town Meeting of the Town of Chelmsford 4-25-2016 by Art. 20. Amendments noted where applicable.]**

**§ 185-1. Purpose.**

The purpose of this bylaw is to recognize that contamination of any pond, stream, surface or subsurface water in the Town of Chelmsford is a possibility when water is withdrawn for commercial use. This would pose a hazard to the inhabitants of the Town, as well as the natural environment and habitat. This bylaw is to protect such water resources from contamination and damages.

**§ 185-2. Water withdrawal prohibited.**

- A. The extraction or withdrawal of water for commercial purposes from any pond, stream, river, watercourse, surface or subsurface water within the Town into a tank vehicle, or into any tank contained in or on a vehicle, is prohibited.

**§ 185-3. Exceptions.**

- A. This bylaw shall not apply to the withdrawal of water for municipal fire apparatuses

**§ 185-4. Additional regulations.**

- A. This bylaw shall not apply to the withdrawal of water for commercial purposes from hydrants under the supervision/regulation of the Chelmsford Water Districts, as may be designated and authorized by said Water Districts.
- B. This bylaw shall be in addition to any other rule, regulation or state and local law relating to the protection of wetlands and water resources.

**§ 185-5. Enforcement.**

- A. Whoever violates any provision of this bylaw, or any regulations adopted hereunder, shall be subject to a fine of \$300 for each offense. Each day on which a violation exists shall constitute a separate violation.
- B. This bylaw shall be enforced by the members of the Chelmsford Conservation Commission and the Agent of the Commission.
- C. The provisions of the bylaw, and any rule or regulation adopted hereunder, may be enforced by any available means in law or in equity, including but not limited to enforcement by noncriminal disposition pursuant to MGL c. 40, § 21D, and § 1-2 of the Town Bylaws, Noncriminal disposition.

{END OF CHAPTER}

**Chapter 187****WETLANDS**

**[HISTORY: Adopted by the Annual Town Meeting of the Town of Chelmsford 5-17-1982 by Art. 40; amended in its entirety 5-8-1995ATM by Art. 18 and 4-27-2009ATM by Art. 17. Subsequent amendments noted where applicable.]**

**GENERAL REFERENCES**

**Zoning — See Ch. 195.**

**Subdivision of land — See Ch. 202.**

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**§ 187-1. Purpose.**

- A. The purpose of Chelmsford Bylaw, Chapter 187 ("chapter"), is to protect the wetlands, water resources, flood-prone areas, and adjoining upland areas in the Town of Chelmsford ("Chelmsford") by controlling activities deemed by the Conservation Commission ("Commission") likely to have a significant or cumulative effect on resource area values, including but not limited to the following: public or private water supply, groundwater supply, flood control, erosion and sedimentation control, storm damage prevention, water quality, prevention and control of water pollution, fisheries, fresh water shellfisheries, wildlife habitat, rare species habitat, agriculture, aquaculture, recreation and aesthetic values deemed important to the community (collectively, the "values protected by this chapter" or "values").
- B. This chapter is intended to utilize the Home Rule authority of Chelmsford so as to protect the resource areas under the Wetlands Protection Act, MGL c. 131, § 40, ("the Act") to a greater degree, to protect additional resource areas beyond the Act recognized by Chelmsford as significant, to protect all resource areas for their additional values beyond those recognized in the Act, and to impose in the Commission Regulations and permits additional standards and procedures stricter than those of the Act and Act regulations, 310 CMR 10.00, subject, however, to the rights and benefits accorded to agricultural uses and structures of all kinds under the laws of the Commonwealth of Massachusetts ("commonwealth") and other relevant bylaw chapters of Chelmsford.

**§ 187-2. Jurisdiction.**

- A. Except as permitted by the Commission or as provided in this chapter, 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, vernal pools, springs, banks, reservoirs, lakes, ponds of any size, beaches, lands under water bodies; intermittent streams, brooks and creeks; buffer zones; perennial rivers, streams, brooks and creeks; the riverfront area; lands subject to flooding or inundation by groundwater or surface water. Said resource areas shall be protected whether or not they border surface waters.
- B. The jurisdiction of this chapter shall not extend to uses and structures of agriculture that enjoy the rights and privileges of laws and regulations of the commonwealth governing agriculture, including work performed for normal maintenance or improvement of land in agricultural or aquacultural uses as defined by the Act regulations, 310 CM 10.04.

**§ 187-3. Definitions.**

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

**ABUTTER(S)** — Includes owners of property immediately adjacent or directly opposite on any public or private street or way, or across a water body or in another municipality if within 300 feet of the boundary of the property where work is proposed.

**AGRICULTURE** — Shall be defined as provided by MGL c. 128, § 1A.

**ALTER(ATION)** — Includes, without limitation, the following activities when undertaken to, upon or within, or affecting resource areas subject to this chapter:

- (1) Removal, excavation or dredging of soil, sand, gravel or aggregate materials of any kind.
- (2) Changing of preexisting drainage, flushing or flood storage characteristics, salinity distribution, sedimentation patterns or flow patterns.
- (3) Drainage or other disturbance of water level or water table.
- (4) Dumping, discharging, or filling with any material or other activity which may degrade water quality in or out of Chelmsford.
- (5) Driving of piles or erection, expansion or repairs of buildings or structures of any kind.
- (6) Placing of obstructions or objects in water.
- (7) Destruction of plant life, including cutting of trees and shrubs.
- (8) Changing of temperature, biochemical oxygen demand or other physical, biological or chemical characteristics of any waters.
- (9) Any activities, changes or work which may cause or tend to contribute to pollution of any body of water or groundwater.
- (10) Incremental activities which have, or may have, a cumulative adverse impact on the resource areas protected by this chapter.

**BANK** — 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 of the mean annual flood level, whichever is higher.

**BUFFER ZONE** — The lands out to a distance of 100 feet horizontally that adjoin the following: any freshwater wetlands, marshes, wet meadows, bogs, swamps, vernal pools, springs, banks, reservoirs, lakes, ponds of any size, beaches, lands under water bodies, intermittent streams, brooks and creeks.

**BUILDING** — A structure enclosed within exterior walls or fire walls, built, erected and framed of a combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals or property. For the purpose of this definition, "roof" shall include an awning or any similar covering, whether or not permanent in nature.

**DISTURBANCE** — Any activity that will change the natural condition of the land or alter the characteristics of the land involving, but not limited to, land clearing, filling, grading, covering and dumping.

**PARKING LOT/AREA** — An off-street area, including parking spaces, loading areas and all associated maneuvering areas such as aisles and driveways, serving as an accessory use for the

parking of vehicles and available to the public as an accommodation for clients, customers or employees.

**PERSON** — Includes any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the commonwealth or a political subdivision thereof to the extent subject to Chelmsford bylaws, administrative agencies, public or quasi-public corporations or bodies, Chelmsford and any other legal entity, its legal representatives, agents or assigns.

**POND** — As defined in the Act regulations, 310 CMR 10.04, except that the size threshold of 10,000 square feet shall not apply.

**RARE SPECIES** — Those vertebrate and invertebrate animal species and plant species officially listed as endangered, threatened or of special concern by the Massachusetts Division of Fisheries and Wildlife under regulations 321 CMR 10.00 regardless of whether the site in which they occur has been previously identified by the Division.

**RESOURCE AREA(S)** — Areas that are presumed important to the protection of the values of the chapter including any freshwater wetlands, marshes, wet meadows, bogs, swamps, vernal pools, springs, banks, reservoirs, lakes, ponds of any size, beaches, lands under water bodies, intermittent streams, brooks and creeks; buffer zones; perennial rivers, streams, brooks and creeks; the riverfront area; and lands subject to flooding or inundation by groundwater or surface water, whether or not they abut surface water.

**RIVERFRONT AREA** — Lands adjoining perennial rivers, streams, brooks and creeks out to a distance of 200 feet.

**VALUES PROTECTED BY THIS CHAPTER** — Includes public or private water supply, groundwater supply, flood control, erosion and sedimentation control, storm damage prevention, water quality, water pollution prevention, fisheries, freshwater shellfisheries, wildlife habitat, rare species habitat, agriculture, aquaculture, recreation and aesthetics.

**VERNAL POOL** — Shall include, in addition to scientific definitions found in the Act regulations, any confined basin or depression not occurring in existing lawns, gardens, landscaped areas or driveways which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, contains at least 200 cubic feet of water at some time during most years, is free of adult predatory fish populations, and provides essential breeding and rearing habitat functions for amphibian, reptile or other vernal pool community species, regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife. The boundary of the resource areas for vernal pools shall be the mean annual high-water line defining the depression.

**WILDLIFE** — All mammals, birds, reptiles, amphibians and vertebrate and invertebrate animal species, except domesticated species.

- B. The Commission may adopt additional definitions consistent with this chapter.
- C. Except as otherwise provided in this chapter or in Commission regulations, the definitions of terms and the procedures in this chapter shall be as set forth in the Act and Act regulations, 310 CMR 10.00.

#### **§ 187-4. Exemptions and exceptions.**

The applications and permits required by this chapter shall not be required for:

- A. Work performed for normal maintenance or improvement of lands in agricultural and aquacultural use as defined by the Act regulations, 310 CMR 10.04.



- B. 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 telecommunications services, provided that written notice has been given to the Commission prior to commencement of work and that the work conforms to any performance standards and design specifications in regulations adopted by the Commission.
- C. 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 by an agency of the Commonwealth or its political subdivision; that advance notice, oral or written, has been given to the Commission prior to or within 24 hours after commencement of work; that the Commission or its agent certifies the work as an emergency project; 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 that within 21 days of commencement of an emergency project a permit application shall be filed with the Commission for review. 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.
- D. Minor activities as specified in the Commission regulations within the buffer zone or riverfront area, provided the activity is not within any other resource area.
- E. Other than stated in this chapter and the Commission regulations, the exceptions provided in the Act and Act regulations, 310 CMR 10.00 shall not apply.

**§ 187-5. Limitations on construction and disturbance.**

- A. The construction of any building, as defined herein, on any lot having an area of 40,000 square feet or more shall be prohibited within 50 feet of any resource area excluding buffer zones, riverfront area and lands subject to flooding or inundation by groundwater or surface water. The Commission may, at its discretion, allow a shed, playhouse or other structure; provided that it is built on footings requiring no more than four square feet cumulative ground disturbance and has a footprint no larger than 144 square feet.
- B. The construction of any parking lot/area including 10 or more parking spaces shall be prohibited within 50 feet of any resource area excluding buffer zones, riverfront area and lands subject to flooding or inundation by groundwater or surface water. Any drives, fire lanes or appurtenances shall be clearly marked "No Parking."
- C. The construction of any impervious surface shall be prohibited within 30 feet of any resource area excluding buffer zones, riverfront area and lands subject to flooding or inundation by groundwater or surface water.
- D. The disturbance of any area shall be prohibited within 25 feet of any resource area excluding buffer zones, riverfront area and lands subject to flooding or inundation by groundwater or surface water.
- E. The reconstruction, alteration, extension or structural change of a building existing on or before October 15, 1990, shall be exempt from the provisions of § 187-5A. However, said work shall require approval from the Commission if within its jurisdiction.
- F. The Commission may waive any provisions of § 187-5, Limitations on construction and disturbance, where the Commission specifically finds that literal enforcement of the provision would involve demonstrated substantial hardship to an applicant and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the

intent or purpose of this chapter.

**§ 187-6. Applications and fees.**

- A. Written application shall be filed with the Commission to perform activities affecting resource areas. The permit application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the resource area. No activities shall commence except as explicitly permitted in writing by the Commission.
- B. The Commission in an appropriate case may accept as the application and plans under this chapter any application and plans filed under the Act and Act regulations, 310 CMR 10.00, but the Commission is not obliged to do so.
- C. Any person desiring to know whether a proposed activity or an area is subject to this chapter may request in writing a determination from the Commission. Such a request for determination of applicability (RDA) or abbreviated notice of resource area delineation (ANRAD) filed under the Act shall include information and plans as are deemed necessary by the Commission.
- D. At the time of an application the applicant shall pay a nonrefundable fee as specified in the Commission regulations. The fee is in addition to that required by the Act and Act regulations.
- E. Pursuant to MGL c. 44, § 53G, and the Commission regulations, the Commission may impose reasonable fees upon applicants for the purpose of securing outside consultants, including engineers, wetlands scientists, wildlife biologists or other experts in order to aid in the review of proposed projects.

**§ 187-7. Notice and hearings.**

- A. Any person filing a permit application or ANRAD with the Commission at the same time shall give written notice by certified mail (return receipt requested) or hand delivered to all abutters and abutters to abutters within 300 feet of the property line of the applicant at their mailing addresses shown on the most recent applicable tax list of the Assessors. The notice shall state a brief description of the project or other proposal and the date of any Commission hearing or meeting date if known. The notice to abutters also shall include a copy of the application or request, with plans, or shall state where copies may be examined or 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.
- B. The Commission shall hold a public hearing on any permit application, RDA, or ANRAD with written notice given at the expense of the applicant, at least five business days prior to the hearing, in a newspaper of general circulation in Chelmsford and by mailing a notice to the applicant. When the applicant is other than the owner, the request and the notice of the hearing shall be sent by the applicant to the owner. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission.
- C. The Commission shall commence the public hearing within 21 days front receipt of a completed permit application, RDA, or ANRAD unless an extension is authorized in writing by the applicant.
- D. The Commission, in an appropriate case, may combine its hearing under this chapter with the hearing conducted under the Act and the Act regulations, 310 CMR 10.00.
- E. The Commission may continue the hearing to a date announced at the hearing for reasons stated at the hearing. These may include the need for additional information from the applicant or others as

deemed necessary by the Commission in its discretion and based on comments and recommendations of the boards and officials indicated in § 187-8.

- F. The Commission shall issue its permit, other order or determination in writing within 21 days of the close of the public hearing unless an extension is authorized in writing by the applicant.

**§ 187-8. Coordination with other boards.**

The Commission may solicit the advice and opinions of appropriate boards, departments and Town officials. Each shall be entitled to file written comments and recommendations with the Commission at least three days before the hearing. The Commission shall take these comments and recommendations into account, but may not be bound by them. The applicant shall have the right to receive any such comments and recommendations, and respond to them at the hearing.

**§ 187-9. Burden of proof.**

The applicant shall have the burden of proving by preponderance of the credible evidence that the work proposed in the permit application will not have unacceptable significant or cumulative effect upon the values protected by this chapter. 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.

**§ 187-10. Permits and conditions.**

- A. If after a public hearing the Commission determines that the activities in the permit application, or the land and water uses which will result therefrom, are likely to have a significant individual or cumulative effect on the resource area values, the Commission shall issue or deny a permit for the activities requested within 21 days of the close of the hearing. The Commission shall take into account the extent to which the applicant has avoided, minimized and mitigated any such effect. The Commission also shall take into account any loss, degradation, isolation, and replacement or replication of such protected resource areas elsewhere in the community and the watershed, resulting from past activities, whether permitted, unpermitted or exempt, and foreseeable future activities.
- B. If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or desirable to protect resource area values. All activities shall be conducted in accordance with those conditions.
- C. Where no conditions are adequate to protect resource area values, the Commission is empowered to deny a permit application for failure to meet the requirements of this chapter. It may also deny a permit application for failure to submit necessary information and plans requested by the Commission; for failure to comply with the procedures, design specifications, performance standards, and other requirements in the regulations of the Commission; or for failure to avoid, minimize or mitigate unacceptable significant or cumulative effects upon the resource area values.
- D. In reviewing activities within the buffer zone, the Commission shall presume the buffer zone is important to the protection of other resource areas because activities undertaken in close proximity have a high likelihood of adverse impact either immediately, as a consequence of construction, or over time as a consequence of daily operation or existence of the activities. These adverse impacts can include, without limitation, erosion, siltation, loss of groundwater recharge, poor water quality, and loss of wildlife habitat.
- E. In reviewing activities within the riverfront area, the Commission shall presume the riverfront area is important to all the values protected by this chapter unless demonstrated otherwise. No permit issued

hereunder shall allow any activities unless the applicant, in addition to meeting the applicable requirements of this chapter, has proved by a preponderance of the evidence that there is no practicable alternative to the proposed project with less adverse effects, and that such activities, including proposed mitigation measures, will have no significant adverse impact on the areas or values protected by this chapter. The Commission shall regard as practicable an alternative which is reasonably available and capable of being done after taking into consideration the proposed property use, overall project purpose (e.g., residential, institutional, commercial, or industrial), logistics, existing technology, costs of the alternatives, and overall project costs.

- F. To prevent resource area loss, the commission shall require applicants to avoid alteration wherever feasible; to minimize alteration; and, where alteration is unavoidable and has been minimized, to provide full mitigation. The Commission may authorize or require replication of wetlands as a form of mitigation, but only with specific plans, professional design, proper safeguards, adequate security, and professional monitoring and reporting to assure success, because of the high likelihood of failure of replication.
- G. The Commission may require a wildlife habitat study of the project area pursuant to § 187-6E to be paid for by the applicant, whenever it deems appropriate, regardless of the type of resource area, or the amount or type of alteration proposed. The decision shall be based upon the Commission's estimation of the importance of the habitat area considering, but not limited to, such factors as proximity to other areas suitable for wildlife, importance of wildlife corridors in the area, or actual or possible presence of rare plant or animal species in the area. The work shall be performed by an individual who at least meets the qualifications set out in the wildlife habitat section of the Act regulations, 310 CMR 10.60.
- H. The Commission shall presume that vernal pools including their buffer zone perform essential habitat functions. This presumption may be overcome only by the presentation of credible evidence which, in the judgment of the Commission, demonstrates that the basin or depression does not provide essential habitat functions. Any formal evaluation should be performed by an individual who at least meets the qualifications under the wildlife habitat section of the Act regulations, 310 CMR 10.60.
- I. A permit, determination of applicability (DOA), or order of resource area delineation (ORAD) 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 the time and location of work is given to the Commission. Any permit may be renewed once for up to an additional three-year period, provided that a request for a renewal is received in writing by the Commission 30 days prior to expiration. Notwithstanding the above, a permit may identify requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all present and future owners of the land.
- J. For good cause the Commission may revoke any permit, DOA, or ORAD or any other order, determination or other decision issued under this chapter after notice to the holder, the public, abutters, Town boards and a duly conducted public hearing.
- K. Amendments to permits, DOAs, or ORADs shall be handled in the manner set out in the Act regulations and policies.
- L. The Commission in an appropriate case may combine the decision issued under this chapter with the permit, DOA, ORAD, or certificate of compliance (COC) issued under the Act and Act regulations.
- M. No work proposed in any application shall be undertaken until a permit or ORAD 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 document has been recorded. If the applicant fails to perform such recording, the Commission may record the documents itself and require the applicant to furnish the recording fee, either at the time of recording or as a condition precedent to the issuance of a COC.

#### **§ 187-11. Regulations.**

- A. After public notice and public hearing, the Commission shall establish rules and regulations to carry out the purposes of this chapter, effective when voted and filed with the Town Clerk. Failure by the Commission to issue 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 chapter. At a minimum these regulations shall reiterate the terms defined in this chapter, define additional terms not inconsistent with the chapter, and impose specific filing and consultant fees.
- B. The Commission may establish, in its regulations, design specifications, performance standards, and other measures and safeguards, including setbacks, no-disturb areas, no-build areas, and other work limits for protection of such lands, including without limitation strips of continuous, undisturbed vegetative cover, unless the applicant convinces the Commission that the area or part of it may be disturbed without harm to the values protected by the chapter.

#### **§ 187-12. Security.**

As part of a permit issued under this chapter, 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 including conditions requiring mitigation work be secured wholly or in part by one or both of the methods described below:

- A. By a proper bond, deposit of money or negotiable securities under a written third party escrow arrangement or other undertaking of financial responsibility sufficient in the opinion of the Commission to be released in whole or in part upon the issuance of a COC for work performed pursuant to the permit.
- B. By accepting a conservation restriction, easement or by a covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of Chelmsford whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed. This method shall be used only with the consent of the applicant.

#### **§ 187-13. Enforcement.**

- A. No person shall remove, fill, dredge, build upon, degrade, or otherwise alter resource areas protected by this chapter, 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 this chapter.
- B. The Commission, its agents, officers and employees shall have the authority to enter upon privately owned land for the purpose of performing their duties under this chapter 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 this chapter, its regulations, and permits issued by

§ 187-13

CHELMSFORD CODE

letters, phone calls, electronic communication and other informal methods, violation notices, noncriminal citations under MGL c. 40, § 21D, and civil and criminal court actions. Any person who violates provisions of this chapter may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined, or both.

- D. Any person who purchases, inherits or otherwise acquires real estate upon which work has been done in violation of the provisions of this chapter or in violation of any permit issued pursuant to this chapter shall forthwith comply with any such order to restore such land to its condition prior to any violation; provided, however, that no action, civil or criminal, shall be brought against such person unless commenced within three years following the date of acquisition of the real estate by such person.
- E. Any person who violates any provision of this chapter or of any conditions of a permit issued pursuant to it may be punished in accordance with Chelmsford General Code, Chapter 1, Article II, § 1-2, Noncriminal Disposition. Each day or portion thereof during which a violation continues shall constitute a separate offense. This chapter may be enforced by the Commission, Conservation Agent or designee of the Commission, a Town police officer or other officer having police powers. Upon request of the Commission, the Select Board and Town Counsel shall take such legal action as may be necessary to enforce this chapter and permits issued pursuant to it. **[Amended 6-17-2021ATM by Art. 29]**

**§ 187-14. Appeals.**

A decision of the Commission shall be reviewable in the Superior Court in accordance with MGL c. 249, § 4.

**§ 187-15. Severability.**

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

[END OF CHAPTER]

## ZONING

### Chapter 195

## ZONING

**[HISTORY: Adopted by the Annual Town Meeting of the Town of Chelmsford 10-22-1998 by Arts. 22 to 26. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Community Preservation Committee — See Ch. 19.

Hazardous materials — See Ch. 63.

Historic district — See Ch. 68.

Noise — See Ch. 100.

Right to farm — See Ch. 127.

Streets and sidewalks — See Ch. 142.

Swimming pools — See Ch. 146.

Trailers and trailer camps — See Ch. 158.

Wetlands — See Ch. 187.

Subdivision of land — See Ch. 202.

ARTICLE I  
**General Provisions**

**§ 195-1. Purpose and authority.**

This chapter is enacted to promote the general welfare of the Town of Chelmsford, to protect the health and safety of its inhabitants, to encourage the most appropriate use of land throughout the town, to preserve the cultural, historical and agricultural heritage of the community, to increase the amenities of the Town and to reduce the hazard from fire by regulating the location and use of buildings and the area of open space around them, all as authorized by the provisions of the Zoning Act, MGL c. 40A, as amended, and by Article 89 of the amendments to the Constitution of the Commonwealth of Massachusetts.



ARTICLE II  
**Districts**

**§ 195-2. Establishment.**

- A. For the purposes of this chapter, the Town of Chelmsford is hereby divided into the following districts:
- (1) RA - Residential A District. These are the lowest density single-family residence districts.
  - (2) RB - Residential B District. These are low-density single-family residence districts.
  - (3) RC - Residential C District. These are medium-density general residence districts.
  - (4) RM - Residential Multifamily District. These are high-density residence districts.
  - (5) CV - Center Village District. This district is for maintaining downtown village character. **[Added 10-21-1999ATM by Art. 28]**
  - (6) CA - Neighborhood Commercial District. These are commercial districts for neighborhood areas.
  - (7) CB - Roadside Commercial District. These are general commercial districts which are high traffic generators. Included are such uses as automotive repair, open lot sales, wholesale business, retail and offices and so on.
  - (8) CC - Shopping Center District. These are commercial districts designed to allow the clustering of stores, offices and so on around a central parking area. These are high traffic generators usually located on major roads.
  - (9) CD - General Commercial District. These are primarily retail commercial offices, restaurants and entertainment commercial uses, excluding repair, open lot sales, wholesale and storage uses. These uses are usually located along existing major traffic thoroughfares.
  - (10) CX - Adult Entertainment District. This is a commercial district created for adult entertainment establishments and other permitted uses as defined by this chapter.
  - (11) IA - Limited Industrial District. These are areas that are primarily used for office, research development, manufacturing and warehousing.
  - (12) IS - Special Industrial District. This district is suited for heavy industrial.
  - (13) RMH - Residential Mobile Home District. This is a district for mobile homes.
  - (14) P - Public District. These are lands owned or leased by federal, state or municipal governments for governmental purposes.
  - (15) OS - Open Space District. These are privately owned lands used for open space.
- B. Overlay districts are also hereby created, as follows: CX, Aquifer Protection, Floodplain Overlay District, Community Enhancement and Investment Overlay District, and Village Center Overlay District. **[Amended 4-27-2009ATM by Art. 19; 4-29-213ATM by Art. 26; 10-21-2013ATM by Art. 16; 4-28-2014ATM by Art. 23]**

**§ 195-3. Official Zoning Map.**

The districts set forth above are shown on the Official Zoning Map, which, together with all explanatory material thereon, is hereby adopted by reference and declared to be part of this chapter. The Official Zoning Map shall be identified by the signature of the Chairperson of the Planning Board and attested by the Town Clerk bearing the Seal of the town. The Official Zoning Map is included as originally dated May 1963 and as most recently amended.<sup>29</sup>

**§ 195-4. Interpretation of district boundaries.**

Where uncertainties exist as to the boundaries of districts as shown on the Official Zoning Map, the following shall apply:

- A. Where the boundary lines are shown upon said map as approximately following the street lines of public and private ways or railways, the center lines of such ways shall be the boundary lines.
- B. Where the boundary lines are shown approximately on the location of property 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 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 lines are the distance in feet of such boundary lines from such street 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.
- E. Where the district boundary line follows a stream, lake or other body of water, said boundary line shall be construed to be at the thread or channel of the stream or at the limit of the jurisdiction of the Town of Chelmsford, unless otherwise indicated.
- F. Where a district boundary line divides any lot existing at the time such line is adopted, the regulations of any district in which the lot has frontage on a street may be extended by special permit from the Board of Appeals not more than 30 feet into the other district.
- G. Where physical or cultural features existing on the ground are at variance with those shown on the Official Map or in other circumstances not covered by the above subsections, the Board of Appeals shall interpret the district boundaries.

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29. Editor's Note: The Zoning Map is on file at the office of the Planning Board.

ARTICLE III  
Use Regulations

**§ 195-5. Permitted uses; interpretation of schedule.**

- A. No structure shall be erected or used or land used except as set forth in the Use Regulation Schedule<sup>30</sup> or in § 195-6, Accessory uses, unless exempted by this chapter or by statute. Uses not expressly provided for herein are prohibited. Not more than one principal structure shall be placed on a lot, except in accordance with § 195-12.
- B. When an activity might be classified under more than one of the uses on the Use Regulation Schedule, the more specific classification shall govern; if equally specific, the more restrictive shall govern.

**§ 195-6. Accessory uses.**

Any use permitted as a principal use is also allowed as an accessory use, as are others customarily accessory and incidental to permitted principal uses. Accessory uses are permitted only in accordance with lawfully existing principal uses. An accessory use may not, in effect, convert a principal use to a use not permitted in the zoning district in which it is located. Where a principal use is permitted under special permit, its accessory use is also subject to the special permit. In all instances where site plan review and approval are required for a principal use, the addition of any new accessory use to the principal use, where such addition exceeds the thresholds established in § 195-104, shall also require site plan review and approval.

- A. Accessory scientific uses. Uses, whether or not on the same parcel as activities permitted as a matter of right, which are necessary in connection with scientific research or scientific development or related production may be permitted upon the issuance of a special permit by the Board of Appeals, provided that the Board finds that the proposed use does not substantially derogate from the public good.
- B. Major recreational equipment. No major unregistered recreational equipment shall be stored on any lot in a residential district other than in a carport or enclosed building or behind the building line of the principal building; provided, however, that such equipment may be parked anywhere on residential premises for a period not to exceed 72 hours. No such equipment shall be used for living or housekeeping purposes when stored on a residential lot or in any location not approved for such use. All equipment which does not conform to these regulations shall be considered nonconforming.
- C. Family day-care homes. Family day-care home providers shall be registered with and have obtained all applicable licenses from the Commonwealth of Massachusetts Office of Children and shall be in full compliance with all applicable rules and regulations promulgated by the Office of Children as set forth in accordance with MGL c. 28A, particularly §§ 9 through 13 thereof, and in accordance with Section 13 of Chapter 785 of the Acts of 1972. Providers shall also comply with the provisions of the Life Safety Code adopted by the National Fire Protection Association, Section 10-9, Family Child Day-Care Homes, and any amendments or revisions thereto or act in relation thereto.
- D. Barn sale, yard sale, garage sale or flea market. The temporary use of residential, institutional or industrial premises for the sale of personal property is permitted, provided that a temporary occupancy permit is obtained. Such permits shall be issued by the Inspector of Buildings for up to two consecutive days only, not more than twice each calendar year for any given premises. For each

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30. Editor's Note: The Use Regulation Schedule is included as an attachment to this chapter.

such sale a separate permit shall be required. No merchandise dangerous to life or limb shall be shown or sold, and all persons conducting such sales shall take all necessary steps for the protection of persons while on their premises.

- E. Up to two cattle, horses, sheep, hogs, goats, or similar livestock may be maintained accessory to a dwelling only on a lot having an area not less than 40,000 square feet. An additional 15,000 square feet is required per large farm animal in excess of the first two. Such animals and their wastes shall be contained at least 50 feet from any abutting lot line of a residentially used lot and at least 50 feet from any year-round surface water body. **[Amended 10-16-2017 by ATM, Art. 20; 2-4-2019STM by Art. 1]**

**§ 195-6.1. Limited accessory apartment (LAA). [Added 10-15-2001ATM by Art. 19; amended 10-18-2010ATM by Art. 18]**

A. Objectives.

- (1) To allow the provision of a limited accessory apartment (LAA) within an as-existing (as of the date of application) single-family dwelling unit for extended family members of the owner;
- (2) To assure that the single-family character of the neighborhood will be maintained;
- (3) To assure that the limited accessory apartment shall not be converted to a rental unit;
- (4) To provide for flexibility within the existing Zoning Bylaw to afford an opportunity to accommodate additional living arrangements;
- (5) To plan for changing demographics and economic climate;
- (6) To increase the supply of affordable housing for family members;
- (7) To provide housing options for extended family members;
- (8) To ensure compliance with building, safety, fire code standards and zoning provisions.

B. Definitions. The following definitions shall apply to the LAA Bylaw:

**EXTENDED FAMILY MEMBER** — Related by blood, marriage, or adoption to the owner of the property, or to the owner's spouse, or persons providing nursing or domiciliary care.

**LIMITED ACCESSORY APARTMENT (LAA)** — An area contained within an owner-occupied as-existing (as of the date of application) single-family dwelling unit that maintains internal access and circulation to the dwelling unit, and which is restricted to extended family members, consisting of provisions for bathing, cooking and sleeping. The inclusion of an apartment within a single-family dwelling unit does not convert the single-family dwelling to a two-family dwelling. Internal walls and doors, for purposes of privacy, and additional means of access/egress are not precluded. The LAA shall be ancillary/subordinate in size, location and function to the single-family dwelling unit.

C. Applicability/Eligibility.

- (1) The Building Inspector may issue a permit (by right) for an LAA based upon the following criteria:
  - (a) The LAA is located within an as-existing (as of the date of application) owner-occupied single-family property located within any zoning district.

- (b) The LAA is located within the existing dwelling unit, inclusive of legal nonconforming structures.
  - (2) The Zoning Board of Appeals may issue a special permit for a LAA located within a new addition, inclusive of additions made to legal nonconforming structures.
  - (3) The Zoning Board of Appeals may issue a waiver for a deviation from any of the design standards in Subsection D.
  - (4) The Zoning Board of Appeals may issue a special permit for the renewal of an LAA that has been discontinued and where a permit has automatically lapsed and become null and void.
  - (5) LAAs shall not be rented to or occupied by persons who do not qualify as extended family members.
- D. Design standards.
- (1) Ingress, egress, access. Adequate provision, as determined by the Building Inspector, shall be provided for separate ingress and egress to the outside of the limited accessory apartment. To the extent possible, exterior passageways and accessways shall not detract from the single-family appearance of the dwelling. Any new exterior entrance for the LAA shall be located to the side or rear of the single-family dwelling. Staircases, serving a second or third floor, shall be enclosed. An interior doorway shall be provided between the LAA and the principal dwelling unit.
  - (2) Area limitation. An LAA shall be limited to a maximum of 750 square feet of gross floor area, exclusive of stairwells and common areas associated with ingress, egress or access.
  - (3) Parking and utilities. Provisions for off-street parking of residents and guests of both units shall be provided so as to be consistent with the character of the neighborhood, as determined by the Zoning Board of Appeals. The requirements of § 195-17 need not apply to the LAA. Both the principal and accessory apartment shall be tied into Town sewer, if available. The LAA shall not have separate metered utilities, unless required by the State Building Code.
  - (4) Only one LAA may be created per lot.
  - (5) An LAA shall not have more than two occupants.
- E. Use restriction. To ensure continued compliance with owner-occupancy and other bylaw requirements by current as well as by any subsequent owners, LAAs permitted under this bylaw shall be subject to a use restriction, to be recorded in the Registry of Deeds. The use restriction, to be provided by the Building Inspector, shall be the only form acceptable and shall include the following:
- (1) Notice that the existence of the LAA is predicated upon occupancy by the owner or the owner's extended family, to whom the permit has been issued;
  - (2) Notification to a buyer of the LAA bylaw;
  - (3) Upon sale of the property, the new owner shall be required to file a new application, with the Building Inspector, for purposes of maintaining the LAA;
  - (4) Within 30 days of receipt of a letter from the Building Inspector determining a violation, a special permit shall be sought for the continuation of the LAA. Failure to apply for the special permit within 30 days shall result in the LAA being discontinued and the permit shall

automatically lapse and be null and void.

- (5) Require that current and future property owners notify the Building Inspector in the event the LAA has been or will voluntarily be discontinued.
- (6) The dwelling unit remains a single-family and the LAA cannot be rented to persons who are not extended family members.

F. Procedural requirements.

- (1) By right. The Building Inspector shall issue a building permit for an LAA allowed by right in compliance with Subsection D.
- (2) Special permit. The Zoning Board of Appeals shall hold a public hearing, in accordance with MGL c.40A, § 9, for LAA allowed by special permit.
- (3) Prior to the issuance of a building permit, the special permit, if applicable, and the use restriction shall be recorded in the Registry of Deeds and evidence of such shall be submitted to the Building Inspector.

G. Submission requirements. For purposes of both by right and special permit applications, the following shall be submitted:

- (1) Architectural plans for the entire structure, including building elevations and floor plans.
- (2) Site plan showing at a minimum the footprint of all structures, all building entrances and exits, parking, and screening from abutting uses.
- (3) The names of the owner and the person(s) proposed to reside in the limited accessory apartment.
- (4) An executed use restriction regarding the LAA, as described above.

H. Criteria for approval. The Zoning Board of Appeals may grant a special permit for an LAA based upon the criteria as set forth in § 195-103 of this Zoning Bylaw. In order to provide an adequate dwelling unit for disabled and handicapped individuals, the Zoning Board of Appeals may allow reasonable deviation from the requirements of this bylaw where the Board finds that it is necessary to install features that facilitate access and mobility for disabled persons in addition to any requirements in accordance with the Massachusetts State Building Code and as exempt pursuant MGL c.40A, § 3.

- (1) Monitoring, inspections and enforcement. The following methods are available to ensure continued compliance with these regulations as set forth:
  - (a) In accordance with § 195-6.1(3), upon the sale of the property, the new owner shall be required to file a new application with the Building Inspector. Upon filing, the Building Inspector shall conduct an inspection of the LAA for purposes of verifying compliance.
- (2) If a complaint is filed with the Building Inspector, the Building Inspector shall inspect the LAA for purposes of determining whether there is a violation. If a violation is found, the owner shall apply to the Zoning Board of Appeals for a special permit for the continuation of the LAA; such application shall be filed within 30 days from the receipt of the letter from the Building Inspector notifying the owner of the violation. Failure to apply for the special permit within 30 days shall result in the LAA being discontinued and the permit shall automatically lapse and be null and void. Renewal of said LAA that has been discontinued in which the permit has automatically lapsed and become null and void may be sought in accordance with

## § 195-6.1C(4).

- (3) Discontinued LAAs, whether by choice of the property owner or as a result of a violation, may be inspected by the Building Inspector by providing reasonable notice to the property owner.
- (4) Violations to any provision of this bylaw or permit granted under this bylaw, may be subject to a fine in accordance with § 195-100 of this bylaw.

**§ 195-7. Home occupations. [Amended 10-21-2013ATM by Art. 13]**

A. Home occupations as of right. Businesses or professions incidental to and customarily associated with the principal residential use of premises may be engaged in as an accessory use by a resident of that dwelling; provided, however, that all of the following conditions shall be satisfied:

- (1) The occupation or profession shall be carried on wholly within the principal building or within a building or other structure accessory thereto which has been in existence at least five years, without extension thereof.
- (2) Not more than 25% of the combined gross floor area, not to exceed a maximum of 500 gross square feet, of the residence and any qualified accessory structures shall be used in the home occupation. The gross square feet shall be calculated based upon square feet principally used for the home occupation. Common areas within the principal structure shall not be included in this calculation. In calculating gross floor area for the purposes of a home occupation, the provisions of this section shall prevail over those in § 195-108 (floor area, gross).
- (3) No person not a member of the household shall be employed at the home occupation site.
- (4) The home occupation shall not serve clients, customers, salespersons or the like on the premises with the exception of individualized services not to exceed four visits per day and the visits cannot occur concurrently. Business hours shall be from 8:00 a.m. to 8:00 p.m., Monday through Saturday.
- (5) There shall be no sign or exterior display, no exterior storage of materials and no other exterior indication (such as but not limited to noise, smoke, dust, odor, vibrations) of the home occupation or other variation from the residential character of the premises, including, but not limited to, alterations to utility services which may not be increased beyond that which is required for residential structures of similar size.
- (6) No use or storage of hazardous materials in quantities greater than associated with normal household use shall be permitted.
- (7) Traffic generated shall not exceed volumes normally expected in a residential neighborhood.
- (8) No more than two commercial motor vehicles, including trailers, provided:
  - (a) That total combined gross vehicle weight does not exceed 20,000 pounds.
  - (b) That any single vehicle does not exceed 14,000 pounds.
  - (c) That vehicles be parked within an existing paved driveway (off-street).
- (9) By-right home occupations shall be required to apply for a business certificate with the Town Clerk.

B. Home occupations by special permit. All non as-of-right businesses or professions incidental to and associated with the principal residential use of premises may be engaged in as an accessory use by a resident of that dwelling upon the issuance of a special permit by the Board of Appeals; provided, however, that all of the following conditions shall be satisfied:

- (1) All of the requirements of Subsection A(1), (2), (4) and (5), unless noted below.
- (2) Not more than one person not a member of the household shall perform work in the home occupation at any one time.
- (3) An unlighted sign of not more than three square feet in area may be permitted. The visibility of exterior storage of materials and other exterior indications of the home occupation, or other variation from the residential character of the premises, shall be minimized through screening and other appropriate devices.
- (4) Parking generated by the home occupation shall be accommodated off street, other than in a required front yard, and shall not occupy more than 20% of the lot area. In granting a special permit, the Board of Appeals may consider the use of on-street parking if it finds that the neighborhood will not be adversely impacted.
- (5) The use or storage of hazardous materials in quantities greater than associated with normal household use shall be subject to design requirements to protect against discharge to the environment.
- (6) No more than two commercial motor vehicles, including trailers, may be parked in the driveway, provided that:
  - (a) The motor vehicles, including any associated trailers, do not exceed a total combined 28,000 pounds' gross vehicle weight;
  - (b) The motor vehicles shall not be heavy construction equipment/apparatus;
  - (c) The motor vehicles are not loaded in whole or in part with noxious, flammable, dangerous or offensive materials or liquids.

C. Special permits by the Zoning Board.

- (1) A special permit may be issued to waive Subsection A(1) to allow for a building that is less than five years old to be considered for the home occupation, provided the structure was an existing structure and not constructed solely for the home occupation.
- (2) A special permit may be issued to waive Subsection A(2) to allow a greater area for the home occupation, but this area shall not exceed 50% of the allowable square-foot area allowed in Subsection A(2).
- (3) A special permit may be issued to waive Subsection A(5) if it is determined that a sign not to exceed two square feet or any exterior alteration associated with the household occupation will not detract from the character of the neighborhood or the residential structure.
- (4) A special permit may only be granted to the current homeowner, shall be personal to that person, and shall not be transferable upon the sale of the property.
- (5) A special permit may be issued to waive Subsection A(4) to allow additional visits up to a total of eight per day, which cannot occur concurrently.



**§ 195-8. Nonconforming uses and structures.**

- A. Applicability. This chapter shall not apply to structures or uses lawfully in existence or lawfully begun or to a building or special permit issued before the first publication of notice of the public hearing required by MGL c. 40A, § 5 at which this chapter, or any relevant part thereof, was adopted. Such prior lawfully existing nonconforming uses and structures may continue, provided that no modification of the use or structure is accomplished, unless authorized hereunder. For the purposes of § 195-8B and § 195-8C, the Board, of Appeals shall be the special permit granting authority for single- and two-family dwellings and the Planning Board shall be the special permit granting authority for all other uses and structures, including multifamily and nonresidential uses and structures. **[Amended 10-20-2008ATM by Art. 12]**
- B. Nonconforming uses. The Board of Appeals or the Planning Board, as applicable, may award a special permit to change a nonconforming use in accordance with this section only if it determines that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood. The following types of changes to nonconforming uses may be considered by the Board of Appeals: **[Amended 10-20-2008ATM by Art. 12]**
- (1) Change or substantial extension of the use.
  - (2) Change from one nonconforming use to another, less detrimental, nonconforming use.
- C. Nonconforming structures (except one- and two-family structures). The Board of Appeals or the Planning Board, as applicable, may award a special permit to reconstruct, extend, alter or change, including the extension of an exterior wall at or along the same nonconforming line, parallel to the required setback, of a nonconforming structure in accordance with this section only if it determines that such reconstruction, extension, alteration or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood. The following types of changes to nonconforming structures may be considered by the Board of Appeals or the Planning Board, as applicable: **[Amended 10-20-2008ATM by Art. 12; 4-30-2012ATM by Art. 28]**
- (1) Reconstructed, extended or structurally changed.
  - (2) Altered to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent.
  - (3) Reconstructed after a catastrophe, provided that the owner shall apply for a building permit and start operations for reconstruction on said premises within two years after such catastrophe, and provided that the building(s) as reconstructed shall be only as great in volume or area as the original nonconforming structure.
- D. Variance required. Except as provided for in Subsections C and E, the reconstruction, extension or structural change of a nonconforming structure in such a manner as to increase an existing nonconformity, or create a new nonconformity, shall require the issuance of a variance from the Board of Appeals. **[Amended 4-30-2012ATM by Art. 28]**
- E. By-right nonconforming single- and two-family residential structures. Nonconforming single- and two-family residential structures may be reconstructed, extended, altered or structurally changed (the work) upon a determination by the Inspector of Buildings that such proposed reconstruction, extension, alteration or change does not increase the nonconforming nature of said structure. **[Amended 4-30-2012ATM by Art. 28; 10-28-2019ATM by Art. 25]**
- (1) The following circumstances, Subsection E(1)(a) through (d), shall not be deemed to increase

the nonconforming nature of said structure.

- (a) Conformance to historical dimensional requirements based upon year structure was built and zoning district\*:

<b>Date Structure Built</b>	<b>Front</b>	<b>Side</b>	<b>Rear</b>
1938 to May 10, 1954	25	10	10
May 11, 1954, to June 1956	25	12	10
July 1956 to May 1, 1961			
R.A.1	40	25	30
R.A.2	35	17	35
R.A.3	30	15	35
GR	30	12	30
June 1961 to present			
RA	40	25	30
RB	40	25	30
RC	20	12	20

\*

Year built is based upon Assessors database or best available information presented to the Building Commissioner. Historical Zoning Maps are on file with the Community Development and Building Departments.

- (b) Insufficient lot area. The work to a structure located on a lot with insufficient lot area which complies with setback requirements per Subsection E(1)(a);
- (c) Insufficient frontage. The work to a structure located on a lot with insufficient frontage which complies with setback requirements per Subsection E(1)(a);
- (d) Other dimensional requirements. The work to a structure which complies with Subsection E(1)(a) through (c) above and also complies with current building coverage, and building height and FAR requirements. Extension of the nonconforming structure along the same nonconforming line, parallel to the required setback, shall not be deemed to increase the nonconforming nature of said structure.
- (2) Special permit for nonconforming single- and two-family residential structures. In the event that the Building Commissioner determines that a by-right building permit can not be issued per Subsection E, as the nonconforming nature of such structure would be increased by the proposed reconstruction, extension, alteration or change or a new nonconformity created, the Board of

Appeals may, by special permit, allow such reconstruction, extension, alteration or change where it determines that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood. **[Added 4-24-2023ATM by Art. 19]**

- F. Abandonment or nonuse. A nonconforming use or structure which has been abandoned, or not used for a period of two years, shall lose its protected status and be subject to all of the provisions of this chapter.
- G. Reversion to nonconformity. No nonconforming use shall, if changed to a conforming use, revert to a nonconforming use.

**§ 195-8.1. through § 195-8.4. (Reserved)**

**§ 195-8.5. Temporary moratorium on medical marijuana treatment centers. [Amended 4-29-2013ATM by Art. 25]**

- A. Purpose. By vote at the state election on November 6, 2012, the voters of the commonwealth approved a law regulating the cultivation, distribution, possession and use of marijuana for medical purposes. The law provides that it is effective on January 1, 2013, and the State Department of Public Health is required to issue regulations regarding implementation within 120 days of the law's effective date. Currently under the Zoning Bylaw, a medical marijuana treatment center is a permitted use in the Town of Chelmsford and any regulations promulgated by the State Department of Public Health are expected to provide guidance to the Town in regulating medical marijuana, including medical marijuana treatment centers. The regulation of medical marijuana raises novel and complex legal, planning, and public safety issues, and the Town needs time to study and consider the regulation of medical marijuana treatment centers and address such novel and complex issues, as well as to address the potential impact of the state regulations on local zoning and to undertake a planning process to consider amending the Zoning Bylaw regarding regulation of medical marijuana treatment centers and other uses related to the regulation of medical marijuana. The Town intends to adopt a temporary moratorium on the use of land and structures in the Town for medical marijuana treatment centers so as to allow the Town sufficient time to engage in a planning process to address the effects of such structures and uses in the Town and to enact bylaws in a manner consistent with sound land use planning goals and objectives.
- B. Definitions. As used in this section, the following terms shall have the meanings indicated:  

**MEDICAL MARIJUANA TREATMENT CENTER** — A not-for-profit entity, as defined by Massachusetts law only, registered by the Department of Public Health, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers.
- C. Temporary moratorium.
  - (1) For the reasons set forth above and notwithstanding any other provision of the Zoning Bylaw to the contrary, the Town hereby adopts a temporary moratorium on the use of land or structures for a medical marijuana treatment center.
  - (2) The moratorium shall be in effect through June 30, 2014.

- (3) During the moratorium period, the Town shall undertake a planning process to address the potential impacts of medical marijuana in the Town, consider the Department of Public Health regulations regarding medical marijuana treatment facilities and related uses, and shall consider adopting new Zoning Bylaws to address the impact and operation of medical marijuana treatment centers and related uses.

ARTICLE IV  
**Dimensional Regulations**

**§ 195-9. Conformity required; reduction of dimensional requirements.<sup>31</sup> [Amended 10-18-2010ATM by Art. 17]**

- A. No structure shall be erected or used, premises used or lot changed in size or shape except in conformity with the requirements of this article, unless exempted by this chapter or by statute (see MGL c. 40A, § 6).
- B. Reductions to dimensional requirements. For purposes of single- and two-family dwellings, the Zoning Board of Appeals may issue a special permit for the reduction, of not more than 20% from front, side and rear yard dimensional requirements, within the Table of Dimensional Requirements, if the Zoning Board of Appeals finds that the reduction meets the following criteria:
- (1) The lot or structure may not be developed without a reduction in the dimensional requirements or a site design is proposed which is more suitable for the lot than one which would be allowed under the permitted dimensional requirements;
  - (2) Adjacent properties would not be adversely impacted; and
  - (3) The reduced dimensions would not be detrimental to the public good and would not substantially deviate from the intent or purpose of this Zoning Bylaw.
  - (4) Any lot reduced under this section may not be further reduced or subdivided.

**§ 195-10. Existing nonconforming lots.**

No existing nonconforming lot shall be changed in size or shape, except through a public land taking or donation for road widening, drainage or utility improvements or except where otherwise permitted herein, so as to increase the degree of nonconformity that presently exists.

**§ 195-10.1. Wastewater pumping stations. [Added 10-21-1999ATM by Art. 26]**

Municipal wastewater pumping stations shall not be subject to the dimensional regulations of this article.

**§ 195-11. Accessory buildings. [Amended 10-21-1999ATM by Art. 29; 10-15-2001ATM by Art. 20; 5-3-2007ATM by Art. 19]**

No accessory building or structure, except a permitted sign or roadside stand, shall be located within a required front yard area. Detached accessory buildings may be located in the rear or side yard areas and on the same lot as a principal building, provided that not more than 25% of the required yard area shall be so occupied, and further provided that a swimming pool shall not be located nearer than 10 feet from the principal building and shall be at least 10 feet from any side or rear lot line. An accessory building attached to its principal building or within 10 feet of it shall be considered an integral part thereof and as such shall be subject to the front, side and rear yard requirements applicable to the principal building. An accessory building smaller than 260 square feet shall not be located closer than 10 feet to any side or rear lot line. An accessory building larger than 260 square feet shall be subject to the front, side and rear yard requirements applicable to the principal building. An accessory building with a footprint greater than 900 square feet, or with a building height in excess of 20 feet, or of two stories or greater shall be subject to a Planning Board

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31. Editor's Note: The Table of Dimensional Requirements is included as an attachment to this chapter.

special permit.

- A. Roadside stands. Roadside stands shall be located at least 15 feet back from any street right-of-way and 20 feet from any lot line. Portable stands shall be removed during seasons when not in use.

#### **§ 195-12. Multiple principal structures.**

Except in the residential districts, more than one principal nonresidential structure may be erected on a lot, pursuant to a special permit issued by the Planning Board in accordance with § 195-103 herein and the following conditions:

- A. No principal building shall be located in relation to another principal building on the same lot, or on an adjacent lot, so as to cause danger from fire.
- B. All principal buildings on the lot shall be served by accessways suitable for fire, police and emergency vehicles.
- C. All of the multiple principal buildings on the same lot shall be accessible via pedestrian walkways connected to the required parking for the premises and to each principal building.

#### **§ 195-13. Conversion of dwelling units.**

Alteration of a single-family dwelling existing at the time of adoption of this chapter in 1938 for occupancy by not more than two families is permitted, in accordance with Article III of this chapter, provided that the lot contains not less than 15,000 square feet and the exterior design of the structure is not changed from the character of a single-family dwelling, and provided further that at least 600 square feet of living space shall be provided for each resulting dwelling unit.

#### **§ 195-14. Height restrictions on certain accessory structures.**

Tall structures and roof-mounted or attached structures shall comply with the following requirements, conditions and guidelines. For purposes of this section, a "tall structure" shall mean any freestanding man-made device (lattice, mast, pole, windmill, wind turbine, spire, tower, antenna or the like) which exceeds 35 feet in height and which is not subject to Article XIII, Wireless Communications Facilities.

- A. Each tall structure shall be placed in a circle with a radius equal to its height as measured from the base of said structure. This circle must be contained entirely within the property on which the tall structure is located. More than one tall structure may be erected on a lot, provided that the total area of the circles required above does not exceed the area of the lot.
- B. No tall structure shall be located within a required front or side yard area.
- C. Roof-mounted or attached structures, including masts, poles, towers, antennas, etc., may not exceed 20 feet above the uppermost part of the structure to which attached. Such structures shall not be located nearer to the lot line than the total height of the mounted or attached structure.

#### **§ 195-15. Rear lots.**

Rear lots shall be allowed only in the RA and RB Districts by special permit issued by the Planning Board. Individual lots need not have the required amount of street frontage, provided that all of the following conditions can be met for each individual lot lacking such frontage:

- A. The area of said lot is at least 80,000 square feet.

- B. The front, rear and side yards shall be at least 40 feet.
- C. A building line is designated on the plan, and the width of the lot at that line equals or exceeds 125 feet.
- D. Lot width is at no point less than 50 feet, and lot frontage is not less than 50 feet. No section of the lot with a width of less than 100 feet shall be used to compute the minimum lot area set forth above.
- E. Not more than one rear lot shall be created from a property or a set of contiguous properties held in common ownership as of October 22, 1998. In order to be eligible for a rear lot, such property or set of contiguous properties held in common ownership as of October 22, 1998, shall not have been divided after such date. No further division of said property or properties shall be permitted after the creation of a rear lot. Documentation to this effect shall be submitted to the Inspector of Buildings. The Inspector of Buildings shall not issue a building permit for any rear lot without first establishing that compliance with this provision has been determined by the Planning Board.
- F. At the time of the creation of the rear lot, it shall be held in common and contiguous ownership with the front lot.
- G. There shall be a turnaround at the house site suitable for an SU30 vehicle. There shall be a pullout on the access driveway every 250 feet.

ARTICLE V  
**Off-Street Parking and Loading**

**Purpose and Intent. [Added 10-21-2013ATM by Art. 15; amended 10-18-2021ATM by Art. 23]**

In order to minimize traffic congestion, air pollution, and the risk of motor vehicle and pedestrian accidents, as well as to promote other elements of sound community planning, off-street parking, loading spaces, circulation, and access shall be required and designed as appropriate to protect or enhance the desired character of a given zoning district. It is further the intent of this bylaw to:

1. Ensure there are adequate parking and loading facilities to serve the use or uses of the property;
2. Ensure that parking facilities are designed to provide proper circulation, reduce hazards to pedestrians, and protect the users of adjoining properties from nuisance caused by the noise, fumes, and glare of headlights which may result from the operation of vehicles parking off the street;
3. Reduce congestion in the streets and contribute to traffic safety;
4. Encourage alternate modes of travel that will reduce dependence upon the single-occupancy automobile; and
5. Reduce impervious surfaces and stormwater runoff through sustainable design and encourage use of low impact development (LID) or green infrastructure.

**§ 195-16. Off-street parking to be provided; common parking areas. [Amended 10-21-1999ATM by Art. 29; 10-21-2013ATM by Art. 15]**

- A. Applicability. Adequate off-street parking must be provided to service all parking demand created by new structures, additions to existing structures or changes of use. Existing buildings and uses need not comply unless expanded or otherwise changed to increase their parking needs.
- (1) Additions.
    - (a) A building or site may be renovated or repaired without providing additional parking, provided there is no increase in gross floor area or improved site area and the use does not change.
    - (b) When a building, use or site is increased in gross floor area or improved site area, additional parking is only required for the additional gross floor or site area.
  - (2) Change in use.
    - (a) A change in use must comply with the parking requirements unless the new use has the same or a lower parking demand than the previous use.
    - (b) Where required parking spaces for the new use exceed the required parking spaces for the existing use, additional parking is only required for the difference between the current



parking spaces required and the parking spaces required for the new use.

- B. Meeting parking demand. In applying for building or occupancy permits, the applicant must demonstrate that the minimum parking requirements set forth below will be met for the new demand without counting existing parking necessary for preexisting remaining uses.
- C. Shared parking. Common parking areas may be permitted for the purpose of servicing two or more principal uses on the same or separate lots, provided that:
  - (1) Proximity. Evidence is submitted that safe and accessible parking is available within 500 feet of the premises, which lot satisfies the requirements of this chapter and has excess capacity during all or part of the day, which excess capacity shall be demonstrated by a competent parking survey conducted by a traffic engineer registered in the Commonwealth of Massachusetts.
  - (2) Legal agreement. A contract, agreement or suitable legal instrument acceptable to the Planning Board and Chelmsford's Town Counsel shall be filed with the application for a building permit, occupancy permit or special permit for exception which shall specify the location of all spaces to be jointly used, the number of such spaces, the hours during the day that such parking shall be available and the duration or limit, if any, on such parking.
  - (3) Parking reserve. Any reduction in area required for parking because of these joint use provisions may be required by the Planning Board to be reserved in landscaped open space. Such area shall be computed at the rate of 300 square feet per parking space and verified with an engineered site plan.
  - (4) Discontinuation. Nothing in this section shall relieve the owner from providing parking facilities in accordance with this chapter if subsequently the joint use of parking facilities shall terminate. In such cases, the owner shall return to the Planning Board to provide an alternative joint agreement or another method of relief acceptable to the Board.
- D. Parking reduction method. The requirements set forth in this article may be reduced by special permit issued by the Planning Board upon a finding that such reduction will not detract from the purpose and intent of this article.

**§ 195-17. Minimum parking requirements. [Amended 10-21-1999ATM by Arts. 28 and 29; 10-16-2006ATM by Art. 19; 10-21-2013ATM by Art. 15]**

- A. Minimum parking requirements. For the purpose of computing the parking requirements of different uses, the number of spaces required shall be the largest whole number obtained after increasing all fractions upwards to one. Employees shall include the largest number of owners, managers, full- and part-time workers and volunteers that may be normally expected on the premises during any single shift or portion thereof. The number of seats in benches, pews or other continuous seating arrangements shall be calculated at 20 inches for each seat. The following minimum parking requirements shall apply to uses as listed below:

<b>Use</b>	<b>Number of Spaces</b>
Stores, retail business and services	1 space per 200 square feet of net floor area or a minimum of at least 3 spaces per establishment
Banks, libraries and post offices	1 space per 100 square feet of floor area devoted to public use, plus 1 space per employee
Bowling alleys	4 spaces for each alley
Business and professional offices, office buildings and offices of a wholesale establishment, including sales space	1 space per 200 square feet of net floor area
Medical and dental offices and clinics	1 space per 200 square feet of net floor area
Restaurants, lounges and function rooms	1 space per employee on the largest shift and 1 space per 2.5 seats based on the maximum rated legal seating capacity of the facility
Fast-food establishments	1 space per 50 square feet of net floor area
Adult entertainment establishments	1 space per employee on the largest shift and 1 space for each 1.25 persons allowed for said establishment's seating capacity
Theaters, funeral homes and places of assembly	1 space for each 4 seats or for each 50 square feet of assembly area, whichever is greater
Hotels, motels and tourist homes	1 space per guest room, plus 1 space per employee, plus a number of spaces as required elsewhere herein for restaurants, assembly halls, function rooms, shops and similar functions if occurring on the premises
Nonfamily accommodations	1 space per 2 persons accommodated

Use	Number of Spaces
Nursing and convalescent homes	1 space for each 3 beds, plus 1 space for each employee serving on the shift having the greatest number of employees, plus 1 space for each visiting staff
Clubs, lodges and association buildings	1 space per 3 memberships
Lumber and building material yards, nurseries and outdoor sales	1 space per 200 square feet of net floor area and 1 space per 1,000 square feet of outdoor or bulk sales area
Manufacturing, truck terminals, wholesale establishments, public utility buildings other than their business office, warehouses and similar uses not normally visited by the general public	1 space per 500 feet of net floor area; provided, however, that the Inspector of Buildings may waive the actual construction of said space to no less than 1 space per 1.4 employees, plus 1 space for each vehicle used in the operation upon issuance of a building permit or occupancy permit
Facilitated living facilities	1 space for each employee on the shift having the greatest number of employees, plus 1 space for each visiting staff person; when on-site parking for the facility's residents is permitted, the parking requirement is 8/10 space per room; when on-site parking for the facility's residents is not permitted, the parking requirement is 1 space for each 3 beds; the site must support the potential for meeting the parking requirement for business and professional offices in the event of a building conversion and shall be shown on the site plan as potential future parking
Single-family and two-family dwellings	2 spaces per dwelling unit for units with 2 or more bedrooms

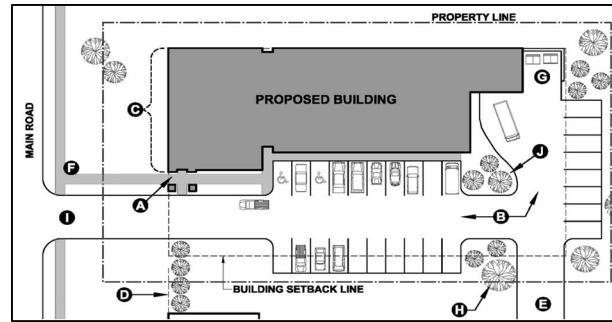
Use	Number of Spaces
Multifamily dwellings	1 space per dwelling unit for 1 bedroom; 2 spaces per dwelling unit for units with 2 or more, plus 1 space per every 3 units or fraction thereof
Home occupations	In addition to the spaces required for the dwelling, 1 space for the nonresident employee
Accessory residential use in the CV District	1 space per unit
Child/day care	1 space per 4 students, plus 1 space per employee on the largest shift, plus a dedicated drop-off zone adequate to accommodate a minimum of 5 automobiles
Self-storage mini-warehouse	A minimum of 3 spaces per facility, plus 1 space per 100 storage units
Any other nonresidential use or any use involving a combination of functions similar to or listed herein	A number of spaces as determined by the Inspector of Buildings by application of the ratios above

- B. Maximum on-site parking. On-site surface parking shall not exceed 100% of the required minimum parking spaces under § 195-17 except on special permit from the Planning Board.

**§ 195-18. Reduction in number of required spaces. [Amended 10-21-2013ATM by Art. 15]**

- A. Base parking reduction methods. The requirements of § 195-17 may be reduced up to a maximum of 25% with a special permit from the Planning Board if a property owner can demonstrate to the satisfaction of the Board that the required number of spaces will not be needed for the proposed use and that fewer spaces meet all parking needs. Such cases might include:
- (1) Use of a shared/common parking lot for separate uses having peak demands occurring at different times.
  - (2) Age or other characteristics of occupants which reduce their auto usage.
  - (3) Peculiarities of the use that make usual measures of demand invalid.
  - (4) The area necessary for the reduced spaces is available on the lot.
  - (5) If the use is located adjacent to a public right-of-way where striped on-street parking is available, the Board may allow the reduction of one off-street parking space required for each 20 linear feet of abutting right-of-way where on-street parking is located.

- (6) If an off-street public parking lot of 20 spaces or more exists within 300 feet of the principal land use, on-site parking may be reduced by an amount determined by the Planning Board, taking into consideration other users of the lot.
  - (7) If a private off-street parking lot with sufficient space for long-term parking (such as employees) is within a seven-hundred-foot walking distance of the principal land use, on-site parking may be reduced by an amount determined by the Planning Board. The off-site parking must be secured by a legal agreement per § 195-16C(2) above and the applicant must demonstrate that adequate parking for all of the uses sharing the parking facility exist.
  - (8) Proximity to public transportation where it can be demonstrated to the Planning Board that consistent ridership results in less demand for on-site parking at the principal use.
  - (9) Other transportation mitigation programs (TMP) such as car-sharing, carpooling, shuttle service, on-site bicycle commuter services, or other programs. A TMP plan must be submitted to the Planning Board and clearly demonstrate that the programs result in permanent reduction in the need for on-site parking.
- B. Additional parking reduction methods. In addition to the parking reduction methods in Subsection A(1) through (9) above, required parking in § 195-17 may be reduced up to a maximum of 50% with a special permit from the Planning Board if one or more of the following methods is utilized for reducing the required number of parking spaces.
- (1) Payment to public parking fund. In lieu of providing the total minimum on-site parking required, the Planning Board may accept a one-time payment per required parking space for all or a portion of required on-site parking that would be committed to a fund for the construction of public parking in the district. The Planning Board shall establish the amount of payment required per parking space.
  - (2) Public parking reserve. In lieu of providing the total minimum on-site parking required, the Planning Board may accept a permanent easement on the property for the purposes of constructing public parking for all or a portion of required on-site parking spaces. The reserve easement shall be subject to review and approval by the Planning Board.
  - (3) Traffic circulation and pedestrian safety improvement incentives. On-site parking requirements may be reduced if one or more of the following pedestrian safety improvements are made on site:
    - (a) Permanently eliminates and/or significantly reduces the width of existing curb cuts in a manner that improves the pedestrian safety and access control on a primary public street; or
    - (b) Provides a perpetual agreement for one or more driveway consolidations or interconnections that will alleviate traffic on a primary street and facilitates shared use of off-street parking; or
    - (c) An internal sidewalk is provided with connections to the primary use entrance, on-site parking area, the adjacent public sidewalk, and adjacent uses (where appropriate).
    - (d) Public access through a permanent easement is provided to the Bruce Freeman Trail or the Beaver Brook and bike racks to accommodate at least two bicycles per eliminated parking space.



Label A on the diagram illustrated an internal pedestrian connection between the public sidewalk, main building entrance and on-site parking area.

C. Special permit criteria for reducing required parking spaces. Per § 195-18, the Planning Board may authorize a decrease in the required number of off-street parking spaces that will not create undue congestion, traffic hazards, or a substantial detriment to the business district or neighborhood, and does not derogate from the intent and purpose of this bylaw, subject to the following criteria:

(1) Placed into reserve (landbanked).

- (a) The reduction of on-site parking spaces shall not be used for building area except by special permit from the Planning Board. The Planning Board may require an area of 300 square feet per each waived parking space be labeled as "Reserve Parking" on the site plan.
- (b) The reserve parking spaces shall be properly designed, and verified with an engineered site plan, as an integral part of the overall parking development, and in no case shall any reserve parking spaces be located within areas counted as yard setbacks.
- (c) If, after one year from the date of issuance of a certificate of occupancy, the Building Inspector and/or Planning Board find that all or any of the reserve spaces are needed, the Planning Board may require that all or any portion of the spaces identified as reserve parking on the site plan be constructed within a reasonable time period, as specified in writing by the Planning Board following a public meeting with the owner of the property. Notice of the public meeting shall be by publication in a newspaper of general circulation in accordance with M.G.L. c. 40A, Section 11.

(2) Waived.

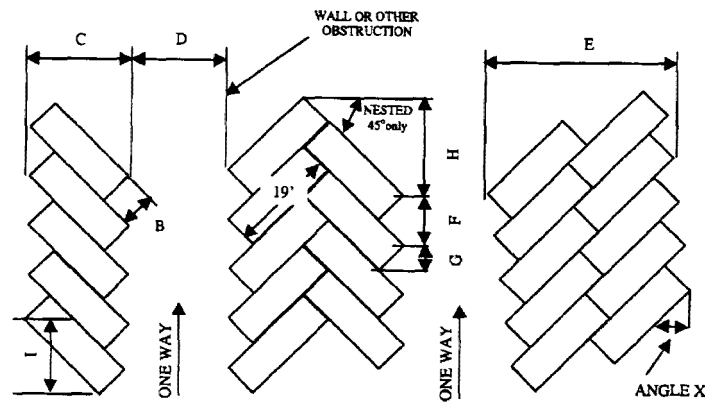
- (a) The Board may determine that all or a portion of the parking spaces are not needed and therefore not placed into reserve.

(3) Combination of reserve and waived.

**§ 195-19. Size of parking spaces.** [Amended 10-21-1999ATM by Art. 29; 10-15-2012ATM by Art. 18]

The area of the parking lot shall be determined by the following table:

Angle	Stall and Aisle Dimensions (feet)						
	X	B	C	D	E	F	I
30		9.0	17.3	11.0	26.8	18.0	4.5
45		9.0	19.8	13.0	33.2	12.8	6.4
60		9.0	21.0	18.0	37.4	10.5	7.8
70		9.0	20.9	19.0	38.8	9.6	8.5
80		9.0	20.3	24.0	39.0	9.1	8.8
90		9.0	19.0	24.0	38.0	9.0	9.0



### § 195-20. Off-street loading.

All buildings requiring the delivery of goods, supplies or materials or shipments of the same shall have bays and suitable maneuvering space for off-street loading of vehicles in accordance with the following:

- A. Retail stores and services. For each establishment with a net floor area from 5,000 to 8,000 square feet, at least one berth shall be provided. Additional space is required at the rate of one berth per 8,000 square feet or nearest multiple thereof. Where two or more such establishments are connected by a common wall, such as in a shopping center, common berths may be permitted for the use of all establishments at the rate of one berth space per 8,000 square feet in the entire shopping center.
- B. Office buildings. For each office building with net area of 4,000 square feet or more, at least one berth shall be provided.
- C. Manufacturing industrial warehousing. For manufacturing, industrial warehousing and similar uses up to 8,000 square feet of net floor area, at least one berth shall be provided. For larger floor areas, additional berths shall be provided as required by the Inspector of Buildings adequate for off-street loading and unloading.
- D. Loading areas shall provide screening in accordance with Article IX, Landscaping.
- E. Loading bays shall not be less than 12 feet in width, 40 feet in length and 14 feet in height, exclusive of driveway and maneuvering space. Required off-street loading bays and maneuvering spaces shall be located entirely on the same lot as the building being served.

**§ 195-21. Parking and loading area design and location.**

- A. No off-street parking area shall be located within 10 feet of a property line or within 20 feet of a street right-of-way. See § 195-44C for increased parking buffers. **[Amended 10-21-1999ATM by Art. 29]**
- B. Sidewalks are required within the site where necessary for safe pedestrian access and circulation. There shall be a marked pedestrian aisle at each entrance to the building served by the parking lot.
- C. Parking spaces more than 500 feet from the building entrance they serve may not be counted towards fulfillment of parking requirements unless the Planning Board determines that circumstances justify this greater separation of parking from use.
- D. All required parking areas except those serving single-family residences shall be paved, unless exempted on special permit from the Planning Board for cases such as seasonal or periodic use where unpaved surfaces will not cause dust, erosion, hazard or unsightly conditions.
- E. Parking areas for five or more cars shall not require vehicles to back onto a public way.
- F. Parking areas shall provide screening in accordance with Article IX, Landscaping. **[Amended 10-21-1999ATM by Art. 29]**
- G. No dead-end aisle may exceed seven parking spaces in width for uses exclusively for retail, restaurants, professional offices, and medical-related uses. For all other uses, dead-end aisles shall not exceed 15 parking spaces in width. However, the Planning Board shall waive the requirement for a special permit if the Board finds that the dead-end aisle will not detract from the objectives of this article, an adequate turnaround area is provided and dedicated for such purposes with sufficient signage and the parking spaces closest to the dead end are reserved for employees and signed accordingly. **[Amended 10-18-2010ATM by Art. 19]**
- H. Continuous curbing shall be provided to control access, drainage and damage. Unless a portion of a project has been designed specifically as an LID stormwater management feature, curb only, sawtooth curb, and curb cut edge treatments are allowed. **[Amended 10-18-2021ATM by Art. 24]**
- I. Curb stops, planting strips or other means shall be provided to maintain a minimum usable sidewalk width of four feet or the minimum width required by the Americans with Disabilities Act.
- J. Parking areas with 20 or more spaces. The following shall apply to entrances or exits to all parking areas with 20 or more spaces:
  - (1) Entrance or exit center lines shall not fall within 50 feet of an intersection of street side lines or within 150 feet of the center line of any other parking area entrance or exit on the same side of the street, whether on the same parcel or not, if serving 20 or more spaces. Uses shall arrange for shared egress if necessary to meet these requirements.
  - (2) Egressing vehicles shall have 400 feet of visibility in each travel direction.
  - (3) Street entrances shall be designed consistent with the Massachusetts Amendments to the Manual on Uniform Traffic Control Devices (MUTCD) and the Municipal Traffic Code or subsequent revisions. **[Amended 10-18-2021ATM by Art. 24]**
  - (4) An appropriate area for snow storage after plowing shall be provided on the premises.
- K. Pervious parking materials. Turf grid systems, pervious pavers, gravel and similar parking materials are allowed as part of a comprehensive stormwater management design, including LID and green



infrastructure. Use of pervious materials is subject to the approval of the Town Engineer. Off-street parking facilities surfaced with pervious materials may be allowed by special permit from the Planning Board. **[Added 10-21-2013ATM by Art. 15; amended 10-18-2021ATM by Art. 24]**

**§ 195-22. Parking garages.**

An application for a special permit for a parking garage shall require the submission of a site plan in conformance with § 195-104. A parking garage shall not exceed three stories in height (35 feet) and, when taken in consideration with the principal structure, shall not exceed the lot coverage for the applicable zoning district.

ARTICLE VI

**Fairs, Carnivals and Similar Events**

**§ 195-23. Special permit.**

Special permits for carnivals, fairs, exhibits or similar outdoor events may be granted consistent with the following:

- A. Sponsorship. The sponsor shall be a religious, charitable, social or public organization.
- B. Duration. The event shall continue no longer than one week at any one time, and not more than two such events shall be authorized within any 12 months for any one sponsor.

**§ 195-24. Other requirements.**

All requirements of this chapter, except paving for parking areas but including Article VIII, Environmental Protection Standards, and § 195-34, Outdoor lighting, shall be observed.

ARTICLE VII  
**Signs and Outdoor Lighting**

**§ 195-25. Objectives.**

The following sign regulations are intended to serve these objectives: to facilitate efficient communication to ensure that people receive the messages they need or want; to promote good relationships between signs and the visual qualities of their environs and the buildings to which they relate; to maintain visual diversity within commercial areas by avoiding requirement of uniformity; and to support business vitality within nonresidential zones by accomplishing the above objectives without burdensome procedures and restrictions.

**§ 195-25.1. Definitions. [Added 10-21-2013ATM by Art. 14; amended 10-20-2014ATM by Art. 12]**

- A. **CORRELATED COLOR TEMPERATURE (CCT)** — A specification of the apparent color of the light emitted by a lamp, as measured in kelvins (K). A CCT of 3,000K provides a slightly yellowish hue, and a CCT of 5,000K provides a slightly bluish hue.
- B. **DAYTIME OPERATION** — The time interval beginning 30 minutes before sunrise and ending 30 minutes after sunset.
- C. **NIGHTTIME OPERATION** — The time interval beginning 30 minutes after sunset and ending 30 minutes before sunrise.
- D. **LUMINANCE** — The surface brightness of internally or externally illuminated sign elements, measured in nits (candela per square meter).
- E. **NIT (Nit)** — A unit of apparent surface brightness equal to one candela per square meter. Nits are measured using methods and equipment commonly employed by lighting professionals.
- F. **SIGN** — See § 195-108, Word usage and definitions. For purposes of legal notices or informational devices erected or required by public agencies, it is the Town's preference that signage for public agencies comply to the maximum extent practicable.
- G. **SIGN AREA** — See § 195-108, Word usage and definitions.
- H. **SIGN TYPES** —
  - (1) **INTERNALLY ILLUMINATED SIGN** — A sign whose light source is located in the interior of the sign so that the light becomes visible by shining through a translucent surface, but not including changing-image signs. The luminance of sign elements shall not exceed 2,000 nits during daytime operation nor 200 nits during nighttime operation. Internally illuminated signs on the premises shall collectively total no more than 15,000 lumens.
  - (2) **EXTERNALLY ILLUMINATED SIGN** — A sign that is illuminated from an external source such as a floodlight directed toward or across or by backlighting from a source not within the sign. The luminance of sign elements shall not exceed 200 nits during nighttime operation. The correlated color temperature of the illumination source shall not exceed 3,000K, except that an illumination source with a CCT not exceeding 4,000K may be granted by special permit.
  - (3) **NEON SIGN** — An illuminated sign containing neon, argon or any other similar gas to illuminate transparent or translucent tubing or other materials to create a colored light.

- (4) BULLETIN-BOARD SIGN — A freestanding, wall or window sign with letters, words or numerals that are manually moveable, indicating the names of persons associated with, or events conducted upon, or products or services offered upon the premises upon which such sign is maintained. Such sign is permitted in all zoning districts as applicable.
- (5) ELECTRONIC MESSAGE/IMAGE BOARD — A sign or portion thereof using digital, electronic or other methods to create characters, letters, illustrations or images that can be changed, altered or rearranged without altering the face or the surface of the sign. Such signs shall not be changed, altered or rearranged more than once per day. A digital display of time, temperature, or fuel prices shall not be considered a changing message/image sign. The luminance of sign elements shall not exceed 2,000 nits during daytime operation nor 200 nits during nighttime operation.
- (6) TEMPORARY SIGN — A sign which is not permanently affixed to a building or mounted in the ground, or placed on the ground, which is designed to be movable and/or portable. Temporary signs may include small ground signs such as A-frame, H-frame, T-frame (also known as sandwich signs), small wall signs (also known as banner signs) and special signs. Portable temporary signs shall not include trailers or motorized vehicles. Such a sign shall not be lit, erected on a sidewalk, walkway or driveway, or within five feet from the sideline of a street or right-of-way customarily used by the general public. Such signs shall not block vision of vehicles entering or exiting driveways, and the Building Commissioner has the discretion to request portable signs be moved when there is a safety issue.
- (7) SPECIAL SIGN — A temporary sign used for advertising, identification or promotion such as an opening, reopening, under new management, sale or service, product, commodity, entertainment or activity. Such sign is not intended to advertise a continuing or regularly reoccurring operation.

**§ 195-26. Permit required. [Amended 10-20-2014ATM by Art. 12]**

No sign shall be erected, enlarged or structurally altered without a sign permit issued by the Inspector of Buildings, with the exception of unlighted signs one square foot or smaller in area and temporary construction signs less than 12 square feet in area. Temporary unlighted real estate signs require no sign permit if the erecting agent has obtained a one-year permit from the Inspector of Buildings for erecting such signs.

**§ 195-27. Maintenance. [Amended 10-20-2014ATM by Art. 12]**

All signs shall be maintained in a safe and neat condition to the satisfaction of the Inspector of Buildings and in accordance with Sections 1404.0 and 1405.0 of the Massachusetts State Building Code.

**§ 195-28. Nonconforming signs.**

Any sign legally erected may be continued and maintained despite being made nonconforming through change in this chapter, except that no off-premises signs may be maintained after June 1, 1980. Any sign rendered nonconforming through erection of additional signs on the premises or through change or termination of activities on the premises shall be removed within 30 days of order of the Inspector of Buildings. No existing sign shall be enlarged, reworded (unless equipped with movable letters), redesigned or altered in any way except in conformity with the provisions contained herein. Any sign which has been destroyed or damaged to the extent that the cost of repair or restoration will exceed 1/3 of the replacement value as of the date of the destruction shall not be repaired, rebuilt, restored or altered unless in conformity

with this chapter.

**§ 195-29. Identification number.**

All signs approved by the Inspector of Buildings will have an identifying number affixed to the face of the sign in the lower right-hand corner, said number to be at least one inch in height.

**§ 195-30. Prohibited signs.**

- A. No moving, animated, revolving, moving-light, blinking, or flashing sign or sign elements shall be permitted, except for traditional illuminated barbershop poles with revolving pillars. Only registered and licensed barbershops are allowed to display a barber pole, and the barber pole shall not exceed 18 inches in height. No pennants, streamers, advertising flags, spinners or similar devices shall be permitted. **[Amended 10-20-2014ATM by Art. 12]**
- B. No sign shall be located within 25 feet of the intersection of side lines of intersecting streets unless entirely less than 3 1/2 feet or more than eight feet above grade.
- C. No part of any sign shall be more than 20 feet in height above ground level or exceed the height of the building to which it relates, whichever is less, unless granted a special permit for an exception by the Board of Appeals. **[Amended 10-20-2014ATM by Art. 12]**
- D. No part of any sign shall overhang a public way by more than 12 inches, except that on special permit from the Board of Appeals such overhang may be increased up to four feet.
- E. No sign shall be erected or maintained unless its subject matter relates exclusively to the premises on which it is located or to products, accommodations, services or activities on those premises. **[Amended 10-20-2014ATM by Art. 12]**
- F. Laser-projected signs are not permitted. **[Added 10-21-2013ATM by Art. 14; amended 10-20-2014ATM by Art. 12]**

**§ 195-31. Signs permitted in residential districts. [Amended 10-21-2013ATM by Art. 14]**

The following signs are permitted in Residential Districts RA, RB, RC and RM:

- A. One non-internally-illuminated sign for each family residing on the premises indicating the owner or occupant or pertaining to a permitted accessory use, provided that no such sign shall exceed one square foot in area. **[Amended 10-20-2014ATM by Art. 12]**
- B. One non-internally-illuminated sign not over nine square feet in area pertaining to a permitted use or building other than dwellings or their accessory uses. **[Amended 10-20-2014ATM by Art. 12]**
- C. One unlighted temporary sign not over six square feet in area pertaining to the sale, rent or lease of the premises, provided that it shall be removed within seven days after the sale, rent or lease thereof. Such signs may be externally illuminated only if granted a special permit by the Board of Appeals upon its determination that such illumination serves public safety and convenience without damage to neighborhood character. These signs require no sign permit if the erecting agent has obtained a one-year permit from the Inspector of Buildings for erecting such signs. **[Amended 10-20-2014ATM by Art. 12]**
- D. Unlighted directional signs not exceeding one square foot in area each and pertaining to permitted building, uses of the premises other than dwellings and their accessory uses or prohibiting use of the

premises or certain portions of it.

- E. One temporary unlighted sign not larger than 25 square feet in an area indicating the name and address of the parties involved in construction on the premises. This sign requires no permit if it is not more than 12 square feet in area and is removed within 30 days of erection.
- F. Internally illuminated signs and electronic message/image boards are not permitted. **[Amended 10-20-2014ATM by Art. 12<sup>32</sup>]**

**§ 195-32. Signs permitted in business districts. [Amended 10-21-2013ATM by Art. 14]**

The following internally or externally illuminated signs are permitted in Business Districts CA, CB, CC, and CD:

- A. Attached signs. One sign may be attached to any one wall of a building, not to exceed an area equivalent to 15% of the front wall area of said building or 60 square feet, whichever is greater.
  - (1) Allowable sign area may be divided between two signs, each sign to be attached to a different wall of the building, and the total allowable sign area shall not exceed an area equivalent to 20% of the front wall area of said building or 80 square feet, whichever is smaller.
  - (2) In the case of buildings with multiple occupants, each occupant is allowed one sign, with the above total allowable sign area divided among them in proportion to their share of total floor area.
  - (3) No attached sign shall extend above the wall to which it is attached. No sign shall be attached to a roof, real or simulated.
  - (4) A building located at an intersection fronting on two public ways may divide the allowable sign area between two signs, each sign to be attached to a different wall of the building, and the total allowable sign area shall not exceed an area equivalent to 20% of the front wall area of said building or 80 square feet, whichever is smaller.
- B. Freestanding signs.
  - (1) One freestanding sign located within the front yard area of the lot and not exceeding 5% of the front wall of the building or 40 square feet, whichever is smaller, provided that the building has a minimum setback of 30 feet and the sign is so located as to be set back 15 feet from the street line and 20 feet from any side lot line. On special permit from the Board of Appeals the allowable sign area may be increased to 60 square feet.
  - (2) Directory signs. A freestanding directory sign, representing multi-tenants, must have uniformity of size and color, and the overall sign must meet the criteria for freestanding signs. **[Amended 10-20-2014ATM by Art. 12]**
- C. Directional signs. No more than two directional signs per driveway. Said signs shall contain no advertising and shall not exceed an area of five square feet each.
- D. Window signs. One unlighted window sign for each window of the building not to exceed in area 20% of the area of any window upon which located.

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32. Editor's Note: This article also repealed former Subsection G, prohibiting LED and laser projector lights signs, which immediately followed.

- E. Lighted window signs. One internally or externally illuminated window sign, including a neon sign, conforming to the following standards: **[Amended 10-20-2014ATM by Art. 12]**
- (1) Such signs shall not exceed five square feet in area or cover more than 20% of the window in which they are situated, whichever is less, and shall only be allowed in ground-floor windows.
  - (2) Such signs shall be equipped with a timer which shall permit illumination no longer than 30 minutes before opening or after closing of the business.
  - (3) Such signs shall not flash or blink or use lights changing in intensity.
  - (4) Such signs illuminated by a neon source shall be composed of primarily single-strand glass tubing with a maximum outside diameter of one inch.
  - (5) Such signs within three feet of a window shall be considered to be a window sign for purposes of these standards.
  - (6) Such signs shall not have a lit background.
- F. Bulletin boards and electronic message/image boards are permitted. Such signs may not exceed one square foot in area. **[Amended 10-20-2014ATM by Art. 12]**

**§ 195-32.1. Signs permitted in Center Village District. [Added 10-21-2013ATM by Art. 14]**

Any sign permitted in a business district is permitted in the Center Village District (CV), with the exception of electronic message/image boards. All signage located within the Historic District shall receive approval from the Historic District Commission, and the applicable Commission regulations shall prevail.

**§ 195-32.2. Signs permitted in the Public Districts. [Added 10-21-2013ATM by Art. 14]**

Although signs for public agencies are exempt, per § 195-108, definition of a "sign," it is the Town's preference that the signage complies to the maximum extent practicable and shall take into consideration the surrounding area, public need and public benefit.

**§ 195-33. Signs permitted in industrial districts.**

Any sign permitted in a business district is permitted in an industrial district (IA or IS), excepting window signs. However, a freestanding sign oriented parallel to the street line and not more than 30 square feet in area need be set back only five feet from the street line.<sup>33</sup>

**§ 195-33.1. through § 195-33.4. (Reserved)**

**§ 195-34. Outdoor illumination. [Amended 10-16-2000ATM by Art. 19]**

- A. Purpose. This section recognizes the benefits of outdoor lighting and provides clear guidelines for its installation, so as to help maintain and complement the character of the town. The intent of this section is to encourage lighting that provides safety, utility and security; prevent glare on public roadways; protect the privacy of residents; promote energy-efficient outdoor lighting; and to reduce atmospheric light pollution.

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33. Editor's Note: Former § 195-33.5, Billboard Overlay District, added 4-27-2009ATM by Art. 19, which immediately followed this section, was repealed 4-29-2013ATM by Art. 26.

- B. Applicability. The requirements of this section shall apply to all new lighting and any new construction. With the exception of single-family dwellings and two-family dwellings, if modifications or additions exceed 25% of the gross floor area, dwelling units or parking spaces, all lighting on the property shall be made to comply with the provisions of this section. For the purposes of this section, if the aggregate of any additions or modifications within the five previous calendar years exceeds 25%, the provisions of this section shall apply. The requirements of this section may be reduced by special permit issued by the Planning Board upon a finding that such reduction will not detract from the objectives of this section. **[Amended 10-21-2013ATM by Art. 14]**
- C. Standards.
- (1) Any luminaire with a lamp or lamps rated at a total of more than 2,000 lumens, and all flood or spot luminaires with a lamp or lamps rated at a total of more than 1,000 lumens, shall be of a full cutoff design, with the lamp or lamps surrounded and shielded such that no direct light is emitted above a horizontal plane through the lowest part of the luminaire emitting direct light. If any spot or flood luminaire rated 1,000 lumens or less is directed or focused such as to cause direct light from the luminaire to be cast toward residential buildings on adjacent or nearby land, or to create glare perceptible to persons operating motor vehicles on public ways, the luminaire shall be redirected or its light output controlled as necessary to eliminate such conditions.
  - (2) Illuminated signs, parking lot lighting, building floodlighting or other exterior lighting shall be so designed and arranged that their collective result does not create so much light overspill onto adjacent premises that it casts observable shadows and so that it does not create glare from unshielded light sources.
  - (3) Luminaires used primarily for sign illumination may be mounted at any height to a maximum of 25 feet, regardless of lumen rating.
  - (4) The maximum height of the luminaire shall not exceed 25 feet. A maximum luminaire height of 35 feet may be allowed by special permit from the Planning Board upon a finding that the increase in luminaire height will not negatively impact abutting properties, particularly property used or zoned for residential purposes.
  - (5) Internally illuminated signs on the premises shall collectively total no more than 15,000 lumens.
  - (6) No sign or building in any residential district or within 300 feet of any residential district if within sight from it shall be illuminated between the hours of 11:00 p.m. and 7:00 a.m. unless indicating an establishment open to the public during those hours.
  - (7) Luminaires intended solely to illuminate any freestanding sign or the walls, roof or any other architectural feature of any building shall be shielded so that its direct light is confined to the surface of such sign or building, and its lumen output shall be such that the average illumination on the ground or on any vertical surface is not greater than 0.5 footcandle or five lux. **[Amended 10-21-2013ATM by Art. 14]**
  - (8) No flashing, moving, color (white only) or revolving lights shall be maintained. **[Amended 10-21-2013ATM by Art. 14]**
- D. Exceptions.
- (1) All temporary emergency lighting needed by the Police or Fire Departments or other emergency services, as well as all vehicular luminaires, shall be exempt from the requirements of this article.



- (2) All hazard-warning luminaires required by federal regulatory agencies are exempt from the requirements of this article, except that all luminaires used shall be red and shall be shown to be as close as possible to the federally required minimum lumen output requirement for the specific task.
  - (3) Luminaires used to illuminate nighttime sporting events shall not exceed 35 feet. A greater luminaire height may be allowed by special permit from the Planning Board upon a finding that the increase in luminaire height will not negatively impact abutting properties, particularly property used or zoned for residential purposes. Such luminaires shall not be illuminated after 11:00 p.m.
- E. Submission. The applicant for any permit under this section shall submit evidence that the proposed work will comply with this section. The submission shall contain, but shall not necessarily be limited to, the following:
- (1) Plans indicating the location on the premises of each illuminating device, both existing and proposed.
  - (2) Description of all illuminating devices, fixtures, lamps, supports, reflectors, both existing and proposed. The description may include, but is not limited to, catalog cuts and illustrations by manufacturers (including sections where required).
  - (3) Photometric data, such as that furnished by manufacturers, or similar showing the angle of cut off of light emissions.
- F. Definitions. The terms used in this section shall be defined as follows:
- DIRECT LIGHT** — Light emitted directly from the lamp, off the reflector or reflector diffuser, or through the refractor or diffuser lens of a luminaire.
- FIXTURE** — The assembly that houses the lamp or lamps, which can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror and/or a refractor or lens.
- FLOOD OR SPOT LIGHT (OR LUMINAIRE)** — Any light fixture or lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction.
- FULL CUTOFF** — A luminaire designed with an opaque shield surrounding and extending below the lamp, such that no direct light is emitted above a horizontal plane.
- GLARE** — Light emitting from a luminaire with an intensity great enough to reduce a viewer's ability to see and in extreme cases causing momentary blindness.
- HEIGHT OF LUMINAIRE** — The vertical distance from the ground directly below the center line of the luminaire to the lowest direct-light-emitting part of the luminaire.
- LAMP** — The component of a luminaire that produces light.
- LUMEN** — A unit of luminous flux. One footcandle is one lumen per square foot; one lux is one lumen per square meter. For the purposes of this section, the lumen-output value shall be the initial lumen output rating of a lamp.
- LUMINAIRE** — A complete lighting system; that is, a lamp (or lamps) and a fixture.
- OUTDOOR LIGHTING** — The nighttime illumination of an outside area or object by any device located outdoors that produces light by any means.

**§ 195-35. Temporary signs. [Amended 4-29-2013ATM by Art. 27; 10-21-2013ATM by Art. 14]**

Temporary signs (including those mounted on wheels, trailers or motor vehicles if those vehicles, trailers or wheeled signs are regularly located for fixed display) are prohibited unless complying with all requirements of this chapter as applicable to permanent signs or as may be allowed herein.

A. By-right temporary signs for which a permit is NOT required.

- (1) Political signs. Temporary, freestanding political signs, not exceeding in aggregate 24 square feet in area, which are designed to influence the action of voters for the passage or defeat of a referendum question or other measure appearing on the ballot of an election duly called in the Town of Chelmsford or designed to influence the action of voters for election of a candidate whose name appears on the ballot of an election duly called in the Town of Chelmsford are allowed in all districts. It is the Town's preference that such signs be erected no sooner than 21 days prior to the date of election and be removed not later than 14 days after such election. Signs permitted by this subsection shall not be higher than three feet above ground level; shall not be artificially illuminated; shall be freestanding and not attached to a building, tree, utility pole or fence; shall be set back at least 15 feet from the street line; and shall only be located within the front or side yard area of the property. These signs require no sign permit.
- (2) Construction signs. Temporary, freestanding signs may be erected on the premises to identify any building under construction and its owner, architect, builder or other associated with it, provided that such sign shall not exceed 60 square feet in area and shall not be erected to interfere with sight lines along the public way. Such sign shall be removed within seven days of the issuance of an occupancy permit. These signs require no sign permit if they are not more than 12 square feet in area and are removed within 30 days of erection.
- (3) Real estate signs. A temporary freestanding sign or signs attached to the front wall of the building and pertaining to the sale, rental or lease of the premises are allowed in all districts. Such sign shall be removed within seven days of the sale, rental or lease of said premises. These signs require no sign permit if the erecting agent has obtained a one-year permit from the Inspector of Buildings for erecting such signs. Signs advertising an open house shall be situated only on the property which is for sale and/or at nearby intersections to guide potential buyers to that location and only during the hours of the open house.
- (4) Yard sale signs. A sign advertising a yard sale shall not exceed two square feet in area, shall not be erected more than 72 hours before the sale and shall be removed immediately thereafter. No permit is required for a yard sale sign.

B. Temporary signs for which registration is required. The following signs do not require a permit; however, registration is required. Such signs shall comply with all applicable signage provisions unless specifically provided otherwise in this section.

- (1) Special signs. Any use may erect one special sign as follows:
  - (a) A small wall sign not to exceed 12 square feet in sign area;
  - (b) A small ground sign not to exceed 12 square feet in sign area and a height of four feet as measured from average grade;
  - (c) Off-premises signs are not allowed.
- (2) Sign registration for special signs. The following procedures and standards apply:

- (a) Prior to installation, signs shall be registered and receive written approval from the Building Commissioner.
  - (b) Each use/business located on a site may have one sign at a time.
  - (c) A sign may be registered for no more than 14 consecutive calendar days.
  - (d) Each use/business may register a sign once per quarter of the calendar year. Such quarter is defined as the periods from January 1 to March 31, from April 1 to June 30, from July 1 to September 30 and from October 1 to December 31, or as determined by the Building Commissioner.
  - (e) There shall be at least 30 days between the display of registered signs.
- (3) Nonmunicipal signs on Town property and within or over Town-owned rights-of-way. Signs related to community based events, sponsored by public, charitable, religious or agricultural organizations and/or businesses and the like, may erect signs as follows:
- (a) A ground sign not to exceed 12 square feet in sign area and a height of four feet as measured from the average grade.
  - (b) A banner-type sign over a street right-of-way.
  - (c) The sign shall not be in place for more than 14 days prior to the event.
  - (d) Wall signs are prohibited.
  - (e) Prior to installation, signs shall be registered and receive written approval by the Select Board or its designee in accordance with adopted policies or regulations. **[Amended 6-17-2021ATM by Art. 30]**

#### **§ 195-36. Design and content guidelines.**

These guidelines are not mandatory, but the degree of compliance with them shall be considered by the Board of Appeals in acting upon special permits authorized under this article, as shall consistency with the basic sign objectives and any specific criteria cited above.

##### **A. Design.**

- (1) Any increase above the basic maxima for the size and number of signs should be justifiable because of multiple frontages, development scale or other special needs and should be appropriate in relation to street width, signage on nearby structures and speed of vehicular travel.
- (2) Sign content normally should not occupy more than 40% of the sign background, whether a signboard or a building element.
- (3) Signs should be simple, neat and avoid distracting elements so that contents can be quickly and easily read.
- (4) Signs should be sized and located so as not to interrupt, obscure or hide the continuity of columns, cornices, roof eaves, sill lines or other elements of building structure and, where possible, should reflect and emphasize building structural form.
- (5) Sign materials, form, colors and lettering shall be reflective of the character of the building to

which the sign relates.

- (6) Clutter should be avoided by not using support brackets extending above the sign or guy wires and turnbuckles.

**B. Content.**

- (1) Signs should not display brand names, symbols or slogans of nationally distributed products except in cases where the majority of the floor or lot area on the premises is devoted to manufacturing, sale or other processing of that specific product.
- (2) Premises chiefly identified by a product brand name (such as a gasoline or auto brand) should devote some part of their permitted sign area to also displaying the identity of the local outlet.
- (3) Signs should not contain selling slogans, product descriptions, help wanted notices or other advertising that is not an integral part of the name or other identification of the location or the enterprise.

**§ 195-37. (Reserved)<sup>34</sup>**

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**34. Editor's Note: Former § 195-37, Sign Advisory Committee, was repealed 10-28-2019ATM by Art. 28.**

ARTICLE VIII  
**Environmental Protection Standards**

**§ 195-38. Conformity required; technical evidence and expert advice.**

- A. No activity shall be permitted in any district unless it shall be in conformity with the standards for environmental protection included herein.
- B. The Inspector of Buildings may require an applicant for a building or occupancy permit to supply, at the applicant's expense, such technical evidence as is necessary in support of the application and may, in connection therewith and at the applicant's expense, obtain expert advice as necessary to review the plans and proposals of the applicant. Payment of such expert advice to the Inspector of Buildings shall be made, or guaranteed by bond or other legally binding device, before further consideration of the application shall continue.
- C. After a permit is issued in accordance with this article, continuing compliance is required. When the Inspector of Buildings suspects a subsequent violation, the Inspector may, as necessary, obtain expert advice, which, if the violation is established, shall be paid for by the violator and otherwise by the town.

**§ 195-39. Standards established.**

The following standards are hereby established:

- A. Water quality. No discharge at any point into any public sewer, private sewerage disposal system, stream or water body or into the ground of any materials of such nature or temperature as can contaminate such water body or water supply or cause emission of dangerous or offensive elements in reaction thereto shall be permitted except in accordance with applicable federal, state and local health and water pollution control laws and regulations.
- B. Air quality. No building or occupancy permit shall be issued for any facility subject to regulation under the Massachusetts Air Pollution Control Regulations, 310 CMR 7.00, until compliance with those regulations has been demonstrated and, if applicable, the appropriate permit(s) has been obtained from the Massachusetts Department of Environmental Protection, Bureau of Waste Prevention. The provisions of said regulations shall apply to dust, flash, gas, fume, mist, odor, smoke, vapor, pollen, microorganism, radioactive material, radiation, heat, sound, any combination thereof or any decay or reaction product thereof in the ambient air space. **[Amended 4-25-2005ATM by Art. 23]**
- C. Noise. No use shall be permitted within the Town of Chelmsford which, by reason of excessive noise generated therefrom, would cause nuisance or hazard to persons or property. Exempt from the provisions of this subsection are vehicles not controlled by an owner or occupant of a lot within the town, temporary construction activities occurring during the hours of 7:00 a.m. to 6:00 p.m. on weekdays, occasionally used safety signals, warning devices, emergency pressure-relief valves or other such temporary activity and the use of power tools and equipment such as lawn mowers, snowblowers, chain saws, tractors and similar equipment for the maintenance of property. For the purposes of this chapter, the standards in the Noise Table shall apply for sounds generated continuously from any source not otherwise exempted above.

**Noise Table**

<b>Location of Measurement</b>	<b>Maximum Permitted Sound Level (dBA)*</b>
At the lot line of an adjacent or nearby residence or institutional use, weekdays during the hours of 7:00 a.m. to 6:00 p.m.	60
At the lot line of an adjacent or nearby residence or institutional use, Sundays or during the hours of 6:00 p.m. to 7:00 a.m. weekdays	50
At the lot line of an adjacent business use	65
At the lot line of an adjacent industrial use	70

**NOTES:**

\*"dBA" shall mean the A-weighted sound-pressure level in decibels, as measured by a general purpose sound-level meter complying with the provisions of the American National Standards Institute. The instrument shall be properly calibrated and set to the A-weighted response scale and the meter set to the slow response. Reference pressure shall be 0.0002 microbars.

- (1) Exceptions for intermittent noise. The levels (dBA) specified in the Noise Table may be exceeded by 10 dBA weekdays during the hours of 7:00 a.m. to 6:00 p.m., but not at any other time, for a period not to exceed 20 minutes during any one day.
  - (2) Impact noise. Impact noise such as from a punch press, drop forge hammer or similar equipment shall be measured using the fast response of the sound-level meter and shall not exceed the levels specified in the Noise Table by more than 10 dBA.
- D. Solid waste storage. Any accessory receptacle or structure with holding capacity of at least 100 cubic feet for temporary storage of solid or liquid waste materials, including garbage, rubbish, junk, discarded bulk items and similar waste items, shall be located not less than 10 feet from any structure and shall be screened from all adjacent premises and streets from which it would otherwise be visible in accordance with § 195-44B of this chapter. Screening materials will not be attached to any structure.
- E. No vibration, odor, glare or flashing shall be detectable without instruments at any lot line of a residential or institutional use.

- F. Cinders, dust, fumes, gases, odors, smoke, radiation, refuse or other waste materials shall be effectively confined to the premises and treated or disposed of in accordance with state, federal and Town laws and regulations.
- G. No process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in excess of 10% in line voltage off the premises.
- H. All activities involving, and all storage of, inflammable and explosive materials shall be provided with adequate safety devices against hazards from fire and explosion and with adequate fire-fighting and fire-suppression equipment standard in this industry. Burning of waste materials in the open contrary to state law is prohibited.
- I. All materials which may be edible by or attractive to rodents or insects shall, when stored indoors or outdoors, be stored in tightly closed containers.

#### **§ 195-40. Erosion control.**

Site design, materials and construction processes shall be designed to avoid erosion damage, sedimentation or uncontrolled surface water runoff by conformance with the following:

- A. Grading or construction which will result in final slopes of 15% or greater on 50% or more of the lot area or on 30,000 square feet or more on a single lot, even if less than half the lot area, shall be allowed only under special permit from the Planning Board, which shall be granted only upon demonstration that adequate provisions have been made to protect against erosion, soil instability, uncontrolled surface water runoff or other environmental degradation. Applications and plans for such special permits shall be referred to the Conservation Commission for its advisory review.
- B. All such slopes exceeding 15% which result from site grading or construction activities shall either be covered with topsoil to a depth of four inches and planted with vegetative cover sufficient to prevent erosion or be retained by a wall constructed of masonry, reinforced concrete or treated pile or timber or other acceptable means.
- C. No area or areas totaling one acre or more on any parcel or contiguous parcels in the same ownership, or part of a larger development, shall have existing vegetation clear-stripped or be filled six inches or more so as to destroy existing vegetation unless in conjunction with agricultural activity; or unless necessarily incidental to construction on the premises under a currently valid building permit; or unless within streets which are either public or designated on an approved subdivision plan; or unless a special permit is approved by the Planning Board on condition that runoff will be controlled, erosion avoided and either a constructed surface or cover vegetation will be provided not later than the first full spring season immediately following completion of the stripping operation. No stripped area or areas which are allowed by special permit shall remain through the winter without a temporary cover of winter rye or similar plant material being provided for soil control, except in the case of agricultural activity where such temporary cover would be infeasible. **[Amended 10-18-2021ATM by Art. 25]**
- D. The Inspector of Buildings may require the submission of all information from the building permit applicant or the landowner, in addition to that otherwise specified herein, necessary to ensure compliance with these requirements, including, if necessary, elevations of the subject property, description of vegetative cover and the nature of impoundment basins proposed, if any.
- E. In granting a special permit hereunder, the Planning Board may require a performance bond to ensure compliance with the requirements of this section.

- F. Hillside areas, except naturally occurring ledge or bedrock outcroppings or ledge cuts, shall be retained with vegetative cover or appropriate stabilization.



ARTICLE IX  
**Landscaping**

**§ 195-41. Objectives.**

This article is designed to accomplish the following objectives:

- A. To provide a suitable boundary or buffer between residential uses and districts and nearby nonresidential uses.
- B. To define the street edge and provide visual connection between nonresidential uses of different architectural styles.
- C. To separate different and otherwise incompatible land uses from each other in order to partially or completely reduce potential nuisances, such as dirt, dust, litter, noise, glare from motor vehicle headlights, intrusion from artificial light (including ambient glare) or view of signs, unsightly buildings or parking lots.
- D. To provide visual relief and a source of shade in parking lots and other areas and protection from wind in open areas.
- E. To preserve or improve the visual and environmental character of Chelmsford, as generally viewed from residential or publicly accessible locations.
- F. To offer property owners protection against diminution of property values due to adjacent nonresidential use.
- G. To minimize runoff through green infrastructure and low impact design (LID). **[Added 10-18-2021ATM by Art. 26]**

**§ 195-42. Applicability.**

The requirements of this article shall apply to any nonresidential use and to multifamily dwellings. The requirements set forth in this article may be reduced by special permit issued by the Planning Board upon a finding that such reduction will not detract from the objectives of this article.

**§ 195-43. Property lines. [Amended 10-21-1999ATM by Art. 29]**

Property lines with residential uses or districts shall be screened from nonresidential uses by means of plantings or maintenance of trees of a species common to the area and appropriate for screening, spaced to minimize visual intrusion, and providing an opaque year-round visual buffer between uses. Such plantings shall be provided and maintained by the owner of the property used for nonresidential purposes. The buffer area may contain walks, sewerage and wells, but no part of any building, structure or paved space intended for or used as a parking area may be located within the buffer area. Planted buffer areas along property lines with residential districts or uses shall be of the following minimum depth in each district:

<b>District</b>	<b>Distance (feet)</b>
RM	20
CA	10
CB	30

<b>District</b>	<b>Distance (feet)</b>
CC	30
CD	10
IA	40
IS	40
RMH	30
CX	30
P	10
OS	10

**§ 195-44. Parking areas.**

- A. Parking areas with more than 10 spaces shall contain 150 square feet of planted area for every 1,000 square feet of pavement related to parking spaces and aisles. Such planted areas shall be appropriately situated within the parking area and contain an appropriate mix of shade trees and other plants.
- B. Parking lots, loading areas, storage areas, refuse storage and disposal areas and service areas shall be screened from view, to the extent feasible, from all public ways and from adjacent properties by the use of planted areas, berms, natural contours, fences or a combination of the above.
- C. Buffer strips between parking lots and rear or side lot lines shall meet the following specifications:

<b>Number of Spaces in Lot</b>	<b>Depth of Buffer Strip (feet)</b>
Up to 10	10
11 to 24	10, plus 1 foot for each space in excess of 10 spaces
25 or more	25

**§ 195-45. Street frontage of nonresidential uses. [Amended 10-21-1999ATM by Art. 29]**

With the exception of the CA, CD and P Districts, a landscaped buffer area, except for approved accessways, at least 20 feet in width as measured from the layout of the roadway providing frontage shall be established. In the CA, CD and P Districts the required landscaped buffer area shall be 10 feet. The buffer area shall be planted with grass, medium-height shrubs and shade trees. Shade trees shall be planted at least every 35 feet along the road frontage.

**§ 195-46. Planted areas.**

Planted areas shall contain an appropriate mix of the following types of plants. Plant species shall be appropriate to proposed use, siting, soils and other environmental conditions. Where the Planning Board determines that the planting of trees is impractical, the permit applicant may substitute shrubbery for trees.

- A. Shrubs and hedges shall be at least 2.5 feet in height at the time of planting and have a spread of at least 18 inches.

- B. Grass is preferable to mulch where practical.
- C. Existing trees with a caliper of six inches or more shall be preserved wherever feasible.
- D. Deciduous trees shall be at least two inches in caliper as measured six inches above the root ball at time of planting. Deciduous trees shall be expected to reach a height of 20 feet within 10 years after planting. **[Amended 4-25-2005ATM by Art. 24]**
- E. Evergreens shall be a minimum of eight feet in height at the time of planting and shall be spaced five feet on center when planted in a single row. When planted in a double row, each row of evergreens shall be spaced 10 feet on center. These minimum standards may be reduced by the Planning Board, subject to the recommendation of an arborist, landscape architect, or other competent individual. Areas planted in conformance with this subsection shall, at the time of planting, be deemed to comply with the opacity requirement of § 195-43. **[Amended 4-25-2005ATM by Art. 24]**

**§ 195-47. Coordination with site plan approval.**

The Planning Board may require a landscaping plan as part of the overall site plan for the premises. Such landscaping plan shall be at a scale sufficient to determine compliance with the specifications set forth in this article.

**§ 195-48. Maintenance of landscaped areas.**

The owner of the property used for nonresidential purposes shall be responsible for the maintenance, repair and replacement of all landscaping materials installed in accordance with this article. All plant materials required by this chapter shall be maintained in a healthy condition. Dead limbs, refuse and debris shall be promptly removed. Dead plantings shall be replaced with new live plantings at the earliest appropriate season. Bark mulch and nonplant ground surface materials shall be maintained so as to control weed growth.

ARTICLE X  
**Earth Removal**

**§ 195-49. Applicability; exceptions.**

- A. General. No removal of sod, loam, humus, clay, sand or gravel shall be permitted except in accordance with the conditions and procedures contained herein.
- B. Exceptions. The provisions of this article shall not apply to the following types of uses. Any fill material imported to the site pursuant to any exception shall be inorganic material, and any earthwork, final grades, planting and landscaping shall be constructed with due regard for the protection of persons and property adjacent to the site. At no time will a slope exceed 3:1. Any site within 100 feet of a wetland shall be subject to the jurisdiction of the Conservation Commission.
  - (1) Removal or filling incidental to the construction of a building, for which the site of removal or filling is not more than six months old, or for grading or otherwise improving the premises around the building.
  - (2) Removal on a lot located in a residential district containing an existing residential dwelling, provided that a plan of the proposed work has been submitted to the Inspector of Buildings and a residential earth removal permit has been issued by the Inspector of Buildings upon determination of compliance of said plans with the requirements of this chapter.
  - (3) Removal on any town-operated or town-maintained landfill.

**§ 195-50. Special permit required; application procedure.**

The Board of Appeals may authorize earth removal upon the issuance of a special permit.

- A. Each application for a special permit shall be accompanied by a plan of land, at least six eight-inch by ten-inch photographs of the area and a statement describing any fill material to be used and where such fill would be obtained. The plan of land shall indicate the existing grade, proposed area of fill, proposed area of cut, area to be left as natural ground, grades below which no removal is to take place, proposed final landscaping and permanent benchmarks.
- B. All required plans shall be prepared by a registered civil engineer and surveyor, except that the Board of Appeals may waive this requirement, upon written request, where it is evident that the plan is sufficiently accurate for the scope of operations proposed and where such operations will be minor.
- C. Five copies of the initial plan of land shall be prepared, and, at the time of application to the Board of Appeals, such copies shall be distributed to the Inspector of Buildings, Town Engineer, Planning Board and Conservation Commission.
- D. The Inspector of Buildings, Town Engineer, Planning Board and Conservation Commission may report with recommendations to the Board of Appeals either at or prior to the hearing on the application.
- E. A final plan of land shall be prepared showing the final grades, cross sections, location of culverts and other site improvements and cover vegetation, trees and landscaping.
- F. Three copies of the final plan shall be prepared, one of which shall be distributed to the Inspector of Buildings and one to the Town Engineer, who shall review the final plan and inspect the completed site for conformity with this chapter and any terms and conditions imposed by the Board of Appeals.

- G. A performance bond in an amount determined by the Board of Appeals shall be posted in the name of the Town assuring satisfactory compliance with this chapter and any conditions imposed by the Board of Appeals in the interests of safeguarding the area and the Town against injury, assuring proper future use of the land after operations are completed or to control the transportation of such material through the town. Upon failure to comply and forfeiture of the bond, moneys therefrom shall be utilized by the Town for the purpose of fulfilling these requirements. No bond shall be released until sufficient time has elapsed to ascertain that any filled area has stabilized, that vegetation planted has successfully been established and that drainage is satisfactory.

**§ 195-51. Review procedure; permit conditions; withdrawal of permit.**

Before granting a special permit for removal, the Board of Appeals shall give due consideration to the location of the proposed operation, to the general character of the neighborhood surrounding such location, to the existing topography and natural landscape, drainage patterns, ground cover and vegetation and to the general safety of the public on the public ways and in the vicinity of the removal or landfill operations.

- A. The Board of Appeals may set additional conditions governing the conduct of operations, hours when trucking is permitted, trees, screening and landscaping which shall be in writing and a part of the permit issued.
- B. A permit shall not be issued for more than one year and may be renewed only upon application and following a public hearing. Prior to renewal, inspection of the premises shall be made by the Inspector of Buildings.
- C. The Board of Appeals, after hearing and proof of violation of the terms of the permit or of this chapter, shall withdraw the permit, after which the operation shall be discontinued and the area restored in accordance with this chapter.

**§ 195-52. Standards of operation.**

Removal operations shall comply with the following standards:

- A. Removal shall not take place below a level that would reasonably be considered a desirable grade for the later development of the area or below the grades specified on the plan accompanying the permit, provided that such plan has been approved or modified in accord with the directive of the Board of Appeals.
- B. During removal operations, no slope shall exceed one foot rise to 1 1/2 feet horizontal distance or the natural angle of repose of the material in a dry state, whichever is lower, except in ledge rock.
- C. Provision shall be made for safe drainage of water and for prevention of wind or water erosion carrying material onto adjoining properties.
- D. Soil shall not be disturbed within 100 feet of the boundaries of the premises, excepting at the conclusion of operations, if required in order to improve the overall grading.

**§ 195-53. Restoration.**

Within 10 days after the expiration or withdrawal of a permit or upon voluntary cessation of operations or upon completion of removal in a substantial area, that entire area shall be restored as follows:

- A. All land shall be graded so that the elevation of any disturbed areas shall be one foot or more above the grade level of any adjacent street or way and so that no slope exceeds a rise of one foot vertical

for each three feet of horizontal distance and shall be graded as to safely provide for drainage without erosion.

- B. All boulders larger than 1/2 cubic yard shall be removed or buried.
- C. The entire area of disturbed ground shall be covered with not less than four inches of loam, which shall be planted with cover vegetation adequate to prevent soil erosion, using either grasses or ground cover, depending upon conditions.
- D. Retaining walls. Where it is necessary to erect retaining walls to guard against erosion, such retaining walls shall be no more than 18 inches above the grade of all adjacent streets or ways, with the filled land at least eight inches below the top of the retaining wall.

ARTICLE XI  
**Major Business Complexes**

**§ 195-54. Objectives.**

The objectives for allowing major business complexes are to increase the diversity and convenience of goods and services available in Chelmsford, to provide entrepreneurial and employment opportunities for area residents, to focus development at locations able to support it with relatively small environmental or municipal cost and to protect the town's natural environment, existing character and development and ability to provide public services.

**§ 195-55. Applicability.**

Any existing or proposed premises having more than 20,000 square feet gross floor area devoted to any use included in the Use Regulation Schedule<sup>35</sup> under commercial and industrial uses shall be considered a major business complex. Any construction, alteration, relocation or change of use resulting in such complex shall be permitted only upon the granting of a special permit by the Planning Board. For the purposes of this subsection, "change of use" shall mean a change in principal use which results in or is accompanied by an increase in the gross floor area of the principal structure of 10% or the addition of at least 10 new parking spaces.

**§ 195-56. Submittals.**

Ten copies of the following shall be filed with the Planning Board application for a special permit for a major business complex or for rezoning to accommodate such a complex. Additional copies shall be filed with the Town Clerk and the Inspector of Buildings. The Inspector of Buildings shall review the application for a major business complex and shall submit a report with recommendations not later than the time of the public hearing. The Planning Board shall neither sponsor nor favorably recommend any rezoning of three or more acres to a commercial or industrial district unless such materials have been submitted to it at a public hearing.

- A. A site plan, as specified at § 195-104.
- B. Narrative analyses of the consequences of the proposed development, including evaluation of the following concerns at a level of detail appropriate to the scale of development proposed, as determined by the Planning Board:
  - (1) Natural environment. Groundwater and surface water quality, groundwater level, stream flows, erosion and siltation, vegetation removal (especially unusual species and mature trees) and wildlife habitats.
  - (2) Public services. Traffic safety and congestion, need for water system improvements and need for public sewerage.
  - (3) Economics. Anticipated market area, augmentation or duplication of existing services, amount and types of employment and labor force area.
  - (4) Visual environment. Visibility of buildings and parking and visual consistency with existing development in the area.

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35. Editor's Note: The Use Regulation Schedule is included at the end of this chapter.

**§ 195-57. Decision criteria.**

In addition to the criteria set forth in § 195-103, a special permit may be granted by the Planning Board only after consideration of the following factors:

- A. If the required traffic study shows that there will be an increase in traffic above the present level of service at any point within one mile of the premises, satisfactory evidence shall be presented to demonstrate that the complex will not be injurious to public safety.
- B. Satisfactory evidence shall be presented to demonstrate that the complex will result in no net increase of runoff above current flows and the design capacity of receiving structures or the channel capacity of receiving streams shall not be exceeded.

**§ 195-58. Lapse of permit.**

Special permits granted pursuant to this article shall lapse within two years following the filing of the special permit (including such time required to pursue and await the determination of an appeal referred to in MGL c. 40A, § 17 from the grant thereof) with the Town Clerk if a substantial use thereof has not sooner commenced, except for good cause, or in the case of a permit for construction if construction has not begun by such date, except for good cause.



ARTICLE XII  
**Multifamily Dwellings**

**§ 195-59. Objectives.**

Multifamily dwellings may be allowed by special permit in RM Districts in Chelmsford to provide greater variety and choice in housing types, to broaden availability of housing for persons and families of limited income, to focus development at locations able to support it with relatively small environmental or municipal cost and to protect the town's natural environment, existing character and development and ability to provide public services.

**§ 195-60. Creation of district.**

- A. RM Districts may be created by Town Meeting vote, but only if the proposed district meets the following criteria:
- (1) At least five acres of land.
  - (2) Two hundred fifty linear feet of frontage upon one or more of the following: a state-numbered highway, a street having a right-of-way width of 60 feet or more or a street determined by the Planning Board to have current annual average daily traffic equal to 1,000 vehicles per day or more.
- B. Except as part of a comprehensive reconsideration of the Zoning Map, the Planning Board shall neither sponsor nor favorably recommend any proposal to create an RM District unless it has had presented to it at a public hearing the information required in § 195-61B.

**§ 195-61. Special permit required; application procedure.**

- A. Multifamily dwellings may be allowed by special permit in the RM District by the Planning Board.
- B. Submittals. The following information shall be submitted as part of the application for a special permit:
- (1) A schematic site plan of the property, showing general shape and location of structures, parking, retained vegetation, wetlands and points of egress onto public ways.
  - (2) Materials indicating proposals for methods of water supply and sewage disposal; number of dwelling units, distinguishing single-family and multifamily; a development schedule for dwellings and improvements; proposed form of tenure, whether rental, condominium, cooperative or other; means, if any, of providing for design control; and means, if any, of providing assurance of long-term conformity with present proposals.
  - (3) A development phasing schedule indicating the maximum number of dwelling units proposed to be erected in each calendar year and the timing of construction of any proposed community facilities.
  - (4) Analysis of the consequences of the proposed development, evaluating the following impacts at a level of detail appropriate to the number of units proposed and using analysis materials provided by the Planning Board:
    - (a) Natural environment. Groundwater and surface water quality, groundwater level, stream flows, erosion and siltation, vegetative removal (especially unusual species and mature

trees) and wildlife habitats.

- (b) Public services. Traffic safety and congestion, need for water system improvements, need for public sewerage, need for additional public recreation facilities and need for additional school facilities.
- (c) Economics. Municipal costs and revenues, local business activity and local jobs.
- (d) Social environment. Rate of Town population growth and range of available housing choice.
- (e) Visual environment. Visibility of buildings and parking and visual consistency with existing development in the area.

**§ 195-62. Review procedure. [Amended 6-17-2021ATM by Art. 30]**

The applicant shall transmit one copy of the materials required herein to each of the following for their review and recommendation, to be made not later than the public hearing: the Conservation Commission, Select Board and Fire Department. A special permit shall be approved by the Planning Board only after consideration of the criteria set forth in § 195-103 and the following additional factors:

- A. Departure from the scale of single-family development is minimized through including not more than 24 dwelling units in a single structure, serving not more than six dwelling units from a single entrance, limiting building length to not more than 200 feet, having unbroken roof area of not more than 3,000 square feet and having parking areas individually contain not more than 36 parking spaces and be separated from all other parking areas by at least 50 feet.
- B. Visual separation from nearby premises is assured through providing yards of at least 1.5 times building height measured from each lot line, which shall contain no parking areas, and through use of outdoor lighting fixtures not higher than 15 feet.

**§ 195-63. Density bonus.**

For every one unit in 10 set aside for low- and moderate-income persons and families in a multifamily housing project, the applicant may apply and the Planning Board may grant a bonus of one additional unit. To apply the applicant shall demonstrate to the Planning Board that:

- A. The rent required for the unit set aside shall meet the affordable rents established by the Department of Housing and Urban Development for the Chelmsford area;
- B. The unit set aside shall be made available to low- and moderate-income persons and families for a period of no less than 10 years;
- C. The low- and moderate-income level shall be as defined by the Department of Housing and Urban Development for the Chelmsford area; and
- D. The applicant shall work with the Housing Authority to rent units to eligible persons and families.

ARTICLE XIII  
**Wireless Communications Facilities**  
**[Amended 10-15-2001 ATM Art. 22]**

**§ 195-64. Purpose.**

The purpose of these regulations is to establish siting criteria and standards for wireless communication facilities (WCF's); to minimize the adverse visual impacts of WCF's on nearby properties and residential neighborhoods; to encourage the location of WCF's in nonresidential neighborhoods; to minimize the overall number and height of monopoles to only what is essential; and to promote collocation of WCF's to reduce the need for additional monopoles. This article is intended to establish reasonable regulations while allowing adequate service to residents, the traveling public and others within the Town, and to minimize the number of monopoles within the Town. Preference shall be given to wireless communications facilities that are located in nonresidential zoning districts. This article shall not apply to transmission facilities necessary for public safety, satellite dishes, ham radio antennas, or antennas for residential use which are regulated under § 195-14.

**§ 195-65. Definitions.**

For the purposes of this article, the following terms shall have the following meanings:

**COLLOCATION** — The use of a single mount by more than one carrier and/or several mounts on a tower, monopole, building, or structure by multiple carriers for the purpose of providing wireless communications services. Each service on collocations is a separate wireless communications facility.

**MONOPOLE** — A pole consisting of not more than one leg, anchored in the ground, which is not supported by guy wires or other bracing.

**WIRELESS COMMUNICATIONS FACILITY (WCF)** — A facility for the provision of wireless communications service, including but not limited to towers, monopoles, antennas, antennas attached to existing structures and associated accessory structures, if any, which facilitate the provision of wireless communications service.

**WIRELESS COMMUNICATIONS SERVICES** — The provision of the following types of services: cellular telephone, personal communications and enhanced specialized mobile radio service as described in the Telecommunications Act of 1996.

**§ 195-66. By-right uses; general standards.**

Wireless communications facilities that meet the following standards shall be eligible for a building permit by right.

- A. The wireless communications facility will be attached to an existing building or structure and:
- (1) Will not extend more than 20 feet above the uppermost part of the structure; or
  - (2) Will be attached to a lawfully existing monopole or lattice tower, where such existing monopole or lattice tower is not extended in height; or
  - (3) Will be attached to a lawfully existing expandable monopole approved by the Board of Appeals, where such expansion is not higher than that approved by the Board of Appeals.
- B. The wireless communications facility will be located in one of the following zoning districts: CA,

CB, CC, CD, IA, IS, or P.

- C. Wireless communications facilities will be at least 500 feet from a residential structure. This measurement shall be from the face of the wireless communications facility to the closest point of the residential structure.
- D. Wireless communications facilities shall be removed within one year of cessation of use. If applicable, proof of required maintenance and continued compliance with the standards of the Federal Communications Commission (FCC), Federal Aviation Administration (FAA), the American National Standards Institute (ANSI), and the State Building Code shall be filed with the Inspector of Buildings by the permit holder on an annual basis or as deemed necessary by the Inspector of Buildings.

**§ 195-67. Special permit uses; general standards.**

Wireless communications facilities that are proposed to be located on new monopoles or which do not otherwise comply with the standards of § 195-66 shall be subject to a special permit issued by the Board of Appeals. The following standards shall apply:

- A. Only freestanding monopoles, with associated antennas and/or panels, shall be allowed. Lattice-style towers and similar facilities requiring three or more legs and/or guy wires for support are not allowed.
- B. Monopoles shall be set back from the property line 50 feet or a distance equal to one and one-half times the height of the largest section of the monopole, whichever is greater. The Board of Appeals may allow a reduced setback if it specifically finds that safety of abutting property owners will be maintained.
- C. Erection of new monopoles may be allowed by special permit in any zoning district. WCF's shall only be allowed in a residential zoning district if the Board of Appeals specifically finds that the impact on residential uses will be minimal.
- D. No new monopoles shall be erected within 500 feet of an existing residential structure. This measurement shall be from the base of the monopole to the closest point of the residential structure.
- E. Monopoles shall not normally exceed 120 feet in height as measured from ground level at the base of the pole. The Board of Appeals may allow a monopole in excess of 150 feet but not higher than 180 feet if it specifically finds that the benefits of a taller monopole outweigh the deficits and if it specifically finds that a taller monopole supports greater collocation.
- F. In no case shall a monopole be located on a building.
- G. No monopole shall be visible from any location within the Historic District.
- H. Night-lighting of monopoles 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.
- I. Monopoles shall be designed and located to accommodate the maximum number of users technologically practicable in order to reduce the number of monopoles in the community.
- J. All wireless communications facilities shall be sited in such a manner that the view of the facility from adjacent abutters, residential neighbors, and other areas of town shall be as limited as possible.
- K. Fencing shall be provided to control access to monopoles and other WCFs. The fence shall be

screened as required by the Board of Appeals.

- L. 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 to Article VII, Signs and Outdoor Lighting.
- M. WCFs shall be removed within one year of cessation of use. If applicable, proof of required maintenance and continued compliance with the standards of the Federal Communications Commission (FCC), Federal Aviation Administration (FAA), the American National Standards Institute (ANSI), and the State Building Code shall be filed with the Inspector of Buildings by the special permit holder on an annual basis or as deemed necessary by the Inspector of Buildings.

**§ 195-68. Application procedures.**

All special permit applications for WCFs shall be made and filed in compliance with the rules and regulations of the Board of Appeals. In addition to the minimum requirements of the Board of Appeals, applications under this article shall include the following:

- A. A locus plan showing all property lines, the exact location of the proposed WCF, all structures on the lot, abutting streets, landscape features, and all structures within 500 feet as measured from the property line of the lot where the WCF is proposed.
- B. A color photograph or rendering of the proposed WCF. For WCFs attached to existing structures, a color photograph or rendition illustrating the WCF at the proposed location is required. A rendering shall also be provided illustrating a view of the WCF from the nearest street or streets.
- C. The following information prepared by one or more professional engineers:
  - (1) A description of the WCF and the technical, economic, and other reasons for the proposed location, height, and design.
  - (2) Confirmation that the WCF complies with all applicable federal and state standards.
  - (3) A description of the capacity of the monopole, including the number and type of WCFs that it can accommodate and the basis for these calculations.
  - (4) 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), Massachusetts Aeronautics Commission, and the Massachusetts Department of Public Health.
- D. Coverage maps showing existing coverages and coverages with the proposed WCF.
- E. Visibility maps showing all locations where the WCF will be visible.
- F. The Board of Appeals may require balloon, crane, or other tests at the proposed WCF in order to determine visual and aesthetic impacts.
- G. The Board may require additional information in order to determine visual and aesthetic impacts, and the Board may require that wireless communications facilities be camouflaged in order to minimize visual intrusion.

ARTICLE XIII A  
**Commercial Solar Photovoltaic Facility**  
**[Added 4-30-2012ATM by Art. 29]**

**§ 195-68.1. Purpose.**

The purpose of this section is to promote the creation of new commercial solar photovoltaic facilities by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety and minimize impacts on residential neighborhoods and scenic, natural and historic resources.

**§ 195-68.2. Applicability.**

- A. The facility may be allowed in all zoning districts.
- B. The facility shall be subject to the procedures, submissions and approval of site plan review, in accordance with Article XIX, § 195-104, as well as state and federal law. This section also pertains to physical modifications that materially alter the type, configuration or size of these installations or related equipment throughout the useful life of the system or where alterations may impact abutters.
- C. With the exception of Articles VIII, Environmental Standards, Article X, Earth Removal, Article XIV, Aquifer Protection and Article XV, Floodplain District, all other zoning articles and provisions shall not be applicable.

**§ 195-68.3. Design and dimensional standards.**

- A. Where abutting or within a residential zone or use:
  - (1) Shall be allowed on parcels of not less than three acres.
  - (2) A minimum ten-foot-wide visual buffer shall be provided along the property line. This buffer may consist of existing and/or proposed vegetation, fences, walls and berms or a combination thereof. In cases where the buffer cannot be provided on site, the Planning Board may consider existing and/or proposed off-site buffering.
  - (3) No structure or buildings shall be located within 25 feet of the residential property line.
- B. Where abutting a nonresidential zone or use, no structures or buildings shall be located within 10 feet of the property line.
- C. A security fence shall be installed along or proximate to the perimeter of the property and shall be maintained for the lifetime of the facility.
- D. Adequate access shall be provided for emergency services. At the terminus of the accessway, either inside or outside a perimeter fence, an adequate staging and maneuvering area shall be provided for emergency services.
- E. The owner/operator shall provide a copy of the project summary, electrical schematic, and site plan to the Fire Department. The owner/operator shall provide an emergency response plan. The emergency response plan is subject to the approval of the Planning Board, the Fire Department and the Police Department and shall include, at a minimum, explicit instructions on all means of shutting down the facility, which shall be clearly marked. The owner/operator shall identify a responsible person for emergencies throughout the life of the installation.

- F. The visual impact of the facility, including all accessory structures and appurtenances, shall be mitigated. All accessory structures and appurtenances shall be architecturally compatible with each other. Whenever reasonable, structures shall be shaded from view by vegetation and/or joined and clustered to avoid adverse visual impacts. Methods such as the use of landscaping, natural features and fencing may be utilized.
- G. Lighting shall be limited to security and emergency purposes. Where used, lighting shall be directed downward and full cutoff fixtures shall be used.
- H. Signage shall be limited to security and emergency services.
- I. All utility connections from the facility shall be underground unless specifically permitted otherwise by the Planning Board. Electrical transformers and inverters to enable utility interconnections may be above ground if required by the local electrical utility provider.
- J. Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the facility or otherwise prescribed by applicable laws, regulations and bylaws.
- K. The provisions of § 195-68.3 may be waived by the Planning Board upon a finding that such deviation will not detract from the purpose of § 195-68.1.

#### **§ 195-68.4. Criteria for approval.**

In addition to Article XIX, § 195-104H, the Planning Board shall make the following specific findings:

- A. The facility conforms to the provisions of this section and is in harmony with the general purpose and intent of this chapter.
- B. The facility will not be detrimental to the health, safety or welfare of the neighborhood or the Town.
- C. Environmental features of the site and surrounding areas are protected, and the surrounding area will be protected from the proposed use by provision of adequate surface water drainage. Adequate measures are provided to mitigate the impact during construction, including but not limited to dust and erosion control.
- D. For purposes of ensuring conformity with the section, the Planning Board may place reasonable conditions and safeguards on the approval. Such conditions may include:
  - (1) The requirement of a performance bond, secured by deposit of money or negotiable securities, posted with the Town to cover the cost of maintenance or removal in the event the Town must remove, remediate the landscape the installation. The amount of the performance bond shall not exceed the estimated cost of the removal of the facility.
  - (2) Additional vegetative buffering.
  - (3) Performance bonds for unique environmental conditions such as the protection of a landfill cover.
- E. The applicant shall provide evidence 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 facility owner's or operator's intent to install an interconnected customer-owned generator. Proof of a mutual agreement with the utility company shall be provided to the Planning Board. Off-grid systems shall be exempt from this requirement, however if it goes on grid in the future, it shall comply with this requirement.

**§ 195-68.5. Maintenance.**

The facility owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, continued compliance with landscaping and screening requirements, and integrity of security measures. The owner or operator shall be responsible for the maintenance of any access roads serving the installation.

**§ 195-68.6. Discontinuance.**

A facility shall be deemed to have been discontinued if it has not been in service for a continuous twenty-four-month period. Upon receipt of a notice of discontinuance from the Building Commissioner, the owner shall have the right to respond to the notice within 30 days of receipt. The Building Commissioner shall withdraw the notice of discontinuance and notify the owner that the notice has been withdrawn if the owner provides information that demonstrates to the satisfaction of the Building Commissioner that the facility has not been discontinued. If the facility is determined to be discontinued, the owner shall remove the facility, including all structures, equipment, security barriers and transmission lines, and stabilize or revegetate the site as necessary to minimize erosion and sedimentation, at the owner's sole expense, within three months of receipt of the notice of discontinuance. Failure to remove the installation and stabilize the site within said time period may subject the owner to action pursuant to Article XIX, § 195-100.



ARTICLE XIV  
**Aquifer Protection District**

**§ 195-69. Purpose.**

Groundwater is the sole source of drinking water for the residents, businesses and industries of the Town of Chelmsford. The purpose of the Aquifer Protection District is to protect the health, safety and general welfare by protecting the town's limited present and future drinking water supply, to ensure a sufficient quantity of potable pure drinking water for the present and future residents, institutions and businesses of the Town of Chelmsford and to limit the adverse effects of use and development of land on the quality of the groundwater and surface water resources of the Town of Chelmsford.

**§ 195-70. Definitions.**

For the purposes of this article, the following words and phrases shall have the following meanings:

**AQUIFER** — A geologic formation composed of rock, sand, gravel or other geologic material that contains significant amounts of potentially recoverable water.

**IMPERVIOUS SURFACE** — Material or a structure on, above or below the ground that does not allow precipitation or surface water to penetrate directly into the soil.

**TOXIC OR HAZARDOUS MATERIAL OR WASTE** — Any substance or mixture of physical, chemical or infectious characteristics posing a significant, actual or potential hazard to water supplies or other hazard to human health if such substance or mixture were discharged to land or water of the Town of Chelmsford. Toxic or hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis and all substances defined as toxic or hazardous under MGL c. 21C and 21E and 310 CMR 30.00. For the purposes of this article, sanitary domestic wastes from residential sources shall not be considered toxic or hazardous waste.

**§ 195-71. Establishment and delineation of district.**

- A. There is hereby established within the Town of Chelmsford the Aquifer Protection District. This area is described on a map entitled "Aquifer Protection District, Town of Chelmsford," dated October 1997. Said map is incorporated herein by reference.<sup>36</sup>
- B. If the location of the district boundary in relation to a particular parcel is in doubt, resolution of boundary disputes shall be through a special permit application to the Board of Appeals. Any application for a special permit for this purpose shall be accompanied by adequate documentation according to the normal application requirements of the Board of Appeals. If the applicant is able to demonstrate that groundwater flows will not be impacted by the activity on the site or that groundwater from the site does not contribute to the aquifer, the Board may grant a special permit relieving the applicant of the obligations of the Aquifer Protection District. The burden of proof shall be upon the owner(s) of the land in question to show where the bounds should properly be located. At the request of the owner(s), the Town may engage a registered professional engineer, hydrologist, geologist or soil scientist to determine more accurately the boundaries of the district with respect to individual parcels of land and may charge the owner(s) for all or part of the cost of the investigation.

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36. Editor's Note: The Aquifer Protection District Map is on file at the office of the Planning Board.

**§ 195-72. Overlay district.**

The Aquifer Protection District is an overlay district superimposed on the zoning districts and whose regulations are in addition to any other regulations established by this chapter. This overlay district shall apply to all new construction, reconstruction or expansion of existing buildings and new or expanded uses. Applicable activities or uses in a portion of one of the underlying zoning districts which fall within the Aquifer Protection District must additionally comply with the requirements of this district. Uses that are prohibited in the underlying zoning district shall not be permitted in the Aquifer Protection District.

**§ 195-73. Use regulations.**

The uses permitted within the Aquifer Protection District shall be the uses permitted in the underlying zoning district, except as restricted below. In the following Table of Use Regulations, "N" indicates that the use is prohibited, "Y" indicates that the use is permitted and "PB" indicates that the use may only be permitted by a special permit from the Planning Board.

**Table of Use Regulations Within the Aquifer Protection District [Amended 10-17-2011ATM by  
Art. 17]**

**Principal or Accessory Use**

- |   |    |
|---|----|
| 1. Sanitary landfill, solid waste disposal site, refuse treatment and disposal facility, landfilling of sludge and septage and storage of sludge and septage  | N  |
| 2. Generation, treatment, disposal or storage of toxic or hazardous materials or waste, except for the following: municipal uses associated with the provision of public water, public works, and sanitary sewer services; very small quantity generators, as defined by 310 CMR 30.00; waste oil retention facilities required by MGL c. 21, § 52A; treatment works approved by the Department of Environmental Protection designed in accordance with 314 CMR 5.00 for the treatment of contaminated groundwater or surface water; and household hazardous waste collection centers or events operated pursuant to 310 CMR 30.390 | N  |
| 3. Motor vehicle repair facility  | PB |

**Table of Use Regulations Within the Aquifer Protection District [Amended 10-17-2011ATM by Art. 17]**

**Principal or Accessory Use**

- |  |    |
|--|----|
| 4. Automobile graveyard and junkyard as defined in MGL c. 140B, § 1  | N  |
| 5. Car, truck and equipment washing facility where all wastewater discharges to the municipal sewer system or to a private sewer system which discharges to the municipal sewer system or to an approved disposal facility | PB |
| 6. Commercial laundries not connected to the municipal sewer system or to a private sewer system which discharges to the municipal sewer system  | PB |
| 7. Dry cleaners with on-site cleaning facilities   | PB |
| 8. Furniture or wood stripping, painting and refinishing   | PB |
| 9. Disposal of snow contaminated with de-icing chemicals and originating from outside the district   | N  |
| 10. Outdoor storage of fertilizer, animal manure, soil conditioner, pesticide, herbicide and de-icing chemicals  | N  |
| 11. Chemical, bacteriological or radiological laboratory or production facility  | N  |

**Table of Use Regulations Within the Aquifer Protection District [Amended 10-17-2011ATM by Art. 17]**

**Principal or Accessory Use**

- |  |    |
|--|----|
| 12. Treatment disposal works for nonsanitary wastewater that is subject to 314 CMR 5.00, except replacement or repair of existing treatment works or treatment works approved by the Department of Environmental Protection designed for the treatment of contaminated groundwater or surface water or treatment works for pretreatment of industrial discharges to the municipal sewer system | N  |
| 13. Individual sewage disposal systems designed and/or maintained in accordance with the current requirements of Title 5, 310 CMR 15.00  | Y  |
| 14. Earth removal, consisting of the removal of soil, loam, sand, gravel or any other earth material (including mining activities) within four feet of historical high groundwater as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey, except for excavations for building foundations, roads or utility works    | N  |
| 15. The enclosed storage of road salt or other de-icing chemicals  | PB |
| 16. Modification of groundwater flow through use of underdrains or similar devices, except that a special permit shall not be required to maintain, modify or expand single-family residential structures lawfully in existence on the effective date of this article  | PB |

**Table of Use Regulations Within the Aquifer Protection District [Amended 10-17-2011ATM by Art. 17]**

**Principal or Accessory Use**

- |   |    |
|---|----|
| 17. Enlargement or alteration of existing uses that are nonconforming in the Aquifer Protection District  | PB |
| 18. Storage of hazardous materials as defined in MGL c. 21E and/or liquid petroleum products, unless such storage is above ground level, on an impervious surface and either in a container(s) or aboveground tank(s) within a building or outdoors in a covered container(s) or aboveground tank(s) in an area that has a containment system designed and operated to hold either 10% of the total possible storage capacity of all containers or 110% of the largest container's storage capacity, whichever is greater; these storage requirements shall not apply to replacement of existing tanks or systems for the keeping, dispensing or storing of gasoline, provided that the replacement is performed in a manner consistent with state and local requirements | N  |
| 19. The construction of dams or other water-control devices, ponds or other changes in water bodies or courses created for swimming, fishing or other recreational uses, agricultural uses or drainage improvements   | PB |
| 20. Any use that will render impervious more than 15% or 2,500 square feet of any lot, whichever is greater (see § 195-74)  | PB |
| 21. Any discharge to the ground through an interior floor drain   | N  |

**§ 195-74. Lot coverage.**

Any use proposed to render impervious more than 15% or 2,500 square feet of any lot, whichever is greater, shall be subject to a special permit from the Planning Board. On any such lot a system for groundwater recharge must be provided which does not degrade groundwater quality. Any project drainage design that satisfies the stormwater policy issued by the Department of Environmental Protection dated November 18, 1996, as amended, shall be sufficient to satisfy the requirements of this section.

**§ 195-75. Special permits; performance standards.**

The special permit granting authority under this article shall be the Planning Board. The Planning Board may grant the special permit only upon a finding that the proposed use meets the following performance standards:

- A. The use shall not, during construction or thereafter, adversely affect the existing quality or quantity of water that is available in the Aquifer Protection District;
- B. The use shall be designed to avoid substantial disturbances of the soils, topography, drainage, vegetation and other water-related natural characteristics of the site to be developed which are likely to affect existing quality or quantity of water that is available in the Aquifer Protection District;
- C. The use shall be designed to meet state and federal drinking water standards at the property line; and
- D. The use shall utilize the best management practices which are available for the proposed use.

ARTICLE XV  
**Floodplain District**

**§ 195-76. Purpose.**

The purposes of this district are to:

- A. Provide that the lands in the Town of Chelmsford subject to seasonal or periodic flooding as described hereinafter shall not be used for residence or other purposes in such manner as to endanger the health or safety of the occupants thereof.
- B. Protect, preserve and maintain the water table and water recharge areas within the Town so as to preserve present and potential water supplies for the public health and safety of the residents of the Town of Chelmsford.
- C. Assure the continuation of the natural flow of the watercourse(s) within the Town of Chelmsford in order to provide adequate and safe floodwater storage capacity to protect persons and property against the hazards of flood inundation.

**§ 195-77. Overlay district; boundaries. [Amended 4-28-2003ATM by Art. 20; 4-26-2004ATM by Art. 27; 4-26-2010ATM by Art. 14; 4-28-2014ATM by Art. 22]**

The Floodplain District and Floodway District is herein established as an overlay district. The underlying permitted uses are allowed, provided that they meet the following additional requirements as well as those of the Massachusetts State Building Code dealing with construction in floodplains. The Floodplain District and Floodway District includes all special flood hazard areas within the Town of Chelmsford designated as Zone A and AE on the Middlesex 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 Middlesex County FIRM that are wholly or partially within the Town of Chelmsford are panel numbers 25017C0118E, 25017C0119E, 25017C0138E and 25017C0231E dated June 4, 2010; and 25017C0232F, 25017C0234F, 25017C0242F, 25017C0251F, 25017C0252F, 25017C0253F, 25017C0254F, 25017C0256F, 25017C0258F, 25017C0261F and 25017C0262F dated July 7, 2014. The exact boundaries of the District may be defined by the one-hundred-year base flood elevations shown on the FIRM and further defined by the Middlesex County Flood Insurance Study (FIS) report dated July 7, 2014. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Inspector of Buildings and Conservation Commission.

**§ 195-78. Base flood elevation and floodway data. [Amended 4-28-2003ATM by Art. 20; 4-26-2004ATM by Art. 27]**

- A. Floodway data. In Zone 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. **[Amended 4-26-2010ATM by Art. 14]**
- B. 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.

**§ 195-79. Notification of watercourse alteration.**

Notify, in a riverine situation, the following of any alteration or relocation of a watercourse:

- A. Adjacent communities.
- B. Bordering states.
- C. NFIP State Coordinator, Massachusetts Office of Water Resources, 251 Causeway Street, Suite 600-700, Boston, MA 02114-2104. **[Amended 4-26-2004ATM by Art. 27]**
- D. NFIP Program Specialist, FEMA Region I, 99 High Street, 6th Floor, Boston, MA 02110. **[Amended 4-26-2004ATM by Art. 27]**

**§ 195-80. Use regulations.**

- A. The Floodplain District is established as an overlay district to all other districts. All development in the district, including structural and nonstructural activities, whether permitted by right or by special permit, must be in compliance with MGL c. 131, § 40 and with the following:
  - (1) Section of the Massachusetts State Building Code which addresses floodplain and coastal high-hazard areas (currently 780 CMR). **[Amended 4-26-2004ATM by Art. 27; 4-26-2010ATM by Art. 14; 4-28-2014ATM by Art. 22]**
  - (2) Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00).
  - (3) Inland Wetlands Restriction, Department of Environmental Protection (currently 310 CMR 13.00). **[Amended 4-26-2004ATM by Art. 27]**
  - (4) Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, Department of Environmental Protection (currently 310 CMR 15, Title 5).
- B. 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.
- C. In the Floodplain District, no new building shall be erected or constructed and no existing structure shall be altered, enlarged or moved, no dumping, filling or earth transfer or relocation shall be permitted and no land, building or structure shall be used for any purposes except:
  - (1) Conservation of water, plants and wildlife.
  - (2) Outdoor recreation, including play areas, nature study, boating, fishing and hunting, where otherwise legally permitted, but excluding buildings and structures.
  - (3) Noncommercial signs (as permitted in the residential districts), wildlife management areas, foot, bicycle, and/or horse paths and bridges, provided that such uses do not affect the natural flow pattern of watercourses.
  - (4) Grazing and farming, including truck gardening and harvesting of crops.
  - (5) Forestry and nurseries.
- D. All subdivision proposals must be designed to assure that: **[Added 4-28-2014ATM by Art. 22]**
  - (1) Such proposals minimize flood damage;
  - (2) All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and



- (3) Adequate drainage is provided to reduce exposure to flood hazards.

**§ 195-81. Floodway regulations. [Amended 4-28-2003ATM by Art. 20]**

In the floodway, designated on the Flood Insurance Rate Map, the following provisions shall apply:

- A. All encroachments, including fill, new construction, substantial improvements to existing structures and other development, are prohibited unless certification by a registered professional engineer is provided by the applicant demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the one-hundred-year flood.
- B. Any encroachment meeting the above standard shall comply with the floodplain requirements of the State Building Code.
- C. If a property owner questions the location of a floodplain or floodway district, the owner may engage, at the owner's own cost, a registered licensed surveyor with the approval of the Town Engineer to determine if the land in question is within the floodplain or floodway district. The landowner shall be responsible for the cost for this determination. The Board of Appeals, in consultation with the Town Engineer, shall decide whether or not to accept the surveyor's determination.
- D. No new building or portion thereof located within the Floodplain District shall be allowed to connect to the municipal wastewater system or to a private wastewater system that discharges to the municipal wastewater system.
- E. The portion of any lot within the area delineated in § 195-77 above may be used to meet the area and yard requirements for the district or districts in which the remainder of the lot is situated.

**§ 195-82. Special permits.**

In the Floodplain District, the Board of Appeals may grant a special permit for exception for uses or structures in addition to those allowed under § 195-80, subject to the following:

- A. The applicant has referred the request to the Planning Board, the Town Engineer, the Board of Health and the Conservation Commission for review and recommendation as provided in MGL c. 40A, § 11;
- B. The land is shown to be neither subject to flooding nor unsuitable for the proposed use because of hydrologic and/or topographic conditions;
- C. The proposed use will not be detrimental to the public health, safety and welfare;
- D. The proposed use will comply in all respects with the provisions of the underlying district or districts within which the land is located; and
- E. Any loss of floodplain or floodway shall be compensated for at a similar elevation within the same local watershed.

ARTICLE XVI  
**Adult Entertainment Establishments**

**§ 195-83. Purpose.**

It is the intent and purpose of this chapter to regulate adult entertainment establishments to promote the health, safety and general welfare of the citizens of Chelmsford and to guard against adverse secondary effects on the youth of the town. Furthermore it is the intent and purpose to establish reasonable and uniform regulations to prevent any deleterious location and concentration of adult entertainment establishments within the town, thereby reducing the adverse secondary effects from such adult entertainment establishments. The provisions of this chapter have neither the purpose nor effect of imposing limitations or restriction on the content of any communicative materials. Similarly, it is not the intent nor effect of this chapter to condone or legitimize the distribution of obscene material.

**§ 195-84. Adult Entertainment Overlay District.**

The Adult Entertainment Overlay District is established in addition to the Adult Entertainment (CX) District. The Adult Entertainment Overlay District use regulations shall be as herein described in the Adult Entertainment District.

**§ 195-85. Spacing requirement.**

- A. Special permits shall not be granted for an adult entertainment establishment if it is to be located less than 1,000 feet from the following uses. Measurement of distances shall be from the lot line of any of the uses described herein.
- (1) Another adult entertainment establishment.
  - (2) Residential uses.
  - (3) Public or private nursery schools.
  - (4) Public or private day-care centers.
  - (5) Public or private kindergartens.
  - (6) Public or private elementary schools.
  - (7) Public or private secondary schools.
  - (8) Playgrounds or parks.
  - (9) Religious institutions.
- B. Reduction of spacing requirement. The Board of Appeals may waive the one-thousand-foot restriction contained in Subsection A by special permit; provided, however, that the Board of Appeals shall not, under any circumstances, grant a special permit for an adult entertainment establishment which shall be closer than 750 feet to any of the uses listed in Subsection A. To grant a special permit reducing the spacing requirement, the Board shall find that:
- (1) The proposed use will not be contrary to the public interest or injurious to nearby properties and that the spirit of this chapter will be observed;
  - (2) The proposed use will not enlarge or encourage the development of a "skid row" area;

- (3) The establishment of an additional regulated use in that area will not be contrary to any program of neighborhood conservation nor will it interfere with any program or urban renewal;
- (4) All applicable regulations of this chapter will be observed; and
- (5) No portion of the establishment shall be located on the ground level of any building.

**§ 195-86. Special permit required; conditions.**

- A. Special permit. No adult entertainment establishment shall commence operations without first applying for and receiving a special permit from the Board of Appeals.
- B. Conditions. The following conditions shall be attached to any special permit for adult entertainment establishments:
  - (1) Adult entertainment establishments shall not be allowed within a building containing other retail, consumer or residential uses.
  - (2) No adult entertainment establishment shall be located within 60 feet of a public or private way.
  - (3) Any adult entertainment establishment shall cease its operations between the hours of 1:00 a.m. and 10:00 a.m. each day.
  - (4) No adult entertainment establishment may have visible from the exterior of the premises any flashing lights.
  - (5) At all times when an adult entertainment establishment is open for business, the entire area of the premises must be continually illuminated to the degree of not less than one footcandle (measured 30 inches from the floor), except those portions of the room covered by furniture.
- C. Statutory prohibition. No special permit for an adult use shall be issued to any person convicted of violating MGL c. 119, § 63 or MGL c. 272, § 28.

## ARTICLE XVII

**Facilitated and Independent Senior Living Facilities****[Amended 10-21-1999ATM by Art. 28; 10-16-2000ATM by Art. 20]****§ 195-87. Purpose.**

Facilitated and independent senior living facilities are allowed in a variety of zoning districts by special permit from the Planning Board. The intent of this chapter is to provide the opportunity for the development of the types of multifamily and communal housing most beneficial for the senior and elder population of Chelmsford. The provision of senior affordable housing is an important goal of the chapter.

- A. Facilitated living facilities provide private or communal lodging for persons requiring limited medical attention or supervision and who ordinarily are ambulatory. These include, but are not limited to, assisted living facilities, Alzheimer's facilities and congregate living facilities.
- B. Independent senior living facilities are intended to provide a safe, suitable age-restricted dwelling unit for a senior couple or individual who is able to live independently. Open space preservation is an important facet of independent senior living projects and is meant to provide the residents of the project with opportunities for active and passive recreation.

**§ 195-88. Dimensional standards.**

The following dimensional standards shall apply to facilitated and independent senior living facilities:

	<b>RM</b>	<b>CA</b>	<b>CB</b>	<b>CC</b>	<b>CD</b>	<b>CV</b>	<b>IA</b>
Minimum lot area (acres) <sup>1</sup>	5	5	5	5	5	3	7
Minimum lot width (feet)	150	125	150	200	50	50	150
Minimum lot depth (feet)	150	125	0	200	0	0	150
Minimum frontage (feet)	150	125	150	200	50	50	150
Minimum front yard (feet)	40	20	60	60	20	20	40
Minimum side yard (feet)	25	40	40	40	40	40	40
Minimum rear yard (feet)	30	40	40	40	40	40	40
Minimum building separation (feet)	25	25	25	25	25	25	25

## § 195-88

## ZONING

## § 195-89

	<b>RM</b>	<b>CA</b>	<b>CB</b>	<b>CC</b>	<b>CD</b>	<b>CV</b>	<b>IA</b>
Maximum building coverage (percent)	35	35	35	35	35	35	35
Maximum building height (feet)	35	35	35	35	35	35	35
Minimum open space - independent senior living (percent) <sup>4</sup>	0	30	30	30	30	30	30
Maximum number of units per acre - facilitated living <sup>2</sup>	8	7	7	7	7	7	7
Maximum number of units per acre - independent senior living	8	4 <sup>3</sup>	4 <sup>3</sup>	4 <sup>3</sup>	4 <sup>3</sup>	7	4 <sup>3</sup>

## NOTES:

<sup>1</sup>A smaller lot size may be allowed by special permit from the Planning Board where such smaller lot is determined to promote the objectives of this Article XVII.

<sup>2</sup>Up to 10 units per acre may be allowed by special permit from the Planning Board where increase is determined to promote the objectives of this Article XVII and shall meet the criteria of § 195-91.1.

<sup>3</sup>Exclusive of open space requirement. Tract size minus open space requirement minus wetlands/ floodplain not included in open space requirement times units per acre equals maximum number of units per tract. Total may be increased to six units per acre by special permit from the Planning Board upon a finding that the density increase will not be detrimental to the intent of the chapter and shall meet the criteria of § 195-91.1.

<sup>4</sup>May be partially or completely reduced by special permit from the Planning Board upon a finding that the reduction of the open space requirement will not be detrimental to the intent of the chapter and shall meet the criteria of § 195-91.1.

**§ 195-89. General standards.**

- A. The entire site shall be a size and shape as shall provide a housing site that will be in harmony with the natural terrain and other features of the site and will preserve natural vistas and the character of the neighborhood.

- B. No site on a plan for which an approval is granted under this section may be subdivided so as to create additional lots. A notation to that effect shall be shown on the site plan.
- C. Sites abutting residentially zoned land shall provide a landscaped buffer strip 50 feet in width or a strip as set forth in § 195-43, whichever is larger, to provide adequate screening for adjacent properties. No structure, driveway, parking area or sidewalk shall be located in the landscaped buffer strip. A smaller buffer may be allowed by special permit from the Planning Board where such smaller buffer is determined to promote the objectives of this Article XVII.
- D. Driveways and parking areas within the development shall be constructed in accordance with Article V, Off-Street Parking and Loading. Sidewalks conforming to the Planning Board Subdivision Rules and Regulations<sup>37</sup> shall be required by the Planning Board. Additional requirements linking pedestrian circulation systems may be required by the Planning Board.
- E. Buildings shall be designed to be complementary in exterior design with each other and with the existing neighborhood in which the facility is located. Dwellings constructed under this section shall not be eligible for subsequent conversion to conventional apartments with the exception of projects in the RM District.
- F. The method(s) of implementing age restrictions of seniors and elders shall be to the satisfaction of the Planning Board.
- G. The Planning Board may set additional site security and safety requirements as deemed necessary to ensure the security and safety of the residents of the facility.
- H. Adaptability requirements for facilitated and independent senior living projects. All units shall be constructed to be handicap adaptable according to the standards of Section 504 of the Americans with Disabilities Act of 1990, 42 U. S. C. § 12204 and ANSI A117.1.
- I. Developments approved as rental projects shall not be converted to condominiums.

#### **§ 195-90. Open space requirements.**

The minimum required open space set forth in § 195-88 shall be contiguous open space, excluding required yards and buffer areas. Such open space may be separated by the road(s) constructed within the site. The percentage of the open space which is wetlands, as defined pursuant to MGL c. 131, § 40, shall not normally exceed the percentage of the tract which is wetlands; provided, however, that the applicant may include a greater percentage of wetlands in the open space upon a demonstration that such inclusion promotes the purposes set forth in this Article XVII.

- A. The required open space shall be used for conservation, historic preservation and education, outdoor education, recreation, park purposes, agriculture, horticulture, forestry, or for a combination of these uses, and shall be served by suitable access for such purposes.
- B. The required open space shall remain unbuilt upon, provided that 10% of such open space may be paved or built upon for structures accessory to the dedicated use or uses of such open space, pedestrian walks and bike paths.
- C. Underground utilities to serve the site may be located within the required open space.
- D. The required open space shall, at the Planning Board's election, be conveyed to:

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37. Editor's Note: See Ch. 202, Subdivision of Land.

- (1) The Town of Chelmsford or its Conservation Commission.
  - (2) A nonprofit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above.
  - (3) A corporation or trust owned jointly or in common by the owners of lots within the site. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots in perpetuity. Maintenance of the open space and facilities shall be permanently guaranteed by such corporation or trust which shall provide for mandatory assessments for maintenance expenses to each lot.
    - (a) Each such trust or corporation shall be deemed to have assented to allow the Town of Chelmsford to perform maintenance of the open space and facilities, if the trust or corporation fails to provide adequate maintenance, and shall grant the Town an easement for this purpose. In such event, the Town shall first provide 14 days' written notice to the trust or corporation as to the inadequate maintenance, and, if the trust or corporation fails to complete such maintenance, the Town may perform it. The owner of each lot shall be deemed to have assented to the Town filing a lien against each lot in the development for the full cost of such maintenance, which liens shall be released upon payment to the Town of same.
    - (b) Each individual deed, and the deed or trust or articles of incorporation, shall include provisions designed to effect these provisions. Documents creating such trust or corporation shall be submitted to the Planning Board for approval and shall thereafter be recorded in the Registry of Deeds.
- E. Any proposed open space, unless conveyed to the Town or its Conservation Commission, shall be subject to a recorded restriction enforceable by the town, provided that such land shall be perpetually kept in an open state, that it shall be preserved for exclusively agricultural, horticultural, educational or recreational purposes and that it shall be maintained in a manner which will ensure its suitability for its intended purposes.

#### **§ 195-91. Independent living standards.**

- A. All dwelling units and common areas shall be constructed to be handicap adaptable in accordance with Section 504 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12204, ANSI A117.1 and the requirements of the Massachusetts Architectural Barriers Board.
- B. Units shall contain no more than two bedrooms.
- C. Units shall have a maximum habitable living area of 1,600 square feet.

#### **§ 195-91.1. Affordability standards for facilitated and independent senior living projects.**

The Planning Board shall only grant a density bonus for a project that provides rental units. The Planning Board may grant a density bonus upon a finding that such increase is determined to promote the objectives of Article XVII and according to one of the criteria listed below. Where there is more than one size or style of unit in a project the affordable units shall comprise the same percentage as market rate units.

- A. One-half of all additional units created through density bonuses shall be maintained as affordable units according to Department of Housing and Urban Development Section 8 Voucher Program or such other program agreeable to the Planning Board, Chelmsford Housing Authority and the

applicant. The term "affordable" shall be as defined by the Massachusetts Department of Housing and Community Development for Chelmsford.

- B. A contribution pursuant to MGL c. 44, § 53A for the creation of units of senior and elder affordable housing.
- C. Such other method agreed to by the Planning Board and the applicant.



ARTICLE XVIII  
**Planned Open Space Development**

**§ 195-92. Purpose. [Amended 10-28-2019ATM by Art. 26]**

Planned open space developments, hereinafter known as "POS," may be allowed by special permit by the Planning Board for the purpose of providing attractive, convenient, efficient neighborhoods and to promote the conservation of open space and the efficient use of land in harmony with its natural features.

**§ 195-93. General standards.**

- A. The tract of land proposed for a POS shall contain a minimum of five acres. These proposals shall be permitted only within a subdivision as defined in MGL c. 41, § 81L. **[Amended 10-28-2019ATM by Art. 26]**
- B. Number of dwelling units. The maximum number of dwelling units allowed shall be equal to the number of lots which could reasonably be expected to be developed upon that parcel under a conventional plan in full conformance with all zoning, subdivision regulations, health regulations, wetlands regulations and other applicable requirements. The proponent shall have the burden of proof with regard to the design and engineering specifications for such conventional plan.
- C. If any part of a dwelling or accessory building in a POS is proposed to be located within 75 feet of the perimeter of such development, such building(s) shall be located so as to comply with the minimum yard dimensions for principal and accessory buildings for the applicable zoning district. **[Amended 10-28-2019ATM by Art. 26]**
- D. Minimum lot area shall be 12,000 square feet. Minimum frontage shall be 50 feet. Minimum side yards shall be 12 feet. Minimum front and rear yards shall be 20 feet. Lots having reduced area or frontage shall not have frontage on a street other than a street created by a subdivision involved.
- E. All streets in a POS shall be improved in accordance with the requirements and specifications of the subdivision regulations.<sup>38</sup> Driveways and other paved areas intended to remain in private ownership shall be approved as to design and construction standards by the Planning Board.
- F. A written agreement or contract to be executed between the developer and the Town of Chelmsford shall be submitted at the final stage of the subdivision review stating that:
  - (1) The owner or developer will construct the development and install improvements, both public and private, in accordance with the approved plan. A bond shall be posted to guarantee completion.
  - (2) In the event of failure of the owners, successors or assigns to maintain any common open space, recreation areas, landscaping features or other required improvements, the Town may enter said development and perform such necessary maintenance work and charge the cost, including attorney fees, to the owner, successor or assigns.
  - (3) This contract shall be binding upon the heirs, assigns, successors or receivers of the development and shall constitute a lien on the property in the development.
  - (4) Any other conditions required by the Planning Board.

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38. Editor's Note: See Ch. 202, Subdivision of Land.

- G. A site plan, in addition to the final subdivision plan, shall be recorded after the POS is approved. As a minimum this site plan shall show the entire development, indicating lots, roads, easements, open space, phases for development, any recreational uses or buildings to be constructed in the open space and any ponds, streams or wetlands. This plan shall be approved by the Planning Board before it is recorded.<sup>39</sup>

**§ 195-94. Open space requirements. [Amended 10-28-2019ATM by Art. 26]**

A minimum of 25% open space, excluding required yards and buffer areas, shall be provided. Such open space may be separated by the road(s) constructed within the site. At the discretion of the Planning Board, the open space provided may be off site, upon a demonstration that such land promotes the purpose set forth in this article. The percentage of the open space which is wetlands, as defined pursuant to MGL c. 131, § 40, shall not normally exceed the percentage of the tract which is wetlands; provided, however, that the applicant may include a greater percentage of wetlands in the open space upon a demonstration that such inclusion promotes the purposes set forth in this article.

- A. The required open space shall be used for conservation, historic preservation and education, outdoor education, recreation, park purposes, agriculture, horticulture, forestry or for a combination of these uses and shall be served by suitable access for such purposes.
- B. The required open space shall remain unbuilt upon, provided that 10% of such open space may be paved or built upon for structures accessory to the dedicated use or uses of such open space, pedestrian walks and bike paths.
- C. Underground utilities to serve the site may be located within the required open space.
- D. The required open space shall, at the Planning Board's election, be conveyed to:
  - (1) The Town of Chelmsford or its Conservation Commission;
  - (2) A nonprofit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above; or
  - (3) A corporation or trust owned jointly or in common by the owners of lots within the site. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots in perpetuity. Maintenance of the open space and facilities shall be permanently guaranteed by such corporation or trust, which shall provide for mandatory assessments for maintenance expenses to each lot.
    - (a) Each such trust or corporation shall be deemed to have assented to allow the Town of Chelmsford to perform maintenance of the open space and facilities if the trust or corporation fails to provide adequate maintenance and shall grant the Town an easement for this purpose. In such event, the Town shall first provide 14 days' written notice to the trust or corporation as to the inadequate maintenance, and, if the trust or corporation fails to complete such maintenance, the Town may perform it. The owner of each lot shall be deemed to have assented to the Town filing a lien against each lot in the development for the full cost of such maintenance, which liens shall be released upon payment to the Town of the same.
    - (b) Each individual deed, and the deed or trust or articles of incorporation, shall include

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39. Editor's Note: Original Sec. 4628, Buffer areas, which immediately followed this subsection, was deleted 10-21-1999ATM by Art. 29.

provisions designed to effect these provisions. Documents creating such trust or corporation shall be submitted to the Planning Board for approval and shall thereafter be recorded in the Registry of Deeds.

- E. Any proposed open space, unless conveyed to the Town or its Conservation Commission, shall be subject to a recorded restriction enforceable by the town, provided that such land shall be perpetually kept in an open state, that it shall be preserved for exclusively agricultural, horticultural, educational or recreational purposes and that it shall be maintained in a manner which will ensure its suitability for its intended purposes.

#### **§ 195-95. Homeowners association.**

The applicant or developer shall provide for and establish a homeowners association as a nonprofit organization or other legal entity under the laws of Massachusetts for the use, care and maintenance of lands and improvements. Membership in the association shall be mandatory for all landowners within the POS, and each lot shall be entitled to equal representation. The association shall be formed prior to conveyance of the first lot, in a form acceptable to the Planning Board.

#### **§ 195-96. Certificates or documents.**

The following certificates or documents shall be submitted to the Planning Board:

- A. Copies of any proposed management policies and existing or proposed deed restrictions or covenants running with the land in the development.
- B. A description of any existing easement, covenants or restrictions affecting land within the development and an instrument conveying any easements required as a condition of approval to the town.

#### **§ 195-97. Purchase and sale agreement.**

- A. Prior to approval by the Planning Board, the developer must file and have approved by the Planning Board a sample purchase and sale agreement which shall be used for the purchase of individual lots and dwellings. Said agreement shall include in conspicuous type the following:

The property is part of a POS subject to the Zoning Bylaw and the Subdivision Regulations of the Town of Chelmsford. The purchaser and subsequent owners of the property are subject to the requirements therein contained. The purchaser shall be required to be a member of a homeowners association, shall be subject to rules and regulations of said association and shall be liable for any applicable assessment made by or against said association. The ultimate liability for the open space falls on the individual lot owner.

- B. The purchase and sale agreement shall further contain a statement by the seller that the purchaser has been provided with a copy of the documents pertinent to the POS and a prospectus which shall summarize in layman's language the information contained therein.

**§ 195-98. Decision by Planning Board.**

- A. The Planning Board shall not approve a POS development in an established single-family neighborhood where, in its determination, such land use will be inconsistent with or will have a detrimental effect upon the surrounding property. If the Planning Board denies a POS based on this section it shall identify this as the reason for denial.
- B. Approval under this article does not relieve the applicant from conformance with the Subdivision Control Law.<sup>40</sup> No part of the construction of a POS shall begin until the plan of such development has been granted final approval by the Planning Board in accordance with the subdivision regulations.<sup>41</sup> The developer shall submit with the request for a POS an alternate plan(s) for developing the site as a conventional subdivision at the presubmission review and preliminary plan stages of the subdivision process which shall adhere to all subdivision requirements. The Planning Board may establish additional rules and regulations to govern the POS and the filing of additional material or information.

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40. Editor's Note: See MGL c. 41, § 81K et seq.

41. Editor's Note: See Ch. 202, Subdivision of Land.

ARTICLE XVIII  
**Center Village Zoning**  
**[Added 10-21-1999ATM by Art. 28]**

**§ 195-98.1. Purpose.**

CV (Center Village) zoning is intended to aid in revitalizing, preserving and expanding the village character of Chelmsford's traditional business districts.

A. The qualities that make up the character of a traditional New England village center are encouraged through:

- (1) Maximum retail floor area to strengthen small business development.
- (2) Shared parking to minimize curb cuts and maximize pedestrian safety.

B. Residential uses are allowed as an accessory use to reinforce downtown village character.

**§ 195-98.2. Dimensional standards.**

**Minimum Lot Requirements Area**

(x 1,000 square feet)

Width (feet)	50
Depth (feet)	0
Frontage (feet)	50

**Minimum Yard Requirements**

Front (feet)	5 <sup>1</sup>
Side (feet)	10 <sup>1</sup>
Rear (feet)	10 <sup>1</sup>

**Maximum Building Coverage**

	40%
Stories	3
Height (feet)	35
Floor area ratio	.60

**Minimum Building Height (feet)**

20<sup>2</sup>

NOTES:

<sup>1</sup>May be partially or completely reduced by special permit from the Planning Board upon a finding that the setbacks as imposed by the district would result in construction of structures that are not in keeping with the area's scale and character. The Planning Board must further find that the relaxation of said standards will not interfere with or negatively impact abutting properties, particularly property used or zoned for residential purposes.

<sup>2</sup>For any structure of 600 square feet or larger.

**§ 195-98.3. Parking.**

- A. In the CV (Center Village) District, the required parking shall be reduced by 20% for the requirements of § 195-17, Minimum parking requirements, except for multifamily use. A special permit may be granted by the Planning Board for a total reduction not to exceed 50%. Parking within front yards shall be prohibited. **[Amended 6-21-2021ATM by Art. 37]**
- B. Parking lots of more than 20 spaces shall provide landscaping to equal 10% of the total paved area of the site. Such landscaping shall be contained within or adjacent to the parking lot.
- C. All drives and parking lots shall be edged with vertical granite curbing in accordance with MHD standard specifications.
- D. The Planning Board may waive full compliance with Article V, Off-Street Parking and Loading, by special permit, upon a finding that the strict compliance with the applicable section would result in construction of structures that are not in keeping with the area's scale and character.

**§ 195-98.4. Landscaping.**

The requirements of Article IX, Landscaping, shall not apply to the CV District, except for multifamily use. The Planning Board, during the site plan approval process, shall require adequate landscaping to accomplish the objectives of this section.

**§ 195-98.5. Design standards.**

- A. Architectural styles shall reflect and strengthen the character of primary buildings existing in the CV District.
- B. Exterior building materials shall be chosen to be consistent with those of the primary structures existing in the CV District.
- C. Buildings shall be constructed with a minimum of two stories or a suitable facade suggestive of two stories.
- D. Lighting shall be consistent with the character of a village zoning district. A lighting plan shall be required in conjunction with the site plan review. Lighting shall be designed to illuminate the subject property and shall not encroach onto abutting properties.

ARTICLE XIX  
**Administration and Enforcement**

**§ 195-99. Inspector of Buildings.**

This chapter shall be administered by the Inspector of Buildings. Pursuant to the State Building Code, the Inspector of Buildings may require such plans and specifications as may be necessary to determine compliance with all pertinent laws of the commonwealth. Buildings, structures or signs may not be erected, substantially altered, moved or changed in use and land may not be substantially altered or changed in principal use without written certification by the Inspector of Buildings that such action is in compliance with then-applicable zoning and that all necessary permits have been received under federal, state or local law. Issuance of a building permit or certificate of use and occupancy, where required under the commonwealth's State Building Code, may serve as such certification.

**§ 195-100. Enforcement. [Amended 6-17-2021ATM by Art. 30]**

The Inspector of Buildings shall institute and take any and all such action as may be necessary to enforce full compliance with any and all of the provisions of this chapter and of permits and variances issued thereunder, including notification of noncompliance and request for legal action through the Select Board or Town Manager to Town Counsel or action pursuant to Chapter 1, General Provisions, § 1-2, allowing noncriminal disposition of violations.

**§ 195-101. Violations and penalties.**

- A. The penalty for violation of any provision of this chapter, of any of the conditions under which a permit is issued or of any decision rendered by the Board of Appeals shall be \$300 for each offense. Each day that each violation continues shall constitute a separate offense.
- B. Noncriminal disposition. In addition to the procedure for enforcement as described in Subsection A above, the provisions of this chapter may also be enforced by the Inspector of Buildings by noncriminal disposition as provided in MGL c. 40, § 21D. The penalty for such violation shall be \$25 for the first offense, \$50 for the second offense, \$100 for the third offense and \$200 for the fourth and each subsequent offense. [Added 10-21-1999ATM by Art. 29]

**§ 195-102. Board of Appeals.**

- A. Establishment. The Board of Appeals shall consist of five members and three associate members who shall be appointed by the Town Manager.
- B. Powers. The Board of Appeals shall have and exercise all the powers granted to it by MGL c. 40A, 40B and 41 and by this chapter. The Board's powers are as follows:
  - (1) To hear and decide applications for special permits. Unless otherwise specified herein, the Board of Appeals shall serve as the special permit granting authority, to act in all matters in accordance with the provisions of § 195-103, or as otherwise specified.
  - (2) To hear and decide appeals or petitions for variances from the terms of this chapter, with respect to particular land or structures, as set forth in MGL c. 40A, § 10. The Board of Appeals shall not grant use variances. Procedural requirements for variances shall follow § 195-103C. [Amended 10-21-1999ATM by Art. 29]
  - (3) To hear and decide appeals taken by any person aggrieved by reason of his or her inability to

obtain a permit or enforcement action from any administrative officer under the provisions of MGL c. 40A, §§ 8 and 15.

- (4) To hear and decide comprehensive permits for construction of low- or moderate-income housing by a public agency or limited dividend or nonprofit corporation, as set forth in MGL c. 40B, §§ 20 to 23.

**§ 195-103. Special permits. [Amended 10-21-1999ATM by Art. 29]**

- A. Special permit granting authority. Unless specifically designated otherwise, the Board of Appeals shall act as the special permit granting authority.
- B. Criteria. Special permits shall be granted by the special permit granting authority, unless otherwise specified herein, only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the Town or the neighborhood, in view of the particular characteristics of the site and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this chapter, the determination shall include consideration of each of the following:
  - (1) Social, economic or community needs which are served by the proposal;
  - (2) Traffic flow and safety, including parking and loading;
  - (3) Adequacy of utilities and other public services;
  - (4) Neighborhood character and social structures;
  - (5) Impacts on the natural environment; and
  - (6) Potential fiscal impact, including impact on Town services, tax base and employment.
- C. Procedures. Whenever an application for a special permit is filed with a special permit granting authority, said authority shall distribute copies of the application, accompanying site plan and other documentation to the Board of Health, Conservation Commission, Inspector of Buildings, Director of Public Works, Police Chief, Fire Chief, Sewer Commission, Planning Board/Board of Appeals (whichever is not the special permit granting authority) and applicable water district for their consideration, review and report. The copies necessary to fulfill this requirement shall be furnished by the applicant.
  - (1) An application shall not be deemed complete until all copies of required information and documentation have been filed with the special permit granting authority.
  - (2) The special permit granting authority shall notify applicants by registered mail, within 14 days of submittal, of incomplete application status, and the applicant shall have 14 days from the mailing of such notice to complete an application. Failure to complete an application within such time shall be deemed nonsubmittal of the application, without prejudice.
  - (3) Reports from other boards and officials shall be submitted to the special permit granting authority by the date of the public hearing. Failure of these reviewing parties to make recommendations after having received copies of all such required materials shall be deemed a lack of opposition thereto.
  - (4) The decision/findings of the special permit granting authority shall contain, in writing, an explanation for any departures from the recommendations of any reviewing party.



- D. Conditions. Special permits may be granted with such reasonable conditions, safeguards or limitations on time or use, including performance guaranties, as the special permit granting authority may deem necessary to serve the purposes of this chapter.
- E. Plans. An applicant for a special permit shall submit a plan in substantial conformance with the requirements of § 195-104 herein. The provisions of this Subsection E shall not apply to applications for special permits to reconstruct, extend, alter or structurally change a nonconforming single- or two-family structure. The Board of Appeals may establish procedures governing such applications by regulation.
- F. Lapse. Special permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within two years following the filing of the special permit approval (plus such time required to pursue or await the determination of an appeal referred to in MGL c. 40A, § 17 from the grant thereof) with the Town Clerk.

#### **§ 195-104. Site plan review.**

- A. Applicability. The following types of activities and uses require site plan review by the Planning Board:
  - (1) Construction, exterior alteration or exterior expansion of, or change of use within, a municipal, institutional, commercial, industrial or multifamily structure involving more than 500 square feet. For the purposes of this section, "change of use" shall mean a change from one principal use listed in the Use Regulation Schedule<sup>42</sup> to another listed use which results in an increase in required parking or invokes the Aquifer Protection District, Article XIV.
  - (2) Construction or expansion of a parking lot/area for a municipal, institutional, commercial, industrial or multi-family structure or purpose. Any construction or expansion from 500 to 2,500 square feet shall be a minor site plan, per § 195-104G of this chapter. Any construction or expansion under 500 square feet shall be an administrative approval from the Community Development Director or the Board's authorized designee. **[Amended 4-25-2005ATM by Art. 25; 4-28-2008ATM by Art. 21]**
  - (3) Grading or clearing more than 10% of a lot, except for the following: landscaping on a lot with an existing structure or a proposed single- or two-family dwelling; clearing necessary for percolation and other site tests; work incidental to agricultural activity; work in conjunction with an approved subdivision plan; or work pursuant to an earth removal permit.
  - (4) Construction or exterior expansion of a single- or two-family structure that will result in habitable space of more than 4,000 square feet on a lot which held a single- or two-family structure within the past two years. Construction which does not increase the floor area shall not be subject to the provisions of this section.
  - (5) Establishment of any commercial or industrial use that is not located principally within a permanent structure, regardless of size, and which is operated for a duration greater than eight consecutive weeks. This provision shall not be applicable to temporary on-site structures, such as a trailer, that are incidental to the construction of an approved development and /or public works project **[Added 10-17-2011ATM by Art. 21]**
- B. Exemptions. A building wholly or partially destroyed may be rebuilt without recourse to this section

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42. Editor's Note: The Use Regulation Schedule is included at the end of this chapter.

if rebuilt without change to the building footprint or the square footage of usable space.

C. Procedures.

(1) Use, structure or activity available as of right.

- (a) An application for a building permit to perform work as set forth in Subsection A available as of right shall be accompanied by an approved site plan. Prior to the commencement of any activity set forth in Subsection A available as of right, the project proponent shall obtain site plan approval from the Planning Board. Applicants for site plan approval shall submit 12 full-size sets and eight reduced-size sets of the site plan to the Planning Board for review. The Planning Board shall publish a legal notice no less than five days before the public hearing and shall notify all abutters and abutters to abutters within 300 feet. **[Amended 10-21-1999ATM by Art. 29]**
- (b) The Planning Board shall review and act upon the site plan, with such conditions as may be deemed appropriate, within 60 days of its receipt and notify the applicant of its decision. The decision of the Planning Board shall be upon a majority of those present and shall be in writing. No building permit shall be issued by the Inspector of Buildings without the written approval of the site plan by the Planning Board or unless 60 days lapse from the date of the submittal of the site plan without action by the Planning Board.

(2) Use or structure available by special permit or variance.

- (a) An application for a special permit or a variance to perform work as set forth in Subsection A shall be accompanied by an approved site plan. Applicants for site plan approval shall submit 12 full-size sets and eight reduced-size sets of the site plan to the Planning Board for review. The Planning Board shall publish a legal notice no less than five days before the public hearing and shall notify all abutters and abutters to abutters within 300 feet.
  - (b) The Planning Board shall review and act upon the site plan, with such conditions as may be deemed appropriate, within 60 days of its receipt and notify the applicant of its decision. The decision of the Planning Board shall be upon a majority of those present and shall be in writing. No application for special permit or variance shall be filed with the Board of Appeals until the Planning Board's site plan public hearing has been opened or unless 60 days lapse from the date of the submittal of the site plan without action by the Planning Board, unless the Planning Board extends the sixty-day review period. Where the Planning Board approves a site plan with conditions and said site plan accompanies a special permit or variance application to the Board of Appeals, the conditions imposed by the Planning Board shall be incorporated into the issuance, if any, of a special permit or variance by the Board of Appeals. **[Amended 10-21-1999ATM by Art. 29]**
- (3) Where the Planning Board serves as the special permit granting authority, it shall consolidate its site plan review and special permit procedures. Applicants must meet the submission requirements of Subsection C(2)(a).
  - (4) An application for site plan approval shall be accompanied by a fee, as set forth in the Planning Board's rules and regulations.
  - (5) The applicant may request, and the Planning Board may grant by majority vote, an extension of the time limits set forth herein. A copy of the extension shall be provided to the Board of Appeals.

- (6) No deviation from an approved site plan shall be permitted without modification thereof.
- D. Preparation of plans. Site plans shall be submitted on twenty-four-inch by thirty-six-inch sheets. Plans shall be prepared by a registered professional engineer, registered land surveyor, architect or landscape architect, as appropriate. Dimensions and scales shall be adequate to determine that all requirements are met and to make a complete analysis and evaluation of the proposal. All plans shall have a minimum scale of one inch equals 20 feet.
- E. Contents of plan. The contents of the site plan are as follows:
- (1) Five separate plans prepared at a scale of one inch equals 20 feet or such other scale as may be approved by the Planning Board. The plans are as follows:
    - (a) Site layout, which shall contain the boundaries of the lot(s) in the proposed development, proposed structures, drives, parking, fences, walls, walks, outdoor lighting, loading facilities and areas for snow storage after plowing. The first sheet in this plan shall be a locus plan, at a scale of one inch equals 100 feet, showing the entire project and its relation to existing areas, buildings and roads for a distance of 1,000 feet from the project boundaries or such other distance as may be approved or required by the Planning Board.
    - (b) Topography and drainage plan, which shall contain the existing and proposed final topography at two-foot intervals and plans for handling stormwater drainage.
    - (c) Utility and landscaping plan, which shall include all facilities for refuse and sewage disposal or storage of all wastes, the location of all hydrants, fire alarm and fire-fighting facilities on and adjacent to the site, all proposed recreational facilities and open space areas and all wetlands, including floodplain areas or resource protection areas subject to protection by the Wetlands Protection Act.<sup>43</sup>
    - (d) Architectural plan, which shall include all floor plans and architectural elevations of all proposed buildings and a color rendering.
    - (e) Landscaping plan, showing the limits of work, existing tree lines and all proposed landscape features and improvements, including screening and planting areas with size and type of stock for each shrub or tree and including proposed erosion control measures.
  - (2) The site plan shall be accompanied by a written statement indicating the estimated time required to complete the proposed project and any and all phases thereof. There shall be submitted a written estimate showing in detail the costs of all site improvements planned.
  - (3) A written summary of the contemplated projects shall be submitted with the site plan indicating, where appropriate, the number of dwelling units to be built and the acreage in residential use, the evidence of compliance with parking and off-street loading requirements, the forms of ownership contemplated for the property and a summary of the provisions of any ownership or maintenance thereof, identification of all land that will become common or public land and any other evidence necessary to indicate compliance with this chapter.
  - (4) The site plan shall be accompanied by drainage calculations stamped by a registered professional engineer. The stormwater system design shall conform to the current Mass Department of Environmental Protection Stormwater Management Standards and Stormwater Handbook. See Section 2.6 of the Planning Board Site Plan and Special Permit Regulations for

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43. Editor's Note: See MGL c. 131, §§ 40 and 40A.

further criteria. For a full list of design requirements, refer to the Chelmsford DPW Stormwater Management Regulations. **[Amended 10-15-2012ATM by Art. 19; 10-18-2021ATM by Art. 27]**

- (5) The Planning Board may require narrative assessments of the on-site and off-site impacts of the proposed project, including traffic, drainage, noise and other environmental factors. The Planning Board may require that such narrative assessments be prepared by qualified experts.
  - (6) Certification that the proposal is in full compliance with the provisions, if applicable, of the Americans with Disabilities Act and the Massachusetts Architectural Barriers Board.
  - (7) Low impact development (LID) site planning and design strategies must be utilized to the maximum extent feasible. These may include but are not limited to reduction of impervious surfaces, disconnection of impervious surfaces, bioretention (rain gardens), and infiltration systems. **[Added 10-18-2021ATM by Art. 28]**
- F. Waiver of technical compliance. The Planning Board may, upon written request of the applicant, waive any of the technical requirements of Subsection D where the project involves relatively simple development plans or constitutes a minor site plan.
- G. Minor site plan. Applications for permits to build, alter or expand any nonresidential building, structure or use in any district where such construction will exceed a total gross floor area of 500 square feet but not exceed a total gross floor area of 3,000 square feet or will not generate the need for more than 10 parking spaces shall be deemed a minor site plan. For the purposes of computing the total gross floor area of a minor site plan, the Inspector of Buildings shall aggregate all such applications made within the five previous calendar years. Minor site plans shall set forth all of the information required by Subsection D; provided, however, that the scale and contents of the minor site plan may be reduced by the Planning Board. Minor site plans shall be referred to the applicable Town agencies at the discretion of the Planning Board. **[Amended 4-25-2005ATM by Art. 25]**
- H. Approval. Site plan approval shall be granted upon determination by the Planning Board that the plan meets the following objectives. The Planning Board may impose reasonable conditions, at the expense of the applicant, including performance guaranties, to promote these objectives. Any new building construction or other site alteration shall provide adequate access to each structure for fire and service equipment and adequate provision for utilities and stormwater drainage consistent with the functional requirements of the Planning Board's subdivision rules and regulations. New building construction or other site alteration shall be designed in the site plan, after considering the qualities of the specific location, the proposed land use, the design of building form, grading, egress points and other aspects of the development, so as to:
- (1) Minimize the volume of cut and fill, the number of removed trees six-inch caliper or larger, the length of removed stone walls, the area of wetland vegetation displaced, soil erosion and threat of air and water pollution.
  - (2) Maximize pedestrian and vehicular safety both on the site and egressing from it.
  - (3) Minimize obstruction of scenic views from publicly accessible locations.
  - (4) Minimize visual intrusion by controlling the visibility of parking, storage or other outdoor service areas viewed from public ways or premises residentially used or zoned.
  - (5) Minimize glare from headlights and lighting intrusion.

- (6) Minimize unreasonable departure from the character, materials and scale of buildings in the vicinity, as viewed from public ways and places.
- (7) Minimize contamination of groundwater from on-site wastewater disposal systems or operations on the premises involving the use, storage, handling or containment of hazardous substances.
- (8) Ensure compliance with the provisions of this chapter, including parking and landscaping.
- I. Lapse. Site plan approval shall lapse after two years from the grant thereof if a substantial use thereof has not sooner commenced except for good cause. Such approval may, for good cause, be extended in writing by the Planning Board upon the written request of the applicant.
- J. Regulations. The Planning Board may adopt and from time to time amend reasonable regulations for the administration of these site plan guidelines.

**§ 195-105. Amendments.**

This chapter may from time to time be changed by amendment, addition or repeal by the Town Meeting in the manner provided in MGL c. 40A, § 5 and any amendments thereto.

**§ 195-106. Effect on other laws and building permits.**

- A. Other laws. Where the application of this chapter imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants or agreements, the provisions of this chapter shall control.
- B. Conformance. Construction or operations under a building permit shall conform to any subsequent amendment of this chapter 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 to completion as continuously and expeditiously as is reasonable.

**§ 195-107. Severability.**

The invalidity of any section or provision of this chapter shall not invalidate any other section or provision herein.

ARTICLE XX  
Terminology

**§ 195-108. Word usage and definitions.**

In this chapter, the following terms and constructions shall apply unless a contrary meaning is required by the context or is specifically prescribed in the text of the chapter.

- A. Words used in the present tense include the future. The singular includes the plural, and the plural includes the singular. The word "shall" is mandatory, and "may" is permissive or discretionary. The word "and" includes "or" unless the contrary is evident from the text. The word "includes" or "including" shall not limit a term to specified examples but is intended to extend its meaning to all other instances, circumstances or items of like character or kind. The word "lot" includes "plot." The word "used" or "occupied" shall be considered as though followed by the words "or intended, arranged or designed to be used or occupied." The word "building," "structure," "lot" or "parcel" shall be construed as being followed by the words "or any portion thereof." The word "person" includes a firm, association, organization, partnership, company or corporation as well as an individual. The words "business" and "establishment" are used interchangeably. **[Amended 4-30-2012ATM by Art. 25]**
- B. Terms and words not defined herein but defined in the Commonwealth of Massachusetts State Building Code shall have the meaning given therein unless a contrary intention is clearly evident in this chapter.

**ACCESSORY BUILDING** — A subordinate building located on the same lot as the main or principal building or principal use, the use of which is customarily incidental to that of the principal building or use of the land.

**ACCESSORY USE** — A use customarily incidental to that of the main or principal building or use of the land.

**ADULT DAY-CARE FACILITY** — A building or structure where care, protection and supervision are provided, on a regular schedule, to adults over the age of 18.

**ADULT ENTERTAINMENT ESTABLISHMENT** —

- (1) **ADULT BOOKSTORE** — An establishment having as a substantial or significant portion of its stock-in-trade printed matter, books, magazines, picture periodicals, motion picture films, video cassettes, computer compact disks, computer disks or diskettes or coin-operated motion picture machines for sale, barter or rental which are distinguished or characterized by their emphasis on matters depicting, describing or relating to sexual conduct, as that term is defined in MGL c. 272, § 31, or an establishment having for sale sexual devices, which shall mean any artificial human penis, vagina or anus or other device primarily designed, promoted or marketed to physically stimulate or manipulate the human genitals, pubic area or anal area, including dildos, penisators, vibrators, penis rings, erection enlargement or prolonging creams or other preparations, or an establishment with a segment or section devoted to the sale or display of such materials.
- (2) **ADULT LIVE ENTERTAINMENT ESTABLISHMENT** — An establishment which features live entertainment which consists of entertainers engaging in sexual conduct or nudity as defined in MGL c. 272, § 31.
- (3) **ADULT MINI MOTION-PICTURE THEATER** — An enclosed building with a capacity

for fewer than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to sexual conduct as defined in MGL c. 272, § 31, for observation by patrons therein.

- (4) **ADULT MOTION-PICTURE THEATER** — An enclosed building with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to sexual conduct as defined in MGL c. 272, § 31, for observation by patrons therein.
- (5) **SUBSTANTIAL OR SIGNIFICANT PORTION** — At least that portion of:
  - (a) Retail sales accounting for at least 25% of gross sales;
  - (b) Merchandise accounting for at least 25% of total merchandise available for sales; or
  - (c) Shelf space and display space which when combined is in excess of 80 square feet.

**AGRICULTURAL USE, NONEXEMPT** — Agricultural use of property not exempted by MGL c. 40A, § 3.

**ALTERATION** — As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

**ALZHEIMER'S FACILITY** — See "facilitated senior living facility." **[Amended 4-30-2012ATM by Art. 25]**

**ANIMAL CLINIC OR HOSPITAL** — A facility, under the control of a licensed veterinarian, where sick or injured animals or pets are given medical or surgical treatment and the boarding of animals is limited to short-term care incidental to the clinic or hospital use. This use may also include a kennel.<sup>44</sup> **[Amended 4-30-2012ATM by Art. 25]**

**ASPHALT MANUFACTURING PLANT** — A facility used for the production of liquid asphalt and/or bituminous concrete to be sold and/or used off site, including, but not limited to, facilities for administration, combustion machines for heating products, associated fans, belts and chimneys, rock crushers, tanks for storage of liquid asphalt, as well as stockpiling of bulk materials used in the production process or of finished products manufactured on the premises and the storage and maintenance of required equipment. **[Added 4-24-2017ATM by Art. 22]**

**ASSISTED LIVING FACILITY** — See "facilitated senior living facility." **[Amended 4-30-2012ATM by Art. 25]**

**BANK, FINANCIAL AGENCY** — A building or part thereof, open to the public and engaged in the custody, loan, or exchange of money; for the extension of credit; and for facilitating the transmission of funds. Typically characterized by walk-in and drive-through services. The use/inclusion of a drive-through requires a special permit. **[Added 4-30-2012ATM by Art. 25]**

**BARN SALE, GARAGE SALE, YARD SALE OR FLEA MARKET** — Temporary use of residential, institutional or industrial premises for sale of personal property in accordance with § 195-6D. **[Amended 4-30-2012ATM by Art. 25]**

**BOARDINGHOUSE** — A building, whether residential or commercial or any part thereof in which lodging is provided by the owner or operator to more than four boarders. The boardinghouse must

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44. Editor's Note: The former definition of "animal kennel or hospital," which immediately followed this definition, was repealed 4-30-2012ATM by Art. 25.

provide for shared/common facilities consisting of either bathing or cooking and therefore shall not contain individual dwelling units consisting of complete living facilities. Meals may or may not be provided. A dwelling unit where more than four unrelated individuals rent shall be considered a boardinghouse. A boardinghouse shall not be deemed a multifamily dwelling.**[Amended 4-30-2012ATM by Art. 25; 10-15-2012ATM by Art. 17]**

**BODY ART** — The practice of physical body adornment by permitted establishments and practitioners using, but not limited to, the following techniques: body piercing, tattooing, cosmetic tattooing, branding, and scarification. This definition does not include practices that are considered medical procedures by the Board of Registration in Medicine, such as implants under the skin, which are prohibited.**[Added 5-3-2001ATM by Art. 17]**

**BODY ART ESTABLISHMENT** — Any establishment which provides body art services as a part of its business.**[Added 5-3-2001ATM by Art. 17]**

**BUILDING** — A structure fully enclosed within exterior walls or fire walls built, erected and framed of a combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals or property. For the purposes of this definition, "roof" shall include an awning or any similar covering, whether or not permanent in nature.**[Amended 4-30-2012ATM by Art. 25]**

**BUILDING COVERAGE** — That percentage of the lot or plot area covered by the roof area of a building or buildings.

**BUILDING HEIGHT** — The vertical distance measured from the mean finished grade of all sides of the building or structures to the highest point of the roof for flat roofs, to the deck line for mansard roofs and to the mean height between eaves and ridge for gable, hip and gambrel roofs. Not included are spires, cupolas, antennas or similar parts of structures that do not enclose potentially habitable floor space.**[Amended 10-21-1999ATM by Art. 29]**

**BUILDING, PRINCIPAL** — A building in which is conducted the main or principal use of the lot on which said building is situated.<sup>45</sup>

**CEMETERY** — A property used for interring the dead, for both humans and animals, including accessory uses such as mausoleums, sales and maintenance facilities and chapels but excluding crematoriums.**[Added 4-30-2012ATM by Art. 25]**

**CHILD-CARE FACILITY** — A day-care center or school-age child-care program, as those terms are defined in MGL c. 28A, § 9.<sup>46</sup>**[Amended 4-30-2012ATM by Art. 25]**

**CLUB or LODGE** — Buildings, structures and premises used principally by a nonprofit social or civic organization or by an organization catering primarily to members and their guests for social, civic, recreational or athletic purposes which may be conducted primarily for gain and provided that there are no vending stands, merchandising or commercial activities except as may be required generally for the membership and purposes of such organization.**[Amended 4-30-2012ATM by Art. 25]**

**COMMERCIAL ENTERTAINMENT/RECREATION, INDOOR** — A building or part thereof for entertainment, recreational, social or amusement purposes, which may include as an accessory use the consumption of food and drink, including all connected rooms or space with a common means of egress and entrance. Examples include arcades, court games, theaters, concert halls, dance halls,

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45. Editor's Note: The former definitions of "business or professional office" and "campground," which immediately followed this definition, were repealed 4-30-2012ATM by Art. 25.

46. Editor's Note: Sections 1 to 17 of MGL c. 28A were repealed 2008, c. 215, § 43.



skating rinks, bowling alleys, dance studios or other commercial recreational centers conducted for profit or not for profit.[Amended 10-18-2004ATM by Art. 17; 4-30-2012ATM by Art. 25]

**COMMERCIAL RECREATION, OUTDOOR** — An open-air facility devoted to activities such as a drive-in theater, golf course/driving range, miniature golf, bathing beach, sports club, boathouse, game preserve, marina or other commercial recreation carried on in whole or in part outdoors, except those activities more specifically designated in this chapter.[Amended 4-30-2012ATM by Art. 25]

**CONGREGATE LIVING FACILITY** — See "facilitated senior living facility." [Amended 4-30-2012ATM by Art. 25]

**CONTRACTOR'S SHOP/YARD, INDOOR** — A building or part thereof used by a landscaping, construction or building professional for the enclosed storage of heavy equipment, materials, supplies and fabrication of subassemblies. Accessory office, retail merchandizing and sales are permitted. Outdoor displays, storage and sales are prohibited.[Amended 4-30-2012ATM by Art. 25]

**CONTRACTOR'S YARD, OUTDOOR** — Any portion of a premises used by a building, landscaping or construction professional for the outdoor storage of heavy equipment, materials, supplies, fabrication and subassemblies. An accessory office is permitted.[Added 4-30-2012ATM by Art. 25]

**DISTRIBUTION AND FULFILLMENT CENTERS** — [Added 10-17-2022ATM by Art. 22]

- (1) **SMALL DISTRIBUTION CENTER** — A facility, or part of a facility, less than 20,000 square feet (gross floor area) where goods or products are stored on-site temporarily for the primary purpose of shipping and/or delivery to a consumer. Such facilities may include automated systems, office space, and a pick and pack area to be used by employees for sorting and packaging goods and products for shipping and/or delivery from available, on-site inventory. Small distribution center includes fulfillment by third parties for the above-stated purposes. Small distribution center excludes shipping and/or delivery to retailers and businesses (business to business and wholesalers). Small distribution center is not defined as "warehouse" nor "transport terminal," as defined in Article XX. Small distribution center is not defined as a retail use that may have an accessory delivery component.
- (2) **MEDIUM DISTRIBUTION CENTER** — A facility, or part of a facility, between 20,000 and 75,000 square feet (gross floor area) where goods or products are stored on-site temporarily for the primary purpose of shipping and/or delivery to a consumer. Such facilities may include automated systems, office space, and a pick and pack area to be used by employees for sorting and packaging goods and products for shipping and/or delivery from available, on-site inventory. Medium distribution center includes fulfillment by third parties for the above-stated purposes. Medium distribution center excludes shipping and/or delivery to retailers and businesses (business to business and wholesalers). Medium distribution center is not defined as "Warehouse" nor "Transport Terminal," as defined in Article XX. Medium distribution center is not defined as a retail use that may have an accessory delivery component.
- (3) **LARGE DISTRIBUTION CENTER** — A facility, or part of a facility, greater than 75,000 square feet (gross floor area) where goods or products are stored on-site temporarily for the primary purpose of shipping and/or delivery to a consumer. Such facilities may include automated systems, office space, and a pick and pack area to be used by employees for sorting and packaging goods and products for shipping and/or delivery from available, on-site inventory. Large distribution center includes fulfillment by third parties for the above-stated purposes. Large distribution center excludes shipping and/or delivery to retailers and businesses (business to business and wholesalers). Large distribution center is not defined as "Warehouse" nor "Transport Terminal," as defined in Article XX. Large distribution center is not defined as

a retail use that may have an accessory delivery component.

**DRIVE-THROUGH WINDOW** — An establishment utilizing, principally or accessory, an opening in a wall, including windows, designed and intended to be used to provide for sales to and/or services to patrons who remain in their motor vehicle. This term includes automated sales and services.**[Added 4-30-2012ATM by Art. 25]**

**DWELLING** — A building designed and occupied as the living quarters of one or more families. Single- and two-family dwellings shall be designed for and occupied by not more than one or two families, respectively. A multifamily dwelling shall be one designed for and occupied by three or more families. Multifamily dwellings also include three or more family units, in any configuration whether or not attached, on a single lot, and the buildings accessory thereto and within this context are not subject to § 195-62A and B.**[Amended 10-15-2018ATM by Art. 19]**

**DWELLING UNIT** — One or more living and sleeping rooms providing complete living facilities for the use of one or more individuals constituting a single housekeeping unit, with permanent provisions for living, sleeping, eating, cooking and sanitation.**[Added 10-21-1999ATM by Art. 29]**

**EARTH REMOVAL** — Extraction of sand, gravel, topsoil or other earth for sale or for use at a site removed from the place of extraction, exclusive of the grading of a lot preparatory to the construction of a building for which a building permit has been issued or the grading of streets in accordance with an approved definitive plan and exclusive of granite operations.

**EDUCATIONAL USE, NONEXEMPT** — Educational facilities not exempted from regulation by MGL c. 40A, § 3.

**ERECT** — To build, construct, reconstruct, move upon or conduct any physical development of the premises required for a building. To excavate, fill, drain and the like preparation for building shall also be considered to erect.

**ESSENTIAL SERVICES** — Services provided by a public service corporation or by governmental agencies through erection, construction, alteration or maintenance of gas, electrical, steam or water or sewer transmission or distribution systems and collection, communication, supply or disposal systems, whether underground or overhead, but not including wireless communications facilities. Facilities necessary for the provision of essential services include poles, wires, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment in connection therewith.

**EXEMPT USES** — Uses defined and permitted per c. 40A, § 3.<sup>47</sup>**[Added 4-30-2012ATM by Art. 25]**

**FACILITATED SENIOR LIVING FACILITY** — Includes assisted, Alzheimer's and congregate living facilities.**[Amended 4-30-2012ATM by Art. 25]**

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47. Editor's Note: See MGL c. 40A, § 3.

**ALZHEIMER'S FACILITY** — A facility providing treatment, including rehabilitation services, and communal lodging for more than four unrelated persons who have been diagnosed by a medical doctor as having Alzheimer's disease or other forms of dementia but who do not require the skilled nursing care typically provided by a nursing home.

**ASSISTED LIVING FACILITY** — A facility providing private multifamily dwellings or communal lodging for more than four unrelated persons requiring assistance with the activities of daily living, such as aid or assistance with bathing, dressing/grooming, ambulation, eating, toileting or other similar tasks, as defined by MGL c. 19D, § 1. May also include rehabilitation services.

**CONGREGATE LIVING FACILITY** — A facility providing communal lodging for more than four unrelated elders in a noninstitutional, residential, shared living environment which integrates shelter and services needed by the functionally impaired or socially isolated elder who does not require the constant supervision or intensive health care services as provided in a nursing home. The shared living environment shall include at least the following: shared kitchen facilities and shared dining facilities. Each bedroom shall be considered one unit.

**FAIRGROUNDS, CARNIVALS AND SIMILAR OUTDOOR EVENTS** — An open-air facility, operated for a limited period of time, for purposes of entertainment and amusement. Examples include amusement rides, carnivals, fair and festival grounds and circuses.**[Added 4-30-2012ATM by Art. 25]**

**FAMILY** — Any number of individuals related by blood, marriage, adoption, foster or legal guardianship living together in one dwelling unit as a single housekeeping unit, but not including more than four persons living together unrelated by blood or marriage.**[Amended 4-30-2012ATM by Art. 25]**

**FAMILY DAY-CARE HOME** — Any private residence which on a regular basis receives for temporary custody and care during part or all of the day children under seven years of age or children under 16 years of age if such children have special needs; provided, however, in either case, that the total number of children shall not exceed more than six, excluding participating children living in the residence.

**FARM STAND, NONEXEMPT** — Facility for the sale of produce, wine and dairy products on property not exempted by MGL c. 40A, § 3.

**FLOOR AREA, GROSS** — The sum of the horizontal areas of the floors of a building or several buildings on the same lot measured from the exterior face of exterior walls or from the center line

of the wall separating two buildings, not including any space where the floor-to-ceiling height is less than seven feet, or as otherwise defined in the most recent edition of the Massachusetts State Building Code.**[Amended 4-30-2012ATM by Art. 25]**

**FLOOR AREA, NET** — The aggregate horizontal area in square feet of all floors of a building or several buildings on the same lot, measured from the exterior faces of the walls enclosing each building and exclusive of cellars and attic areas used only for storage, bathrooms, stairwells, elevators, mechanical rooms or areas for service incidental to the operation or maintenance of the building, or as otherwise defined in the most recent edition of the Massachusetts State Building Code.**[Amended 4-30-2012ATM by Art. 25]**

**FLOOR AREA RATIO** — The ratio of the gross floor area of the building or buildings on one lot to the total area of the lot.

**FUNERAL HOME** — A facility for the conducting of funerals and related activities, such as embalming.

**GRANITE OPERATIONS** — The removal and processing of granite for construction use, not including stone crushing.<sup>48</sup>

**HAZARDOUS MATERIAL** — Any substance which is listed in, but not limited to, the Environmental Protection Agency priority pollutants as described in Section 307(a) of the Clean Water Act, as amended.

**HEALTH CLUB** — A profit or nonprofit facility/structure promoting maintenance of and/or improvement to physical and mental health of individual users, which may include as an accessory use the consumption of food and drink, including all connected rooms or space with a common means of egress and entrance. Parking requirements shall be the same as those for stores, retail businesses and services.**[Added 10-18-2004ATM by Art. 17]**

**HELIPAD** — An accessory use, that is permanent and dedicated for a helicopter loading area, for a hospital and EMS operations.**[Added 4-30-2012ATM by Art. 25]**

**HOME OCCUPATION** — An occupation, business, trade, service or profession which is incidental to and conducted in a dwelling unit or in a building or other structure accessory thereto by a resident thereof. See § 195-7 for additional definitions.**[Amended 4-30-2012ATM by Art. 25]**

**HOSPITAL** — A facility, operating 24 hours, seven days a week, with state-licensed beds and/or an emergency room providing primary health services and medical or surgical care to persons, inpatients and outpatients, suffering from illness, disease, injury, deformity and other abnormal physical or mental conditions, and including, as an integral part of the facility, accessory uses such as laboratories, outpatient facilities or training facilities.**[Added 4-30-2012ATM by Art. 25]**

**IMPERVIOUS** — See § 195-70 for definition.**[Amended 4-30-2012ATM by Art. 25]**

**INDEPENDENT SENIOR LIVING FACILITY** — A facility providing an independent, age-restricted dwelling for a retired or senior individual or couple. In addition to bed space, such facilities would ordinarily include a private toilet, bath, food preparation facilities and a private dining area.**[Amended 4-30-2012ATM by Art. 25]**

**JUNK** — Any article or material or collection thereof which is worn out, cast off or discarded and which is ready for destruction or has been collected or stored for salvage or conversion. Any article or material which, unaltered or unchanged and without further reconditioning, can be used for its

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48. Editor's Note: The former definition of "group residence," which immediately followed this definition, was repealed 4-30-2012ATM by Art. 25.

original purpose as readily as when new shall not be considered junk.

**JUNKYARD or AUTOMOBILE GRAVEYARD** — The use of any area or any lot, whether inside or outside of a building, for the storage, keeping or abandonment of junk, scrap or discarded materials or the dismantling, demolition or abandonment of automobiles, other vehicles, machinery or parts thereof.

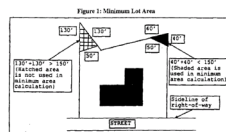
**KENNEL, COMMERCIAL** — An establishment in which more than three (three months or older) healthy (not sick) dogs or domesticated animals are housed, groomed, bred, boarded, trained or sold.**[Amended 4-30-2012ATM by Art. 25]**

**KITCHEN** — A place for the preparation of meals, having a stove and either or both a sink and a refrigerator.<sup>49</sup>**[Added 10-15-2001ATM by Art. 19]**

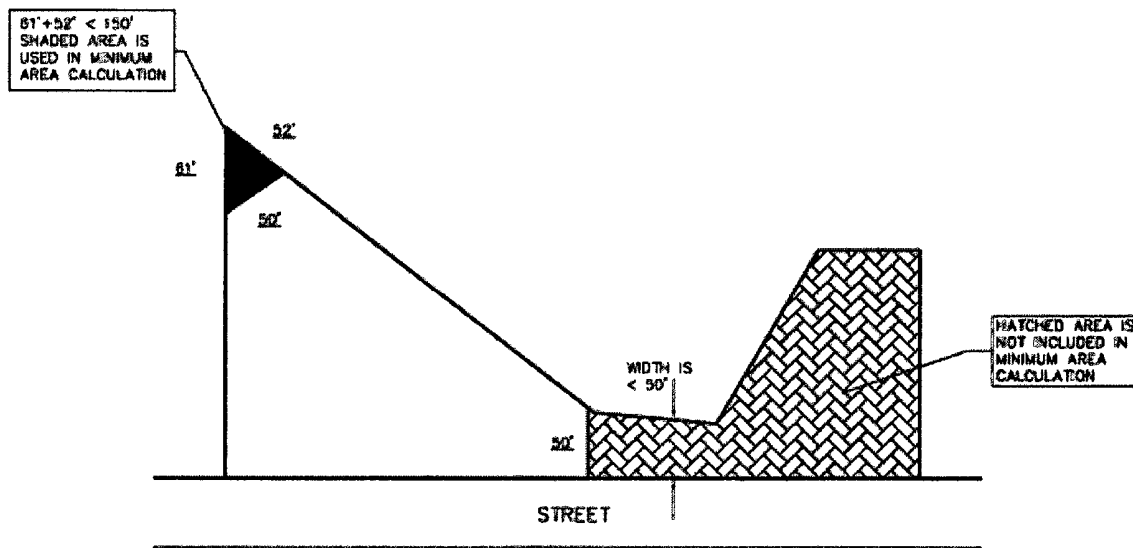
**LANDSCAPING** — The process of making a yard or other piece of land more attractive by altering the existing design, adding ornamental features, and planting trees and shrubs. This can include green infrastructure or low impact design/development (LID), bioretention areas, vegetated swales, planter boxes, rainwater harvesting systems, natural channel design and other vegetated practices.**[Added 10-18-2021ATM by Art. 29]**

**LOT** — A continuous parcel of land with legally definable boundaries.

**LOT AREA** — The horizontal area of the lot, exclusive of any area in a street or recorded way open to public use. At least 80% of the lot area required for zoning compliance shall be contiguous land other than that under any water body, bog, swamp, wet meadow, marsh or other wetland, as defined in MGL c. 131, § 40, as amended. When the distance between any two points on lot lines is less than 50 feet, measured in a straight line, the smaller portion of the lot which is bounded by such straight line shall not be considered in computing the minimum lot area unless the distance along such lot lines between such two points is less than 150 feet. For the purpose of computing the 150-foot minimum distance, the length of each lot line shall be added together, irrespective of whether the two lines intersect. See accompanying diagram below.**[Amended 5-3-2007ATM by Art. 18; 10-18-2018STM by Art. 1]**



49. Editor's Note: The former definition of "light manufacturing," which immediately followed this definition, was repealed 4-30-2012ATM by Art. 25. The former definition of "limited accessory apartment," added 10-15-2001ATM by Art. 19, which immediately followed the definition of "light manufacturing," was repealed 10-18-2010ATM by Art. 18.



**LOT, CORNER** — A lot with two adjacent sides abutting upon streets or other public spaces.

**LOT, DEPTH OF** — The mean distance from the street line of the lot to its opposite rear line measured in the general direction of the side lines of the lot.

**LOT, FRONTAGE OF** — The contiguous portion of a lot line coinciding with the side line of a street which provides accessible and usable legal rights of vehicular access and physical vehicular access to the buildable area of the lot via the required frontage, said line to be measured continuously along a single street or along two intersecting streets if their angle of intersection is greater than 120°. **[Amended 4-25-2005ATM by Art. 26; 4-30-2012ATM by Art. 25]**

**LOT LINE** — A line dividing one lot from another or from a street or any public place.

**LOT, WIDTH OF** — The horizontal distance between side lot lines, measured parallel to the lot frontage at the front yard setback line.

**MAJOR RECREATIONAL EQUIPMENT** — Campers, trailers or other recreational vehicles. See § 195-6B for additional definition. **[Amended 4-30-2012ATM by Art. 25]**

**MANUFACTURING, HEAVY** — The indoor manufacturing, predominately of raw materials or unprocessed materials, including processing, fabrication, assembly, treatment, packaging and distribution. Typically characterized by the storage of large volumes of materials needed for the manufacturing process is prohibited and by noise, odor, smoke, heat, glare, or vibrations that are not contained within a building and that result in external effects across property lines. The storage and manufacturing of large volumes of highly flammable, toxic matter or explosive materials is prohibited. **[Added 4-30-2012ATM by Art. 25]**

**MANUFACTURING, LIGHT** — The indoor manufacturing, predominately from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging and distribution. Typically characterized by noise, odor, smoke, heat, glare, and vibration being contained within a building with no external effects detectable across property lines. Examples include food, textile, leather, wood, paper, chemical, plastic, metal products and renewable or alternative energy. Excludes basic industrial processing of raw materials and any outdoor storage of materials. **[Added 4-30-2012ATM by Art. 25]**

**MARIJUANA ESTABLISHMENT** — All types of marijuana establishments, as defined in M.G.L.

Ch. 94G, § 1, to include all marijuana cultivators, marijuana testing facilities, marijuana product manufacturers, marijuana retailers or any other types of licensed marijuana-related businesses.[Added 10-16-2017 by ATM, Art. 16]

**MASSAGE SERVICE ESTABLISHMENT —**

- (1) "Massage" is any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of external parts of the human body with the hands or with the aide of any mechanical or electric apparatus or appliances, with or without such supplementary aids as rubbing alcohol, liniment antiseptics, oils, powders, creams, lotions, ointment or other such similar preparations commonly used in the practice of massage, under such circumstances that it is reasonably expected that the person to whom the service is provided, or some third person on his or her behalf, will pay money or give any other consideration or any gratuity therefor.
- (2) The practice of massage shall not include the following individuals while engaged in the personal performance of duties of their respective professions:
  - (a) Physicians, surgeons, chiropractors, osteopaths or physical therapists who are duly licensed to practice their respective professions in the Commonwealth of Massachusetts.
  - (b) Nurses who are registered under the laws of the Commonwealth of Massachusetts.
  - (c) Barbers and beauticians who are duly licensed under the laws of the Commonwealth of Massachusetts, except that this exclusion shall apply solely to the massage of the neck, face, scalp and hair of the customer or client for cosmetic or beautifying purposes.
  - (d) Massage therapists who are duly permitted to practice under the rules and regulations of the Chelmsford Board of Health.<sup>50</sup>

**MEDICAL CLINIC —** A facility licensed by the Massachusetts Department of Public Health pursuant to 105 CMR 140.000 under MGL c. 111, §§ 51 through 56.[Added 4-30-2012ATM by Art. 25]

**MEDICAL MARIJUANA TREATMENT CENTER —** A not-for-profit entity, as defined and further regulated by Massachusetts law only, registered under state law, that consists of any of the following, either individually or in combination: acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, or related supplies. This use shall not be eligible as a nonexempt agricultural use or as a nonexempt educational use, per the Use Table.<sup>51</sup>[Added 4-29-2013ATM by Art. 24]

**MEDICAL OFFICE OR CENTER —** A building designed and used for the diagnosis and treatment of human patients on an outpatient basis that does not include overnight care facilities. Practitioners may include physicians, nurses, dentists, chiropractors, psychologists, mental health counselors and other similar health care professionals.[Amended 4-30-2012ATM by Art. 25]

**MOBILE HOME —** A dwelling built upon a chassis, containing complete electrical, plumbing and sanitary facilities and designed without necessity of a permanent foundation for year-round living, irrespective of whether actually attached to a foundation or otherwise permanently located.

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50. Editor's Note: See Ch. 201, Board of Health, Art. XIII, Massage/Muscular Therapy.

51. Editor's Note: See the Use Regulation Schedule included as an attachment to this chapter.

MOTEL or HOTEL — A building or buildings intended and designed for transient, overnight or extended occupancy, divided into separate units within the same building, with or without accessory shops and services catering to the general public such as a dining or recreational facility. If such hotel or motel has independent cooking facilities, such unit shall not be occupied by any guest for more than four continuous months, nor may the guest reoccupy any unit within 30 days of a continuous four-month stay, nor may the guest stay more than six months in any calendar year. No occupant of such hotel or motel may claim residency at such location. This term does not include a boarding- or rooming house.**[Amended 4-30-2012ATM by Art. 25]**

MOTOR VEHICLE — Any vehicle self-propelled by a battery-powered, electric or internal combustion engine, which is permitted and requires a valid registration legally issued by a government authority in order to be operated on a public way. A motor vehicle shall include, but not limited to, automobiles, trucks, buses, motor homes, motorcycles, watercraft, motor scooters and tractors.**[Added 4-30-2012ATM by Art. 25]**

MOTOR VEHICLE, BODY REPAIR — An establishment, garage or work area enclosed within a building where repairs are made or caused to be made to motor vehicle bodies, including fenders, bumpers and similar components of motor vehicle bodies, but does not include the storage of vehicles for the cannibalization of parts. Motor vehicle towing is permitted as an accessory use.**[Amended 4-30-2012ATM by Art. 25]**

MOTOR VEHICLE FUELING STATION (gas station) — An establishment principally used for the retail sales and dispensing of motor vehicle fuels. Accessory uses may include general repairs, related accessory retail sales and accessory retail sales of convenience items such as prepackaged foods/beverages, but not including food items that are prepared or individually proportioned to order.**[Added 4-30-2012ATM by Art. 25]**

MOTOR VEHICLE, GENERAL REPAIRS — Premises for the servicing, maintenance and repair of motor vehicles. Related accessory retail sales, such as motor oils, lubricants, travel aids and accessories, are permitted. Fuel sales are prohibited. Motor vehicle towing is permitted as an accessory use.<sup>52</sup>**[Amended 4-30-2012ATM by Art. 25]**

MOTOR VEHICLE SALES AND RENTAL — The use of any building, land area or other premises for the display and sale of new or used motor vehicles, including any warranty repair work and other repair service conducted as an accessory use including motor vehicle towing.**[Added 4-30-2012ATM by Art. 25]**

MOTOR VEHICLE TOWING AND STORAGE — Establishment that provides for the towing, carrying, hauling and temporary storage of motor vehicles, but does not include disposal, salvage or storage of inoperable vehicles.**[Added 4-30-2012ATM by Art. 25]**

MOTOR VEHICLE WASHING FACILITY (car wash) — An establishment providing washing, waxing, polishing and detailing of vehicles, including self-service, automated and manned facilities.**[Added 4-30-2012ATM by Art. 25]**

MUNICIPAL FACILITIES — Facilities owned or operated by the Town of Chelmsford.

NAMEPLATE CAPACITY — The maximum rated output of electric power production of the photovoltaic system in direct current (DC).**[Added 4-30-2012ATM by Art. 29]**

NONFAMILY ACCOMMODATIONS — Boardinghouses, lodging houses, guest houses, tourist homes, dormitories, halfway houses or similar accommodations. Accommodations shall be

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52. Editor's Note: The former definition of "motor vehicle, light service," which immediately followed this definition, was repealed 4-30-2012ATM by Art. 25.



considered hotels or motels if they have a sign in excess of two square feet or other departure from residential character or if they have specified a term of residence less than one week. Accommodations individually having a stove and either or both a refrigerator and a sink shall be considered dwelling units.<sup>53</sup>

**NURSING/CONVALESCENT/REHABILITATION HOME** — A state-licensed facility for the infirm, chronically ill or convalescent whether conducted for charity or profit, which is established to render domiciliary care, custody, treatment or lodging for three or more unrelated persons who require or receive assistance in ordinary daily activities of life or who are confined to bed or chair. (This term does not include hospitals and similar facility devoted primarily to the diagnosis and treatment of disease, injury, maternity cases or mental illness.) May also include rehabilitation services.**[Amended 4-30-2012ATM by Art. 25]**

**OFFICE** — A building, or part thereof, in which work of a predominantly administrative, professional, or clerical nature is performed for purposes of providing direct transactions of business or services to consumers, exclusive of the receipt, sale, storage or processing of merchandise, other than limited incidental merchandise. Examples include accounting, attorney, insurance, real estate or architectural. Typically characterized by no walk-in retail consumer sales or production/manufacturing of any physical products for sale. May also include accessory use for the employees such as cafeterias, coffee shops and other convenience-related services.**[Added 4-30-2012ATM by Art. 25]**

**OPEN LOT STORAGE** — Outdoor storage of bulk goods and products for distribution but not for sale on the premises.

**OPEN SPACE, LANDSCAPED** — That part or parts of a lot designed and developed with trees, plants, shrubs, flowers, grass, ground cover and other landscape features, including natural features of the site, walks, terraces and open areas otherwise free of any structures or pavement. Such landscaped open space as is provided shall be maintained by the owner throughout the duration of his or her tenure.

**PARKING GARAGE/STRUCTURE** — A structure of any combination of materials assembled, constructed, erected or maintained at a fixed location and placed permanently or temporarily in, on or above the ground serving as an accessory use to a commercial or industrial establishment and is primarily for the parking and storage of vehicles operated by the customers, visitors and employees of such an establishment. This term does not include municipal structures.**[Amended 4-30-2012ATM by Art. 25]**

**PARKING LOT/AREA** — An off-street area, including parking spaces, loading areas and all associated maneuvering areas such as aisles, serving as an accessory use for the parking of vehicles and available to the public as an accommodation for clients, customers or employees.**[Added 4-28-2008ATM by Art. 20]**

**RECHARGE AREA** — An area of geologic deposits through which water from the surface can infiltrate through the soil to the groundwater. These geologic deposits generally consist of stratified sand and gravels.

**REFUSE INCINERATOR** — An engineered apparatus with grate area in excess of 10 square feet used to burn waste and in which all combustion factors, temperature, retention time, turbulence and combustion can be controlled and which is approved by the Massachusetts Department of Public Health and the Chelmsford Board of Health.

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53. Editor's Note: The former definition of "nursery school," which immediately followed this definition, was repealed 4-30-2012ATM by Art. 25.

**RESEARCH AND DEVELOPMENT FACILITIES** — Are those used primarily for research, development and/or testing of innovative information, concepts, methods, processes, materials, or products. This can include the design, development, and testing of biological, chemical, electrical, magnetic, mechanical, and/or optical components in advance of product manufacturing. The accessory development, fabrication, and light manufacturing of prototypes, or specialized machinery and devices integral to research or testing may be associated with these uses. Research and development related principally to computer software is not included in this definition. **[Added 4-30-2012ATM by Art. 25]**

**RESTAURANT** — A building or portion thereof containing tables and/or booths which is designed, intended and used for the indoor sale and consumption of food prepared on the premises and typically characterized by table service with waiters and reusable dinnerware, except that food may be consumed outdoors in landscaped terraces designed for dining purposes which are adjuncts to the main indoor restaurant facility. The term "restaurant" shall not include fast-food establishments. **[Amended 4-30-2012ATM by Art. 25]**

**RESTAURANT, FAST-FOOD** — An establishment whose principal business is the sale of preprepared or rapidly prepared food directly to the customer in a ready-to-consume state intended for large volume with consumption either within the restaurant building or off premises which, because of the nature of the operation, causes a large volume or frequent turnover of customers. Typically characterized by ordering food at a counter, self-service or semi-self-service, a menu board rather than individual menus, payment prior to consumption of food, no table service with waiters and disposable containers and utensils are provided rather than reusable dinnerware. **[Amended 4-30-2012ATM by Art. 25]**

**RETAIL** — A business that provides goods and/or services directly to the consumer where such goods are available for immediate purchase from the premises by the customer. This term includes electronic sales of all kinds. **[Amended 4-30-2012ATM by Art. 25]**

**RIDING ACADEMY** — An establishment where horses are kept for sale, riding, driving or stabling for compensation or incidental to the operation of a club, association or similar establishment.

**SALVAGE YARD** — Property where motor vehicles are junked, dismantled or stored for later dismantling or distribution.

**SANITARY LANDFILL** — A site for solid waste disposal approved by the Massachusetts Department of Environmental Protection, Bureau of Waste Prevention, and the Chelmsford Board of Health. Disposal of raw sewage and similar waste items is not permitted. **[Amended 4-25-2005ATM by Art. 26]**

**SELF-STORAGE MINI WAREHOUSE** — A building consisting of individual self-contained units that are leased or owned for the storage of business and household goods. Business goods are limited to those not associated with any office, retail or other business or commercial use within the self-storage warehouse facility. **[Added 4-30-2012ATM by Art. 25]**

**SENIOR or ELDER** — An individual who is 60 years of age or over.

**SIGN** — Any device designed to inform or attract the attention of persons not on the premises on which the device is located. Any building surfaces other than windows that are internally illuminated or decorated with gaseous tube or other lights are considered signs. The following, however, shall not be considered signs within the context of this chapter:

- (1) Flags and insignia of any government. A flag is defined as a piece of cloth or similar material, varying in size, shape, color and design, attached at one edge to a staff or cord, used as the symbol of a nation, state or other governmental entity. **[Amended 10-15-2018ATM by Art. 16]**

- (2) Legal notices or informational devices erected or required by public agencies.
- (3) Temporary devices erected for a charitable or religious cause, provided that they are removed within seven days of erection.
- (4) Temporary displays inside windows, covering not more than 30% of the window area, illuminated by building illumination only.
- (5) Standard gasoline pumps bearing thereon in usual size and form the name, type and price of gasoline.
- (6) Integral decorative or architectural features of a building, except letters, trademarks, moving parts or parts internally illuminated or decorated with gaseous tube or other lights.
- (7) Devices identifying a building as distinct from one or more of its occupants, such device being carved into or attached in such a way as to be an integral part of the building, not illuminated separate from building illumination, without color contrasting with sign background and not exceeding four square feet in area.
- (8) Address identification through numerals or letters not exceeding three inches in height.

**SIGN AREA** — The area of the smallest horizontally or vertically oriented rectangle which could enclose all the display area of the sign, together with any backing different in color or material from the finish material of the building face, without deduction for open space or other irregularities. Structural members not bearing advertising matter shall not be included unless internally or decoratively lighted. Only one side of flat, back-to-back signs need be included in calculating sign area.

**SOLAR PHOTOVOLTAIC FACILITY (COMMERCIAL)** — A solar photovoltaic system, as a principal use, with 250 kW or larger of rated nameplate capacity that is mounted on the ground and used to generate electric power onto the electrical grid principally for commercial sale. **[Added 4-30-2012ATM by Art. 29]**

**SOLID WASTE DISPOSAL FACILITY** — A refuse transfer station, composting plant, solid waste recycling operation and any other works or use approved by the Massachusetts Department of Environmental Protection, Division of Solid Waste, and the Board of Health of the Town of Chelmsford for processing, handling, treating and disposing of solid or liquid waste materials, including garbage, rubbish, junk, discarded bulk items and sludges but not raw sewage and similar waste items. **[Amended 4-25-2005ATM by Art. 26]**

**STREET** — An accepted Town way or a way established by or maintained under county, state or federal authority or a way established by a subdivision plan approved in accordance with the Subdivision Control Law<sup>54</sup> or a way determined by the Planning Board to have sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

**STRUCTURE** — A combination of materials assembled at a fixed location to give support or shelter, such as a building, framework, retaining wall (over four feet in height), tent, deck, porch, sign, swimming pools, flagpole, mast for radio antenna or the like. Excludes paved surfaces such as parking areas, driveways, walkways and patios. **[Amended 4-30-2012ATM by Art. 25]**

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54. Editor's Note: See MGL c. 41, § 81K et seq.

**TEMPORARY STRUCTURE** — A structure without any foundation or footings to be removed within a twelve-month time period. Said structure shall conform to the requirements of the Table of Dimensional Requirements<sup>55</sup> and shall receive a permit from the Inspector of Buildings.[**Amended 4-25-2005ATM by Art. 26**]

**TOXIC MATERIAL** — A combination of pollutants, including disease-carrying agents, which after discharge and upon exposure, ingestion, inhalation and assimilation into any organism can cause death, disease, mutations, deficiencies or malfunctions in such organisms or their offspring.

**TRANSPORT TERMINAL** — Terminal facilities for handling freight, with or without maintenance facilities.

**WAREHOUSING** — A facility, or part of a facility, used primarily for storing goods, wares, commodities, and merchandise, whether for the owner thereof or for others, and whether it is a public or private warehousing operation. Warehousing shall include shipping and/or delivery to retailers and businesses (business to business and wholesalers). Warehousing shall exclude self-storage and distribution center as defined in Article XX.[**Amended 10-17-2022ATM by Art. 21**]

**WIRELESS COMMUNICATION SERVICE** — The provision of cellular telephone service, personal communication service and enhanced mobile radio service.

**WIRELESS COMMUNICATIONS FACILITY** — Monopoles, satellite dishes over three feet in diameter, antennas and accessory structures which facilitate the provision of wireless communication service.

**WOOD OPERATION** — Forests, wood lots, portable woodworking mills and machinery located on the property for use in connection with the forest and wood lot operations of the owner only, with products stored not within 100 feet of the street line.

**YARD** — A space open to the sky, located between a building or structure and a lot line, unoccupied except by fences, walls, poles, paving and other customary yard accessories.

**YARD, FRONT** — A yard extending the full width of the lot and situated between the street line and the nearest point of the building.

**YARD, REAR** — A yard extending the full width of the lot and situated between the rear line of the lot and the nearest part of the main building projected to the side line of the lot.

**YARD, SIDE** — A yard situated between the nearest point of the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.

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55. Editor's Note: The Table of Dimensional Requirements is included at the end of this chapter.

## ARTICLE XXI

**Community Enhancement and Investment Overlay District  
[Added 10-21-2013ATM by Art. 16]****§ 195-109. Purpose and intent.**

The purpose and intent of the Community Enhancement and Investment Overlay District (CEIOD) are as follows:

- A. To provide an incentive for property reuse and redevelopment through regulatory flexibility and a streamlined permitting process that results in reduced impacts in the community;
- B. To prevent deterioration of land and buildings that have become obsolete for their original purposes by allowing reuse for other economic and civic opportunities, including but not limited to residential uses, commercial uses and mixed uses;
- C. To facilitate the redevelopment of vacant and underutilized commercial and industrial properties in a manner that enhances the municipal tax base while ensuring that redevelopment meets the Town's standards for design and construction and neighborhood character;
- D. To encourage entrepreneurship, the expansion of small businesses, and support the growth and enhancement of commercial districts in Chelmsford;
- E. To encourage appropriate site design that enhances and promotes desirable development patterns, improves internal accessibility and connectivity, reduces curb cuts through shared access to public ways, consolidates parcels and incorporates open space when appropriate and feasible;
- F. To encourage high-quality development to protect and enhance the value of real property, provide high-quality architecture that reflects an appropriate community character, and site planning in a manner compatible and in context with surrounding neighborhoods or business districts;
- G. To encourage aesthetic enhancements where currently deficient, including, but not limited to, improvements to landscaping along public ways;
- H. To encourage environmental protection such as best practices in stormwater management and redevelopment to ensure compliance with Massachusetts Department of Environmental Protection stormwater regulations to the maximum extent feasible; and
- I. To increase compliance with zoning standards particularly for those sites and buildings that predate current zoning standards such as landscaping, parking, lighting, and signage.

**§ 195-110. Types of overlay district projects.**

There are four types of Community Enhancement and Investment Overlay District (CEIOD) projects as defined below. The Planning Board shall determine whether the project is a qualified CEIOD project and which type of CEIOD project a proposed development qualifies as in accordance with § 195-119B.

- A. Adaptive reuse project (ARP). This type of project involves the renovation, rehabilitation and reuse of an existing building (or significant portion thereof) and site. This may include a municipal, institutional, residential, commercial, or industrial building or other buildings originally designed or intended for uses that are no longer viable due to certain building design characteristics or conditions.
- B. Commercial or industrial redevelopment project (CIRP). This type of project involves the partial or

complete demolition of an existing building and/or parking area and the construction of a new building and/or parking area.

- C. Residential reuse or redevelopment project (RRRP). This type of project allows for the conversion of all or a portion of an existing commercial property into a residential use. The purpose of RRRPs is to encourage a range of housing opportunities to replace underutilized or obsolete commercial or industrial properties to meet existing and anticipated housing needs, where such residential use is appropriate and would contribute to the livelihood or economic viability of the surrounding neighborhood.
- D. Sustainable infill development project (SIDP). This type of project involves new construction on infill and redevelopment sites with the intent of fulfilling economic potential while providing a high-quality development designed to improve the pedestrian environment through sidewalks/footpaths, streetscape enhancements, and other amenities.

### **§ 195-111. Applicability.**

- A. Location of districts. The Community Enhancement and Investment Overlay District (CEIOD) is hereby established as an overlay district in the CA, CB, CC, CD and IA Zoning Districts and as shown on the Town's Zoning Map. The various projects (ARP, CIRP, RRRP, or SIDP) must satisfy the standards defined in this Article XXI. CEIOD projects may be permitted only on eligible properties as defined below.
- B. Eligible properties for CEIOD projects. CEIOD projects may be permitted under the following circumstances:
  - (1) On a property where a CEIOD project will alter or change a preexisting, nonconforming use, structure or parking lot.
  - (2) On a site or building determined by the Planning Board to be vacant, obsolete, underutilized and qualified as one of the CEIOD project types in § 195-110 above.
- C. CEIOD projects allowed by right. A CEIOD project is by right if it meets all of the following criteria (as applicable):
  - (1) If the project will alter or change a preexisting, nonconforming use or structure, it will not increase the nonconforming nature of the use or structure, as provided in § 195-8 of the Zoning Bylaw.
  - (2) If the project involves a change of use from one use category to another, the gross square footage of the use does not exceed the original use.
  - (3) The project is within 80% compliance with parking ratio standards as provided in § 195-17.
  - (4) The alteration of an existing parking lot that will be more compliant than the existing conditions or the construction of a parking lot that is within 50% of compliance with §§ 195-21A, 195-44A, 195-44C and 195-45 pertaining to perimeter parking area setbacks and landscaping.
  - (5) If the project involves a conversion of existing gross square footage from a nonresidential use to a residential use, the project shall not include more than a maximum of eight dwelling units.
  - (6) Total project building area does not exceed 20,000 gross square feet.
  - (7) Not more than two primary structures on a lot.

- (8) The project is within 80% compliance with each of the underlying and applicable dimensional requirements (see Table 1 below).<sup>56</sup>
- (9) Any project which involves the new construction of four or fewer residential units.
- D. CEIOD projects requiring a special permit. A CEIOD project requires a special permit if it meets any of the following criteria (as applicable):
  - (1) The project will alter or change a preexisting, nonconforming use or structure that will increase the nonconforming nature of the use or structure as provided in § 195-8 of the Zoning Bylaw.
  - (2) The project involves more than 20,000 gross square feet of total development.
  - (3) A conversion of existing gross square footage from a nonresidential use to a residential use which exceeds eight new dwelling units.
  - (4) More than two primary structures on a lot.
  - (5) The construction of a parking lot that is less than 50% compliant with §§ 195-21A, 195-44A, 195-44C and 195-45 pertaining to perimeter parking area setbacks and landscaping.
  - (6) Any project which involves the new construction of five or more residential units.
- E. Relationship with other zoning provisions. Unless specifically governed in the CEIOD Overlay, all other zoning provisions of the Chelmsford Zoning Bylaw, Chapter 195, shall remain in full force and effect and shall neither be modified, repealed nor amended by this article. This includes, but is not limited to, Article XI, Major Business Complexes; Article XIII, Wireless Communications Facilities; Article XIV, Aquifer Protection District; and Article XV, Floodplain District. Where the CEIOD provisions are silent on a zoning rule or regulation, the requirements of the underlying district shall apply, unless another interpretation was clearly intended. See § 195-119A(3) for procedural requirements.
- F. Residential projects or four or more units, including increasing an existing project by four or more residential units, or a conversion of other uses to a residential use with four or more units, are subject to the requirements of Article XXIII, Inclusionary Housing Bylaw, as applicable. **[Added 10-19-2015ATM by Art. 17]**

### § 195-112. Use regulations.

The existing Use Regulation Schedule (Chapter 195, Attachment 1) of the Zoning Bylaw shall be applicable to CEIOD projects within the underlying zoning districts. Where a CEIOD requires a special permit under the Use Regulation Schedule, the Planning Board shall be the special permit granting authority.

### § 195-113. Residential uses.

Within the CEIOD Overlay, multifamily residential units are permitted, except in the IA Zoning District. Multifamily residential units may be allowed in a separate building or in combination with commercial uses by the Planning Board where the project is in keeping with the district and surrounding neighborhood and otherwise in compliance with this article. Single-family and two-family dwellings are not permitted. All multifamily dwelling units shall comply with the following minimum gross floor area requirements

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<sup>56</sup>. Editor's Note: Table 1 is included as an attachment to this chapter.

unless the Planning Board authorizes a reduction by special permit.

- A. Studio unit: 500 square feet.
- B. One-bedroom unit: 700 square feet.
- C. Two-bedroom unit: 900 square feet.
- D. Three-bedroom unit: 1,200 square feet.

**§ 195-114. Dimensional regulations for buildings and structures. [Amended 4-25-2016ATM by Art. 18]**

CEIOD projects shall be in compliance with the by-right dimensional requirements as stated in § 195-111C(8) in accordance with Table 1 - Site and Building Dimensional Standards for CEIOD Projects. However, the Planning Board may, by special permit, provide further relief from the dimensional requirements in Table 1 for any project under the following conditions:

- A. Side yard setbacks may be reduced to five feet where the project does not abut a residential use.
- B. Adjacent to residential uses, minimum twenty-five-foot side and rear yard setbacks shall be provided.
- C. A minimum frontage of 50 feet may be permitted where adjoining lots have a legally binding agreement to share a single access to a public street, or in larger developments where shared driveways on the multiple parcels result in a more desirable redevelopment.
- D. A special permit from the Planning Board is required when proposing to create new lots via subdivision. Any new lots created via the overlay dimensional requirements shall be required to be permitted for development in accordance with the overlay.

**§ 195-115. Parking standards.**

The existing parking standards in Article V shall remain applicable to CEIOD projects with the exceptions as set forth in § 195-111C and D above. The Planning Board may further reduce the standards by special permit under the following conditions:

- A. Parking spaces. Residential off-street parking shall be provided in accordance with the following minimum requirements:
  - (1) Multifamily dwelling units: one space per studio unit, 1.5 spaces per one-bedroom unit, two spaces per unit with two or three bedrooms; plus one visitor space for every three units.
  - (2) Age-restricted dwelling unit: 1.5 spaces per unit, except that for an assisted living facility, there shall be an average of 0.5 space per unit; plus one visitor space for every five units.
  - (3) Other uses: in accordance with Article V.
  - (4) Mixed uses. Requirements for each use shall be added, unless the Planning Board determines that a smaller number is adequate for the proposed development, subject to the requirements of Article V.
- B. Reduced parking. For a CEIOD project, the Planning Board may authorize a decrease in the required number of off-street parking spaces, subject to the requirements under Article V.



- C. Location of parking areas. No off-street parking shall be located between the front facade of the building and the front property line, except that the Planning Board may waive this requirement for an existing parking lot serving a CEIOD project, based on the requirements of Article V.
- D. Pedestrian safety. Walkways shall be provided in appropriate locations on the site and shall be clearly recognizable through the use of raised, textured or color surface treatments.

#### **§ 195-116. Landscaping.**

The existing landscape standards in Article IX shall remain applicable to CEIOD projects with the exceptions as set forth in § 195-111C(4) and 195-111D(5) above. The Planning Board may further reduce the standards by special permit under the following conditions:

- A. Minimum of 10 feet along street frontage. This may include a combination of streetscape, landscape and other treatments for the purpose of outdoor seating and public amenities.
- B. Minimum of 15 feet along side and rear lot lines where abutting residential uses.
- C. Minimum of five feet along side and rear lot lines where not abutting residential uses.

#### **§ 195-117. Signage.**

Within a CEIOD project, signage shall comply with the standards in Article VII and the applicable design standards in § 195-118C below. The Planning Board may issue a special permit in relief of standards in Article VII.

#### **§ 195-118. Performance standards.**

- A. General. All CEIOD projects shall be consistent with the following general performance standards:
  - (1) The project is in harmony with the objectives and intent of the Chelmsford Zoning Bylaw and more specifically the purpose and intent set forth in § 195-109;
  - (2) The project will not negatively impact developed areas in the surrounding area, nor unreasonably impact existing streets, municipal facilities, public utilities, drainage systems, soil and other natural resources;
  - (3) The project is superior to that possible under the conventional standards and requirements of the underlying zone(s);
  - (4) The project makes appropriate provisions for the preservation of floodplains, wetlands, streams and stream banks, hillsides, significant stands of trees, endangered and threatened species and their habitat, and other natural resource areas;
  - (5) The proposed development meets the stated intent of the particular CEIOD project type as set forth in § 195-110; and
  - (6) The project is consistent with the Design Guidelines.
- B. Specific. All CEIOD projects requiring special permits shall be consistent with the following specific performance standards, as applicable:
  - (1) Housing, public transportation and parking improvements, and utility infrastructure enhancements. The project offers long-term public benefits to the Town and adjacent

neighborhoods such as:

- (a) Improved access and enhancements to public transportation;
  - (b) Enhancements to parking, traffic, and roadways;
  - (c) On- and off-site improvements to pedestrian and bicycle facilities, particularly as they facilitate access to the site by foot or bicycle;
  - (d) Public safety improvements;
  - (e) Affordable housing opportunities; and
  - (f) Water and sewer infrastructure enhancements.
- (2) Compatibility and integration with its surroundings. The project has been designed to ensure appropriate street- or ground-level commercial uses. The integration requirements of this paragraph shall apply to the various elements of the project in relation to each other as well as to the project in relation to its neighbors.
- (3) Improved access nearby. Pedestrian and vehicular access routes and driveway widths, which shall be determined by the Planning Board, are appropriately designed between the project and abutting parcels and streets, with consideration to streetscape continuity and an intent to avoid adverse impacts on adjacent neighborhoods from such traffic and other activities generated by the project as well as to improve traffic and access in nearby neighborhoods.
- (4) Excellence in place-making. The project provides a high-quality architectural design so as to enhance the visual and civic quality of the site and the overall experience for residents of and visitors to both the project and its surroundings.
- (5) Comprehensive signage program. All signage for a project shall be in accordance with a comprehensive signage plan and shall not be inconsistent with the architectural quality of the project or character of the streetscape.
- (6) Pedestrian scale. The project provides building footprints and articulations appropriately scaled to encourage outdoor pedestrian circulation; features buildings with appropriately spaced street-level windows and entrances; includes appropriate provisions for crossing all driveway entrances and internal roadways; and allows pedestrian access appropriately placed to encourage walking to and through the development site.
- (7) Public gathering space. The project creates civic and publically accessible spaces as pedestrian-oriented destinations that accommodate a variety of uses and promote a vibrant street life making connections to the surrounding neighborhood, as well as to the commercial and residential components of the project to other commercial activity, and to each other.
- (8) Pedestrian and neighborhood considerations. If the project proposes any measures such as the measures listed below, and if such measures, singly or in combination, create a substantial negative impact on pedestrians or surrounding neighborhoods, the applicant has proposed feasible mitigation measures to eliminate such substantial negative impact:
- (a) Widening or addition of roadway travel or turning lanes or conversion of on-street parking to travel lanes;
  - (b) Removal of pedestrian crossings, bicycle lanes, or roadway shoulder;

- (c) Traffic signal additions or alterations; and
- (d) Relocation or alterations to public transport access points.

C. Design standards. The project is compliant, as deemed applicable by the Planning Board.

**§ 195-119. Application review procedures.**

A. General requirements.

- (1) No building permit shall be issued for any CEIOD project unless the Planning Board has issued a decision.
- (2) Submission requirements and public hearing procedures shall be in accordance with the Planning Board's Site Plan and Special Permit Rules and Regulations (SPSPRR), the Planning Board's Design Standards and Guidelines (DSG) and the requirements of this article, as applicable.
- (3) For projects requiring one or more special permits related to use, dimensions, parking, landscaping and any other provisions of this Zoning Bylaw, the Planning Board shall conduct a consolidated public hearing process. This provision pertains to all special permits, whether associated with the CEIOD Overlay or other sections of the Zoning Bylaw. All special permits shall be incorporated into the CEIOD review and decision process. A single special permit decision shall be issued.
- (4) The submission shall include any supplemental plans or drawings necessary to demonstrate compliance with the Design Standards and Guidelines (DSG).
- (5) Any project located within an Historic District shall be referred to the Chelmsford Historic District Commission for review and comment.
- (6) Any project that includes a building over 75 years of age shall be referred to the Chelmsford Historical Commission for review and comment.
- (7) Any project that proposes a residential use shall be referred to the Housing Advisory Board for review and comment.
- (8) The Planning Board may adopt additional administrative regulations and procedures to further implement this section.
- (9) All projects shall be submitted to the Chelmsford Commission on Disabilities for review and comment for compliance with 521 CMR Regulations.

B. Finding of applicability and preliminary concept plan review and approval.

- (1) Finding of applicability. The Planning Board, upon preliminary submission and presentation from the applicant, shall determine whether the proposed type, size and location meet the criteria for a CEIOD project under § 195-110. If a positive finding is made, the project will be classified as a CEIOD project. This determination shall specify that the proposed project shall be permitted by right or reviewed under the special permit procedures. A preliminary concept plan shall be submitted in order to make a finding of applicability.
- (2) Preliminary submission elements. A CEIOD preliminary submission shall include:

- (a) A vicinity map adequately depicting the proposed development in context with the surrounding area.
  - (b) A base map at a scale no smaller than one inch equals 200 feet showing property lines and names of adjacent owners; general topography, including steep slopes over 15% in grade; flood hazard areas, designated inland wetlands and watercourses; existing public utility lines and public facilities; and existing street widths and general layout.
  - (c) A concept layout of existing and proposed buildings and their proposed uses, streets, parking areas, open spaces, landscaping and screening, as well as any proposed improvements to existing facilities.
  - (d) Project narrative: evidence supporting a by-right or special-permit project and applicability of the CEIOD project type.
- (3) Evaluation. The Planning Board, based upon the preliminary submission and presentation from the applicant, shall evaluate the project for its appropriateness for the proposed location; to demonstrate its effects and impacts on the surrounding area and development, streets, and other municipal facilities, public utilities and transportation, drainage systems, soil and other natural resources; and to show compliance with this article.
- (4) Time to make finding. Within 60 days from the date the Planning Board firsts meets to consider the preliminary submission, the Planning Board shall file its finding of applicability in writing with the Town Clerk. This time period may be extended by agreement of the Board and the applicant.
- (5) In the event the applicant disagrees with such determination, it may request a reconsideration supported by a statement of facts. The Board's determination on such reconsideration shall be final. The foregoing does not preclude an applicant from filing a proposal for a different project on the same site.
- (6) Expiration. A finding of applicability shall be valid for two years from the date of the Board's determination, within which time the applicant must submit an application for final approval. If no such application is filed, the determination shall lapse.

C. Decisions.

- (1) By-right projects. When no special permits are required, the Planning Board shall close the public hearing within 90 days from the opening of the public hearing and shall issue a decision within 30 additional days from the close of the hearing. The decision shall be based upon the performance standards in § 195-118A.
- (2) Special-permit projects. The Planning Board shall close the public hearing within 120 days from the opening of the public hearing and shall issue a decision within 30 additional days from the close of the hearing. The decision shall be based upon the performance standards in § 195-118A and B. In addition, the decision shall include specific findings, as applicable, under § 195-111E, for special permits not specifically governed in this article.
- (3) Decisions related to a project and any associated special permits shall be reviewed in their totality rather than individually.
- (4) The above time periods may be extended by agreement of the Planning Board and the applicant.

- (5) The Planning Board may include reasonable conditions as part of a decision.
- D. Modifications to approvals. A public hearing shall be required when a modification to an approved project falls into one or more of the following categories:
- (1) Substantial changes to the alignment of arterial or collector streets and/or their off-site connection points;
  - (2) Substantial changes in the composition of the various uses, such that the proportion of any element such as retail or residential increases or decreases by 10% or more;
  - (3) Substantial changes to approved architectural design, building types, or construction materials;
  - (4) Substantial changes to the transportation system;
  - (5) Substantial changes to an approved phasing plan that have the potential to negatively impact the provision of public services; or
  - (6) Any other substantial changes to the character or intensity of an approved application that the Community Development Director, Building Commissioner, or Town Engineer cannot otherwise interpret or approve.
- E. Expiration and completion. The approved project shall be substantially commenced and diligently continued toward completion within two years of approval. In the event the Planning Board determines that substantial commencement and continued progress has not been made within two years, the project approval shall become invalid and construction shall cease unless and until the Planning Board reviews and grants an extension of such construction period, with or without additional conditions. The Planning Board may extend the time period requirements of this section for up to two years, not to exceed 10 additional years in the case of a final approval.

**§ 195-120. Severability.**

The invalidity of any section or provision of this article shall not invalidate any other section or provision thereof.

ARTICLE XXII  
**Village Center Overlay District**  
**[Amended 4-28-2014ATM by Art. 23]**

**§ 195-121. Purpose and intent.**

The general purpose of Village Center Overlay District (VCOD) is to maintain character and enhance vitality in Chelmsford's traditional village center. These regulations are established to promote sustainable mixed-use development as appropriate in the VCOD, in order that future development will be compatible with the historic settlement patterns, traditional architecture, and landscape character. These regulations are intended to create strong relationships between building forms, civic spaces, and streetscape design which are integrated, connected and complementary. The VCOD regulations are intended to:

- A. Facilitate the development of an appropriate mix of uses within the context of a traditional pedestrian-oriented development pattern;
- B. Create a safe, accessible, convenient, attractive and highly functional environment that meets the needs of local residents and visitors as a place to live, work, recreate, socialize, and obtain necessary goods and services;
- C. Coordinate the safe circulation and access of private vehicles, public transit, bicycles, and pedestrians through a network of streets, sidewalks and paths connecting neighborhoods, employment centers, open spaces, and areas of activity within the VCOD;
- D. Protect and expand opportunities for small locally owned businesses and other entrepreneurial activity that primarily but not exclusively serves local neighborhoods and surrounding community; and
- E. Encourage flexibility and variety in future development while ensuring preservation of and compatibility with historic fabric.

**§ 195-122. Districts on Official Zoning Map.**

The Village Center Overlay District is identified on the Town of Chelmsford Official Zoning Map in § 195-3 of the Zoning Bylaw which is available at the Town of Chelmsford Community Development Department, and is on file at the Town Clerk's Office.

**§ 195-123. Applicability.**

- A. General application. The Village Center Overlay District (VCOD) is hereby established as an overlay district and is applicable to the CV, CC, CD, RC, RB and P Zoning Districts as identified within the VCOD on the Official Zoning Map. Projects are allowed within the VCOD that would not otherwise be allowed in the underlying zoning district, and as such VCOD projects must satisfy the standards defined in this article and may be permitted by right or by special permit, with restrictions and conditions, when certain thresholds are met as defined below.
- B. Relationship with the Community Enhancement and Investment Overlay District (CEIOD). Properties located within the VCOD are not eligible for permitting within the CEIOD, Article XXI.
- C. Relationship with other zoning provisions. Unless specifically modified by the requirements for the VCOD, all other zoning provisions of the Chelmsford Zoning Bylaw, Chapter 195, shall remain in full force and effect and shall neither be modified, repealed nor amended by this article. This includes,

but is not limited to, Article XI, Major Business Complexes; Article XIII, Wireless Communications Facilities; Article XIV, Aquifer Protection District; and Article XV, Floodplain District. Where the VCOD provisions are silent on a zoning rule or regulation, the requirements of the underlying district shall apply, unless another interpretation was clearly intended. See § 195-130 for procedural requirements.

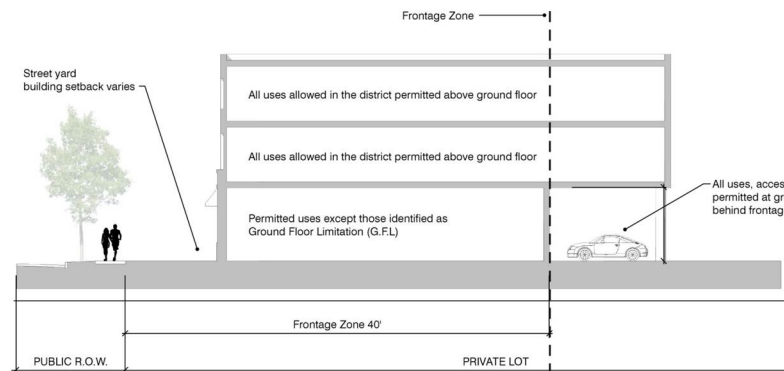
- D. Residential projects or four or more units, including increasing an existing project by four or more residential units, or a conversion of other uses to a residential use with four or more units, are subject to the requirements of Article XXIII, Inclusionary Housing Bylaw, as applicable. **[Added 10-19-2015ATM by Art. 17]**

**§ 195-124. Uses and performance standards.**

- A. Table of uses. The existing Use Regulation Schedule (Chapter 195, Attachment 1) of the Chelmsford Zoning Bylaw shall be applicable to VCOD projects within the underlying zoning districts. Where a VCOD project requires a special permit under the Use Regulation Schedule, the Planning Board shall be the special permit granting authority.
- B. VCOD projects allowed by right. A project will be allowed by right with an approved site plan if it meets all of the following criteria (as applicable):
- (1) The project will alter or change a preexisting, nonconforming use or structure, but will not increase the nonconforming nature of the use or structure, as provided in § 195-8 of the Zoning Bylaw.
  - (2) The project involves a change of use from one use category to another, but the gross square footage of the new use does not exceed the original use.
  - (3) The project is within 50% compliance, if located within the underlying CV district, or 80% compliance, if located outside the underlying CV district, with parking ratio standards as provided in § 195-17.
  - (4) The project involves a conversion of existing gross square footage from a nonresidential use to an exclusively residential use, and does not include more than eight dwelling units.
  - (5) The total project building area does not exceed 10,000 gross square feet.
  - (6) The project does not include more than two primary structures on a lot.
  - (7) The project involves the new construction of four or fewer residential units.
- C. VCOD projects requiring a special permit. A project requires a special permit with an approved site plan if it meets any of the following criteria (as applicable):
- (1) The project will alter or change a preexisting, nonconforming use or structure, and will increase the nonconforming nature of the use or structure, as provided in § 195-8 of the Zoning Bylaw.
  - (2) The project involves more than 10,000 gross square feet of total development.
  - (3) The project involves a conversion of existing gross square footage from a nonresidential use to a residential use which exceeds eight new dwelling units.
  - (4) The project includes more than two primary structures on a lot.

- (5) The project involves the new construction of five or more residential units.
- D. Residential dwelling unit performance standards. Within the VCOD, residential housing is permitted per Tables 1 and 2.<sup>57</sup> All dwelling units shall comply with the following minimum net floor area requirements, measured as living area, unless the Planning Board authorizes a reduction by special permit.
- (1) Studio unit: 500 square feet.
  - (2) One-bedroom unit: 700 square feet.
  - (3) Two-bedroom unit: 900 square feet.
  - (4) Three-bedroom unit: 1,200 square feet.
- E. Frontage zones and ground floor limitations. The VCOD map includes frontage zones which are the contiguous land area along the primary public streets within the underlying CV district. Buildings fronting and oriented toward these streets are targeted for commercial and mixed commercial/residential use. These properties shall have a ground floor limitation (See diagram below.) allowing only commercial uses permitted by right or special permit to occupy the ground floor area. Residential uses shall not occupy the ground floor of a building in the portion of said building within the first 40 feet of lot depth measured from the public street right-of-way. Residential and other uses allowed in the underlying zoning district may be located in the upper floors within the frontage zone and at ground level at more than 40 feet in lot depth and outside the frontage zone. Street entrances may be allowed to residential uses above the ground floor within the frontage zone or at the side or rear of the building beyond the frontage zone.

**Example Frontage Zone and Commercial Ground Floor Limitation Diagram**



The purpose of the frontage zone and ground floor limitations is to maintain and preserve the commercial character and opportunity along designated public street corridors within the Center Village Zoning District.

- F. Property fronting on Beaver Brook. In accordance with the Center Village Master Plan Report, dated

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57. Editor's Note: Tables 1 and 2 are included as attachments to this chapter.



December 3, 2013, public access to Beaver Brook is deemed a public interest and a high priority. As such, properties with frontage on Beaver Brook shall be required to set back all new buildings and parking a minimum of 35 feet from the top of the bank, as defined in the Massachusetts Wetlands Protection Act<sup>58</sup> and its regulations. In exchange for providing a public benefit the applicant shall receive a benefit of a residential unit and/or commercial square-foot build-out bonus, beyond the by-right and special permit project thresholds in § 195-124B and C as applicable, may be granted by the Planning Board under the following conditions:

- (1) Up to 25% if an easement for public use is granted to the Town a width of 25 feet from the top of the bank.
  - (2) In addition to Subsection F(1) above, up to an additional 25% if a multipurpose pathway is constructed, by the applicant, within the easement, a minimum width of 12 feet and of an acceptable base and surface material.
  - (3) Up to 50%, where an existing property is modified, such as the removal or portion thereof of a building and/or parking area, that would result in Subsection F(1) and/or (2) above.
  - (4) The Planning Board may approve a payment in lieu of option Subsection F(1) and (2) above. Such payment to the Town will be for the specific purpose of furthering the implementation of the Beaver Brook riverfront.
- G. Bruce Freeman Trail frontage. All new development or redevelopment on properties abutting the Bruce Freeman Trail shall provide direct access to the trail for those using the property. If a public easement and clear passage is granted to the Town a width of eight feet from the public street right-of-way to the Bruce Freeman Trail right-of-way, a density bonus of 10% for all commercial and residential development allowed by right or special permit in the VCOD may be granted by the Planning Board. The Planning Board may also waive any of the above requirements.

**§ 195-125. Building and lot development standards.**

- A. Permitted building and lot types. These standards primarily regulate the way that buildings in the VCOD are placed and oriented on their lots to positively address and complement other buildings as well as streets and civic spaces. There are seven permitted building and lot types as identified below:
- (1) Small mixed-use building (maximum of 10,000 G.F.A of combined commercial and residential use).
  - (2) Medium mixed-use building (maximum of 20,000 G.F.A. combined commercial and residential use).
  - (3) Commercial building.
  - (4) Live/work unit.
  - (5) Rowhouse or townhouse.
  - (6) Multifamily building.
  - (7) Community building and spaces.

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58. Editor's Note: See MGL c. 131, §§ 40 and 40A.

Specific building and lot types and standards applicable to projects under the VCOD are defined in Tables 1 and 2<sup>59</sup> and indicate the building and site types permitted with a short description of the intent, applicable underlying zoning districts, and dimensional and design standards for each. These tables are applicable only to the VCOD and displace Chapter 195, Attachment 2. Character examples are provided for each building type for illustrative purposes only. See Figure 1<sup>60</sup> for diagrams that illustrate lot placement terminology. Except as noted, parking spaces are to be provided on street, to the rear of the lot, or as otherwise provided in § 195-126 below.

B. Building and lot requirements terminology. Table 2 contains a range of building and lot dimensions and design requirements, some of which are not included on the Table of Dimensional Requirements (Chapter 195, Attachment 2) which are defined below:

- (1) Side-street yard for corner lots: minimum length (in feet) between the side-street lot line and the foundation line of an allowed building.
- (2) Build-to-zone: the minimum and maximum distance (in feet) in which the outermost foundation of a primary building is permitted to sit, as measured from the back of the front yard and side-street yard lines.
- (3) Build-to-zone occupancy: the percentage of the build-to-zone that the primary facade is required to occupy. The minimum percentage of building frontage required to be located in the build-to-zone is typically increased along streets where a consistent building face is important in creating an inviting pedestrian environment by enclosing the street and providing an attractive streetscape.
- (4) Front parking setback: the minimum length (in feet) to the rear of a street-facing primary building facade that any form of vehicle parking is permitted to locate. For specific requirements regarding the placement of parking, refer to § 195-126.
- (5) Side and rear parking setback: See § 195-126.
- (6) Open space on site: the minimum and maximum percentage of lot in open space use. See § 195-129 below.
- (7) Permitted open space types: See Section 7.0 of the Chelmsford Design Guidelines and Standards.
- (8) Finished ground floor elevation: height (in inches) that the ground floor at the front-facing entry must be above finished grade within the build-to-zone.
- (9) Ground floor height: height (in feet, floor-to-floor) of the ground floor of the main body of a

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59. Editor's Note: Tables 1 and 2 are included as attachments to this chapter.

60. Editor's Note: Figure 1 is included as an attachment to this chapter.

building.

- (10) Upper floor height: height (in feet, floor-to-floor) of any non-ground floor of the main body of a building.
- (11) Roof pitch: indicates the range of roof pitches (rise/run in inches) permitted.
- (12) Ground floor transparency: the percentage of a building's ground floor facade that must be glazed within the build-to-zone.
- (13) Upper floor transparency: the percentage of a building's upper floors that must be glazed within the build-to-zone.
- (14) Front wall offset: a break in the length of a front wall where a segment of the building facade is articulated into a specified depth and length from the main facade. The purpose of this offset is to reduce the scale of the building and add visual interest.
- (15) Maximum entry spacing. The length (in feet) between a building and an adjacent building's main body entrance.

See Figure 1<sup>61</sup> for diagrams that illustrate building placement terminology.

- C. Use of yards and setbacks. Active uses of setback areas in the VCOD shall be permitted for pedestrian access, outdoor accessory uses, or to facilitate access to rear of the lot for parking and loading. Site plans shall demonstrate that the setback area accomplishes these objectives and creates an inviting environment for pedestrians.
  - (1) Outdoor activity zones. Outdoor activities, such as dining or pocket parks, shall be allowed and encouraged in setback areas where applicable as accessory uses. Outdoor areas shall be attractively designed and furnished to enhance the pedestrian environment. Outdoor areas may be extended onto the public sidewalk with a special permit from the Planning Board. Where outdoor dining is located on a public sidewalk, a minimum of six feet of unobstructed passage shall be provided for pedestrian use.
  - (2) Outdoor display. Outdoor display of products available for sale shall be permitted in association with any permitted nonresidential principal ground floor use in accordance with the following provisions:
    - (a) Outdoor display shall occupy no more than 30% of the horizontal length of the building facade.
    - (b) Outdoor display may be located within the street yard setback area.
    - (c) Outdoor display may be located on a public sidewalk with a special permit from the special permit granting authority. Where located on a public sidewalk, the display area shall be located within six feet of the primary building, and a minimum of six feet of unobstructed passage shall be provided for pedestrian use.
    - (d) Outdoor display shall be removed and placed inside a fully enclosed building at the end of each business day.

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61. Editor's Note: Figure 1 is included as an attachment to this chapter.

- (e) Outdoor display shall require the approval of the Historic District Commission as applicable.
- D. Permitted building element encroachments.
  - (1) Protruding building elements in the public R-O-W. Allowable protruding building elements include awnings, marquees, balconies, terraces, and projecting signs. These building structures are allowed to protrude up to four feet past the property line into the public right-of-way provided that they are not in conflict with parking and travel lanes, street trees, and other streetscape furnishings. All awnings, marquees, open air balconies, and associated projecting signs shall be a minimum of eight feet above the ground. (Additional permits may be required from the Town of Chelmsford.)
  - (2) Front porches. Front porches may extend into the front yard setback. Partial walls, screened areas, and railings on porches that extend into the street yard may be no higher than 42 inches. Fully enclosed porches are not permitted in the front yard. Porches must remain set back at least five feet from a public street right-of-way.
  - (3) Stoops. Stoops may extend into front yard setbacks up to the public street right-of-way provided their upper platform is no higher than 42 inches above the sidewalk.
- E. Additional building and lot types. Additional building and lot types are not permitted except by special permit from the Planning Board and where consistent with the VCOD special permit criteria in § 195-131.

#### **§ 195-126. Parking and loading standards.**

- A. Applicability. The existing parking standards in Article V shall remain applicable unless otherwise indicated below.
- B. Parking placement. The location of parking shall be consistent with the following requirements:
  - (1) On-site parking placement. On-site parking placement shall be provided in accordance with the requirements of Table 1,<sup>62</sup> permitted building and lot standards in § 195-125 above for the applicable building and lot type.
  - (2) Parking in front yard area/nonresidential and mixed use. As an exception, parking may be allowed by special permit from the Planning Board in the front yard under the following conditions:
    - (a) Where not provided within the public street right-of-way, parallel or angled parking may be provided on a privately owned lot directly adjacent to the public street right-of-way.
    - (b) Parking shall be in combination with a five-foot planting strip (minimum) with street trees planted 40 feet on center; and a five-foot minimum concrete sidewalk connecting/ extending to abutting lots and to the primary building on site.
    - (c) A public easement shall be provided to the Town for use of the internal sidewalk on private property.
- C. Minimum off-street parking requirements. Within the underlying Center Village Zoning District,

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62. Editor's Note: Table 1 is included as an attachment to this chapter.

required parking shall be reduced by 20% per § 195-98.3A. A special permit may be granted by the Planning Board for a total reduction not to exceed 50%. All other parking within the VCOD shall comply with the standards and requirements of this bylaw and Article V except for the following exceptions: **[Amended 6-21-2021ATM by Art. 37]**

- (1) Multifamily dwelling units parking requirement: one space per studio unit, 1.5 spaces per one-bedroom unit, two spaces per unit with two or more bedrooms; plus one visitor space for every five units.
- (2) Age-restricted dwelling unit parking requirement: 1.5 spaces per unit, except that for an assisted living facility, there shall be an average of 0.5 space per unit; plus one visitor space for every five units.
- (3) Other uses: in accordance with Article V.
- (4) Mixed uses. Requirements for each use shall be added, unless the Planning Board determines that a smaller number is adequate for the proposed development, subject to the requirements of Article V.

D. Curb cut access and management.

- (1) Number of access drives. No more than one access drive to a public street shall be allowed per parcel. Where a parcel is located at the corner of two public streets, access to the secondary or side street shall be required where feasible. The Planning Board may consider allowing up to two access drives per parcel through site plan review.
- (2) Common access drives. Common driveways are permitted in the VCOD and are highly encouraged.
- (3) Internal access to public ways. All VCOD developments shall demonstrate to the Planning Board a safe means of pedestrian, bicycle and vehicular ingress and egress from and to a public street, sidewalk or an adjoining site where applicable.
- (4) Internal access to adjoining lots. Internal access between adjoining lots is permitted in the VCOD and is highly encouraged. Where shared access is combined with shared parking between adjoining properties, buffer requirements between the lots are waived for the purpose of designing the parking lot shared internal circulation and shared use.

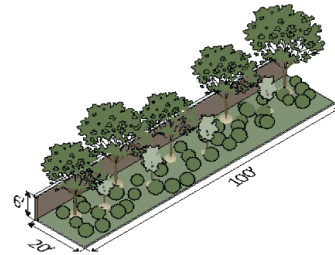
**§ 195-127. Landscaping.**

The intent of this section is to enhancement the pedestrian experience and provide buffers where necessary in the VCOD through landscape and streetscape design that may include, but is not limited to: planting of trees; pedestrian furnishings; and landscaped areas that provide a coordinated transition between public and private space. The landscaping requirements of this section supersede the requirements under Article IX and apply specifically to the VCOD. The Planning Board may further reduce the below standards by special permit.

- A. General on-site landscaping buffer requirements. Where building and/or parking is not approved with a zero-foot setback, as applicable:
- (1) Minimum of 10 feet along front yard street frontage.
  - (2) Minimum of five feet along the side and rear yard.

- B. Transitional buffers. The following transitional buffer requirements apply along a perimeter lot line of the VCOD that abuts a residential zoning district. These requirements may be waived and/or reduced by the Planning Board.
- (1) A required transitional buffer must be located within the outer perimeter of the lot, parallel to and extending to the property boundary line and must be provided along the entire frontage immediately abutting the property line.
  - (2) The width of the buffer strip is determined exclusive of any required setback; however, the required buffer may be located wholly or partially within a required setback.
  - (3) The parking of vehicles and the placement of buildings is not allowed in a required buffer. All required setbacks apply.
  - (4) No building may be located closer than 10 feet to a required buffer.
  - (5) Breaks for pedestrian and vehicle access are allowed subject to approval by the Planning Board.

#### Transitional Buffer Standards



Depth (minimum)	20 feet
Wall Height (minimum)	6 feet
Shade trees (minimum per 100 feet)	5
Understory trees (minimum per 100 feet)	4
Shrubs (minimum per 100 feet)	40
Shrub height (minimum)	4 feet

- (6) Buffer walls must be constructed of high quality materials, including one or a combination of the following: decorative blocks; brick; stone; cast-stone; split-faced block; stucco over standard concrete masonry blocks; glass block; or other material approved by the Planning Board.
- (7) In the transitional buffer, 50% of required trees must be locally adapted evergreen species. Shrubs must be evergreen and be of a species that under typical conditions can be expected to reach a height and spread of four feet within three years of planting. All shrubs must be a minimum of 18 inches tall when planted.

**§ 195-128. Functional design standards.**

The following elements of the development proposal shall be consistent with the Chelmsford's Planning Board Design Guidelines.

- A. Building and site design standards: Sections 3.0 to 4.4, 4.6 and 5.0 and 6.0 as applicable.
- B. Lighting. Outdoor site lighting shall primarily be used to provide safety and secondarily to accent key building and landscape features. Light fixtures shall be designed as an integral element of site design and may be expressed through style, material or color. All lighting fixtures designed or placed to illuminate any portion of a VCOD project shall meet the requirements of the Chelmsford Design Guidelines and Standards Section 4.5.
- C. Signage. Within the VCOD, signage shall comply with the standards in Article VII and Section 4.7 of the Design Guidelines. The Planning Board may issue a special permit in relief of standards in Article VII.
- D. Building systems: Section 4.8.

Roof-/wall-/ground-mounted equipment: must be screened (not visible) from the ground level view from adjacent property or adjacent public street right-of-way. New buildings must provide a parapet wall or other architectural element that screens roof-mounted equipment from ground level view. Wall-mounted equipment cannot be located on any surface that directly faces a public right-of-way.

- E. Fences and walls. Walls and fences located outside of a required buffer must be closed and be constructed of high quality materials, including one or a combination of the following: wood, composite fencing; wrought iron, PVC vinyl; or other material approved by the Planning Board.
- F. Utilities and services. Existing aboveground utility lines and poles shall be buried underground, or moved behind buildings where practical. All new electrical and communication utilities in VCOD projects shall be placed underground.

**§ 195-129. Public and private civic space standards.**

- A. Intent. The intent of these standards is to provide for a combination of viable public and private open spaces and civic gathering areas that benefit the community and enhance the pedestrian experience in Chelmsford's Village Centers. Public and private civic spaces are meant to be spaces available for the use of the property's residents or customers.
- B. Civic and open space types. Specific public and private open space types are allowed within the VCOD as identified in Section 7 of the Chelmsford Design Guidelines and Standards, and are intended for the gathering of people for passive or active recreation, entertainment, and organized communal activities.
- C. Open space requirements. Individual property owners shall utilize a minimum of 5% of their lot to civic or open space in one of the types identified in Section 7 of the Chelmsford Design Guidelines and Standards. Two or more property owners within the VCOD may create a joint civic or open space

as long as the dedicated space is accessible to the public and amounts to a minimum of 5% of the land area of all the properties involved.

**§ 195-130. Application and development review procedures.**

- A. General requirements. The application and development review requirements of Article XXI, Community Enhancement and Investment Overlay District (CEIOD), § 195-119, shall apply to the VCOD.
- B. Alternative compliance. In order to encourage creativity, diversity, and best practices for public and private design and development in the VCOD, the Planning Board may waive, modify or vary standards for building and lot types, parking, landscaping, and open and civic space types as set forth in this bylaw. The granting of any alternative compliance waiver shall be based upon a finding by the Planning Board that the proposed alternative will be generally consistent with the purpose and intent statements in § 195-121 of this bylaw, as well as the general and supplemental special permit criteria in § 195-131 below.

**§ 195-131. Performance standards and special permit criteria.**

VCOD projects shall be consistent with § 195-118A and B, general performance standards and special permit review criteria of the Community Enhancement and Investment Overlay District (CEIOD) bylaw.

**§ 195-132. Severability.**

The invalidity of any section or provision of this article shall not invalidate any other section or provision thereof.



ARTICLE XXIII  
**Inclusionary Housing Bylaw**  
**[Added 10-19-2015ATM by Art. 17]**

**§ 195-133. Purpose and intent.**

The purpose of this bylaw is to provide for the development of affordable housing in compliance with MGL c. 40B, § 20-23, so that the Town's stock of affordable housing is not diluted by the creation of additional market-rate units. It is intended that any affordable housing unit created pursuant to this bylaw will qualify for inclusion in the Chapter 40B Subsidized Housing Inventory (SHI) under the regulations and guidelines of the Massachusetts Department of Housing and Community Development (DHCD), and therefore units must comply with these guidelines.

**§ 195-134. Applicability.**

This section shall apply to all projects proposed within the Article XXI, Community Enhancement and Investment Overlay District (CEIOD), and Article XXII, Village Center Overlay District and the Residential Multifamily (RM) District, which involve four dwelling units or more. The Planning Board shall, as a condition of approval, via majority vote, of any such development require that the applicant provide affordable housing pursuant to this bylaw and more fully described in § 195-137 below. All projects shall be forwarded for review and comment to the Chelmsford Housing Advisory Board and the Chelmsford Housing Authority.

**§ 195-135. Definitions.**

**AFFORDABLE HOUSING** — Housing which is restricted for sale or rent to individuals and families within specific income ranges and sales prices as defined by the Massachusetts Division of Housing and Community Development (DHCD). Affordability shall be perpetual and shall be secured by the use of an affordable housing restriction as defined in MGL c. 184, § 31. Affordable housing units shall count as very-low- or moderate-income units on the DHCD Subsidized Housing Inventory SHI, subject to the approval of DHCD.

**AFFORDABLE HOUSING RESTRICTION** — A deed restriction for affordable housing meeting the statutory requirements of MGL c. 184, § 31.

**DEPARTMENT OR DHCD** — The Massachusetts Department of Housing and Community Development (DHCD) or any successor agency.

**OWNERSHIP UNITS** — Shall be affordable to families with incomes not exceeding the HUD published low-income limit (80%) for the applicable metropolitan statistical area for Chelmsford, as published by HUD and utilized by DHCD for regulating affordable housing programs.

**RENTAL UNITS** — Shall be affordable to families with incomes not exceeding the HUD published very-low-income limit (50%) for the Lowell, MA, HUD Metro FMR area.

**§ 195-136. Segmentation prohibited.**

It is the intent of this bylaw to prohibit the subdivision of land or phasing of development to avoid the application of this section. It shall be presumed that land held in common ownership at the time of enactment of this bylaw should be included for the purposes of calculating the number of affordable units to be provided. It shall also be presumed that phased development of land held in common ownership shall be considered in its totality rather than as separate projects. These presumptions are rebuttable only upon

credible evidence to the contrary.

**§ 195-137. Provision of affordable units.**

The Planning Board shall require that any development, as applicable per § 195-134, for four or more dwelling units in a residential or mixed use project shall be conditioned upon at least 25%, prior to any consideration of density bonus per § 195-138E, of the units subject to this bylaw be restricted as affordable housing units in any one or combination of methods provided for below:

- A. By constructing, rehabilitating or designating affordable housing unit(s) on the locus subject to the application; or
- B. By constructing, rehabilitating or designating affordable housing unit(s) on a locus different than the one subject to the application, which is not presently included in the SHI; or
- C. By offer to and approval by the Planning Board, with input from the Housing Advisory Board (and acceptance by the Select Board on behalf of the Town), of a donation of land to the Town or its designee in fee simple, on- or off-site, that the Planning Board in its discretion determines is suitable for the construction of affordable housing units. Where this option is used, said land shall be compliant with zoning to support a number of affordable housing units equal to two times the number of units otherwise required by § 195-138C; or **[Amended 6-17-2021ATM by Art. 30]**
- D. By offer to and acceptance by the Planning Board, with input from the Housing Advisory Board, of a payment-in-lieu of money to the Town of Chelmsford's Housing Stabilization Fund.
- E. At the discretion of the Planning Board, with input from the Housing Advisory Board, and compliance with statutory requirements for the disposition and use of Town property, by development of a qualifying affordable housing unit on Town-owned land through rehabilitation or new construction.
- F. Any combination of the above requirements in Subsections A through E, provided that in no event shall the total number of units or land area or funds provided be less than the equivalent number or value of affordable units required by this bylaw.

**§ 195-138. Provisions applicable to affordable housing.**

- A. Siting of affordable units. All affordable units constructed, rehabilitated or designated under this bylaw shall be dispersed throughout the development and/or community and shall, on average, be no less accessible to public amenities, such as open space or services, than the market-rate units.
- B. Minimum standards for affordable units. Affordable housing units within market-rate developments shall be integrated with the rest of the development and shall be compatible in size, number of bedrooms, design, appearance, construction and quality of materials with other units. Interior features of affordable units shall include similar amenities. Off-site affordable units shall be integrated with the neighborhood in which they are situated.
- C. Calculation and distribution of number of affordable units.
  - (1) A number of affordable units equal to 25% of the total number of units shall be provided. Fractions of units shall be rounded up to the nearest round number.
  - (2) Affordable units shall be proportionately distributed throughout the project, in terms of location, unit numbers, size, type and number of bedrooms.

D. Calculation of payment in lieu of provision of affordable units.

- (1) Payment-in-lieu is intended to approximate the difference between value of a market-rate rental or sale unit and a sale/rent-restricted affordable unit. The table below establishes the initial payments for each affordable unit for which a payment-in-lieu of construction shall be made.

Type of Affordable Unit		Payment in Lieu
Rental		
	1 bedroom	\$50,000
	2 + bedrooms	\$70,000
Ownership		
	1 bedroom	\$100,000
	2 + bedrooms	\$125,000

- (2) Annually, the Planning Board may by majority vote modify these per-unit fees to reflect current market conditions, following a duly noticed public hearing and consultation with the Chelmsford Housing Authority. The schedule of fees shall be kept on file in the Planning Office. Additionally, the Board may adjust the fee on a project by project basis based upon evidence from the applicant and a finding from the Board that the required fee would result in the project being uneconomic. Prior to any finding, the Board shall seek the input from the Housing Advisory Board and the Chelmsford Housing Authority.
- E. Density bonus. Upon a showing of exceptional design and/or public benefits, the Planning Board may, by a special permit, authorize a density bonus of up to 20% of the total number of dwelling units permitted in a project. Fractions of units shall be rounded up to the nearest round number. The affordability requirements of this bylaw do not apply to density bonus units. The Planning Board shall consider factors such as consistency with the Chelmsford Affordable Housing Plan, dated December 2011, or other planning documents, unit type, population served, site design amenities and public benefits that integrate the project into the neighborhood in which it is located. Density bonus units as allowed by this section shall not be applied in addition to density bonus units permitted by other sections of the bylaw.
- F. Timing of construction or provision of affordable units or lots or payment-in-lieu. Affordable units or the payment-in-lieu shall be developed/provided concurrently with the development of market-rate units. Upon a showing of good reason, the Planning Board may allow the affordable unit(s) to be developed or restricted prior to the issuance of a certificate of occupancy for the unit that represents 50% of the number of units permitted in the proposed project.
- G. Marketing plan for affordable units. Applicants under this bylaw shall submit a marketing plan, consistent with DHCD guidelines, to the Planning Board for its approval, with advice from the Housing Advisory Board. The plan shall describe how the affordable units will be marketed to potential homebuyers or tenants. Subject to the approval of DHCD, this plan shall include a lottery to be conducted by the Chelmsford Housing Authority (or successor agency) for selecting buyers or tenants.
- H. Local preference. At the discretion of the Planning Board, and subject to the approval of DHCD for consistency with state and federal fair housing requirements, up to 70% of the affordable units shall be reserved for Chelmsford residents or employees of the Town of Chelmsford. In the event that the

applicant or future owner is unable to sell or lease the unit to a Chelmsford resident or employee, the Planning Board may waive this provision.

- I. Provision of affordable housing units off site. As an alternative to on-site provision of affordable housing, an applicant subject to the bylaw may develop, construct, rehabilitate or dedicate affordable units off site. All requirements of this bylaw that apply to on-site provision of affordable units shall apply to provision of off-site affordable units. The location of the off-site units to be provided shall be approved by the Planning Board, which shall have discretion to approve the appropriateness of a proposed unit to be designated as off-site affordable housing.

**§ 195-139. Maximum incomes and selling prices.**

The maximum housing purchase price or rent for affordable units created under this bylaw shall be consistent with affordability guidelines established by DHCD or a successor agency.

**§ 195-140. Preservation of affordability.**

The Planning Board shall require, as a condition for approval under this bylaw, that the applicant comply with the mandatory affordable housing provisions and accompanying restrictions on affordability, including the execution of a DHCD Local Initiative Program Regulatory Agreement (for rental and homeownership units) and deed rider (for homeownership units). The Building Inspector shall not issue an occupancy permit for any unit in the project subject to this bylaw until the regulatory agreement is recorded.

**§ 195-141. Project changes.**

The applicant may seek modifications to an approved project by submitting a written request for the same to the Planning Board. If the Planning Board determines that the change is minor in nature, it may approve the change by a simple majority vote of the Board at a regular public meeting. If the Board determines that the change is significant, it shall hold a public hearing to consider the change.

**§ 195-142. Conflict with other bylaws.**

The provisions of this section shall be considered supplemental to other zoning bylaws. To the extent that a conflict exists between this section and others, the more restrictive provisions shall apply.

## ARTICLE XXIV

**Route 129 Business Amenities Overlay District (BAOD)**  
**[Added 10-24-2016ATM by Art. 13]**

**§ 195-143. Purpose and intent.**

The Route 129 Business Amenities Overlay District is intended to achieve the following strategic goals and objectives:

- A. Address changing Town and regional market conditions, specifically the desire by employers and employees within the Limited Industrial (IA) Zoning District to have local access to goods and services, and housing;
- B. Provide access to business amenities that are limited in scope and scale for purposes of preserving Route 129's underlying and surrounding IA Zoning District which functions as an office and research and development park;
- C. Promote orderly, effective and quality development and redevelopment of Route 129;
- D. Provide housing opportunities that will be compatible and complementary;
- E. Preserve and enhance the aesthetic qualities and characteristics of Route 129, such as architectural style, streetscape character, open space, connectivity, and overall business office park setting in a manner that protects and enhances the value of real property; and
- F. Not to disturb residential neighborhoods or detract from the appearance of the Town and will result in the maintenance of a balance and workable relationship between the existing office / business park, new business amenities and adjacent residential neighborhoods.

**§ 195-144. Establishment of overlay district**

The location and boundaries of this overlay district are hereby established and made part of this bylaw as shown on the Business Amenities Overlay District Map, dated August 24, 2016.<sup>63</sup>

**§ 195-145. Use regulations.**

- A. The existing use Regulation Schedule (Chapter 195, Attachment 1) shall be applicable within the underlying zoning district.
- B. Within the overlay the following uses are permitted by right:
  - (1) Licensed day-care facilities.
  - (2) Retail stores and services; drive-throughs are permitted (excluding single-tenant freestanding), cannot be freestanding and must be attached or an integral part of a principal structure, including order panels / windows. Overhead canopies / roofs are permitted.
  - (3) Restaurant; no drive-throughs.
  - (4) Restaurant, fast-food; no drive-throughs.
  - (5) Bank or financial agency; (drive-throughs are permitted (excluding single-tenant freestanding)).

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**63. Editor's Note: Said map is on file in the Town offices.**

- (6) Health club.
- (7) Car rental service; no on-site vehicle repair or light service.
- (8) Parking garages / structures: accessory use / structure only.
- (9) Hotel/motel.

C. The following uses are permitted by special permit:

- (1) Multifamily (shall be subject to Article XXIII).
- (2) Retail store and services: drive-throughs for single-tenant freestanding, may provide freestanding order panels and / or multiple drive-throughs.
- (3) Bank or financial agency: drive-throughs for single-tenant freestanding, may provide freestanding order panels and / or multiple drive-throughs.
- (4) Upscale fast casual restaurant (fast food) with drive-through in accordance with the below standards. **[Added 5-2-2019ATM by Art. 10]**
  - (a) Located only on main arteries (Mill Road and Billerica Road to the Billerica Town line).
  - (b) Only one per property.
  - (c) Must be located on an end cap (not freestanding).
  - (d) 3,500 square feet minimum gross floor area.
  - (e) Minimum of 50 interior seats.
  - (f) Must provide for consumption of food prepared on the premises.
  - (g) Must provide reusable dinnerware for on-site/interior consumption.
  - (h) Must provide for outdoor seating/eating areas.
  - (i) The drive-through shall only be open from 5:30 a.m. to 10:00 p.m.

The Board may waive any provision, Subsection C(4)(a) through (i), where it determines that the project will be consistent with the purpose and intent of the bylaw. The Board may approve up to three permits.

D. The above uses Subsections B(1) through (9) and C(2), (3) and (4) are not permitted in the Commercial Exclusion Zone as defined in the overlay district map. **[Amended 5-2-2019ATM by Art. 10]**

**§ 195-146. Special provisions.**

- A. Building height. For lots directly abutting Billerica Road, in the section from Alpha Road to the Chelmsford-Billerica Town line, as shown on the overlay map dated August 24, 2016, nonresidential buildings may of right be six stories but not exceeding a maximum height of 90 feet, except by special permit.
- B. Parking garages / structures shall not be counted towards the floor area ratio.

- C. No more than 20% of existing gross square feet of any building may be converted to commercial uses, per § 195-145B, except by special permit.

**§ 195-147. Applicability of CEIOD to overlay district.**

- A. Article XXI, Community Enhancement and Investment Overlay District (CEIOD), shall apply to projects in the BAOD.
- B. All provisions in Article XXI shall have precedence over other sections of the Zoning Bylaw.

## ARTICLE XXV

**UMass West Multifamily Overlay District (UMW MFOD)  
[Added 2-24-2022STM by Art. 5]****§ 195-148. Purpose and intent.**

The purpose of this overlay is to regulate the development of multifamily dwelling units by establishing eligibility requirements and reasonable conditions for construction, in conformance with Chapter 358 of The Acts of 2020 and MGL c. 40A, § 5.

**§ 195-149. Establishment and applicability.**

- A. The locations and boundaries of this overlay district are hereby established and made part of this bylaw as shown on the UMass West Multifamily Housing Overlay District Map, dated November 10, 2021.<sup>64</sup>
- B. The Multifamily Housing Overlay District regulations of this article shall be the sole regulation for properties in the UMW MFOD. Except as specifically incorporated herein, any other provisions of the Town of Chelmsford Zoning Bylaws ("Bylaws") shall not apply to a development of multifamily dwelling units or age-restricted multifamily dwelling units under this overlay. Any owner of property in this UMW MFOD may choose to develop their property under the underlying zoning without regard to the UMW MFOD. If not already specifically incorporated elsewhere in the UMW MFOD, the UMW MFOD specifically incorporates the following sections of the Bylaws:
- (1) Article III, § 195-8, Nonconforming uses and structures;
  - (2) Article IV, § 195-10, Existing nonconforming lots;
  - (3) Article IV, § 196-14, Height restrictions on certain accessory structures;
  - (4) Article VI, Fairs, Carnivals and Similar Events;
  - (5) Article VII, § 195-34, Outdoor illumination;
  - (6) Article VIII, Environmental Protection Standards;
  - (7) Article XIII, Wireless Communications Facilities;
  - (8) Article XIII A, Commercial Solar Photovoltaic Facility;
  - (9) Article XIV, Aquifer Protection District;
  - (10) Article XV, Floodplain District;
  - (11) Article XIX, Administration and Enforcement; and
  - (12) Article XX, Terminology.

**§ 195-150. Definitions.**

**AFFORDABLE HOUSING MULTIFAMILY DWELLING** — Multifamily dwellings featuring 100% affordable housing units, with such units affordable to households making no more than 80% of Area

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64. Editor's Note: Said map is on file in the Town offices.



Median Income.

**MULTIFAMILY DWELLING** — A multifamily dwelling designed for and occupied by three or more family dwelling units, in any configuration, in one building or multiple buildings (whether or not attached) on a single lot, and the buildings accessory thereto.

**§ 195-151. Allowed uses.**

A. By right:

- (1) Multifamily dwellings, projects with a total of two dwelling units per acre or less.
- (2) Affordable housing multifamily dwellings, projects with a total of two dwelling units per acre or less.

B. By right, with site plan review (per Section 15 of the UMW MFOD)<sup>65</sup>:

- (1) Multifamily dwellings, greater than two dwelling units per acre.
- (2) Affordable housing multifamily dwellings, greater than two dwelling units per acre.

C. Uses permitted in the underlying zoning district are allowed as set forth in the Use Regulation Schedule of the Bylaw.<sup>66</sup>

**§ 195-152. Design standards.**

Multifamily dwellings or affordable housing multifamily dwellings designed under the UMW MFOD shall meet the following standards:

- A. Any development site proposed for multifamily dwellings shall have a minimum lot area of 10 acres and a minimum frontage of 50 feet on a public or private way that is open for public use. However, the Planning Board may waive the minimum lot frontage on a public or private way open to public use, provided that a substitute private access road into the site area will be constructed with the reduced frontage. Provided that a lot created pursuant to the UMW MFOD shall not be required to obtain access through the lot's legal frontage and projects may have shared driveways; or
- B. Any development site proposed for affordable housing multifamily dwellings shall have a minimum lot area of two acres and a minimum frontage of 20 feet on a public or private way that is open for public use or on a driveway. However, the Planning Board may waive the minimum lot frontage on a public way, private way open to public use, or on a driveway, provided that a suitable private access road into the site area can be constructed with the reduced frontage. Provided that a lot created pursuant to the UMW MFOD shall not be required to obtain access through the lot's legal frontage and projects and lots may have shared driveways.
- C. Any roadway or access drive located within 50 feet of a property line shall be shielded from the property line by a buffer of vegetated screening satisfactory to the Building Commissioner for any "by right" project and the Planning Board, for projects requiring site plan approval, between the roadway and property line for the entire length of the roadway within the fifty-foot area. Provided that lots created pursuant to the UMW MFOD shall not be required to provide such buffer between lot lines shared with other lots in the UMW MFOD.

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<sup>65</sup>. Editor's Note: See § 195-162.

<sup>66</sup>. Editor's Note: The Use Regulation Schedule is included as an attachment to this chapter.

- D. The required minimum distance between buildings that are structurally connected by roofing, fencing, or other means that is not enclosed or heated shall be determined by the Building Commissioner for "by right" projects and the Planning Board for projects requiring site plan approval. Other dimensional parameters shall be determined based on aesthetics, practicality of design, and the design's effect on the development.
- E. Within the UMW MFOD all dwelling units shall comply with the following minimum net floor area requirements, measured as living area, unless the Planning Board authorizes a reduction by waiver during the site plan approval process:
  - (1) Studio unit: 500 square feet.
  - (2) One-bedroom unit: 600 square feet.
  - (3) Two-bedroom unit: 900 square feet.
  - (4) Three-bedroom unit: 1,200 square feet.

**§ 195-153. Density.**

- A. Maximum density shall be 15 dwelling units per acre for multifamily dwellings and shall be 30 dwelling units per acre for affordable housing multifamily dwellings.
- B. No more than 25% of the total site area within the wetlands and/or floodplain shall be used in calculating maximum density for the site.

**§ 195-154. Building and parking coverage.**

The maximum coverage of any lot with multifamily dwellings, including garages, carports, and surface parking areas, shall not exceed 45% of the site area. Notwithstanding the foregoing, any lot with only affordable housing multifamily dwellings may have up to 65% maximum coverage of its site available for use by all buildings, garages, carports, and surface parking areas.

**§ 195-155. Setbacks.**

- A. Building and structure setbacks:
  - (1) Front, side and rear yards. No building or structure shall be erected within 30 feet of any property line abutting a public or private street, existing as of the date of adoption of this bylaw, or within 20 feet of any other property boundary area, excluding any internal lot line or roadway created as part of a project within the UMW MFOD.
- B. Parking setbacks.
  - (1) Front, side and rear yards. No parking area shall be constructed within 25 feet of any property line abutting a public or private street or within 25 feet of any other property boundary area, excluding any internal lot line created as part of a project within the UMW MFOD.

**§ 195-156. Building height.**

The maximum building height shall be 56 feet unless waived by the Planning Board. The maximum number of stories shall be four stories and there shall be no roof-mounted equipment other than rooftop solar, which shall not be included in the calculation of building height.

**§ 195-157. Utilities.**

Services. All utilities shall be installed underground unless otherwise approved by the Planning Board.

**§ 195-158. Recreational and open space.**

Fifty percent of the total lot area for multifamily dwellings (including wetlands) shall be set aside as recreational and open space. The open space shall remain free from structures, parking and drives, and such area shall be left either in its natural state, landscaped, or developed for outdoor recreational facilities. Outdoor recreational facilities may include incidental recreational structures such as boardwalks and pathways, and may also include swimming pools and decks, patio areas, grill stations, fire pits, hammocks, tables and seating, playground(s), bocce turf courts, landscaping and dog parks and other similar features. Thirty-five percent of the total lot area (including wetlands) shall be set aside as recreational and open space in any lot with affordable housing multifamily dwellings. Any area transferred to another entity by deed, easement or other similar document that includes criteria for preservation as open space shall continue to be included in the recreational and open space and density calculations for the developed site.

**§ 195-159. Parking.****A. Multifamily dwellings:**

- (1) Off-street parking spaces shall be provided at a rate of not less than 1.6 parking spaces per unit, which shall include both resident and guest parking and the Planning Board shall have authority during site plan approval to require up to an additional 65 parking spaces which shall be banked and shall not be constructed unless warranted by demand.

**B. Affordable housing multifamily dwellings:**

- (1) Off-street parking provision shall be made for not less than 0.9 of a parking space per unit, which shall include both resident and guest parking.

**C. The required parking spaces may be located on surface parking lots, in accessory garages, in a dedicated parking area on the lot. When the parking spaces are located outside, the area used for parking shall be graded and drained so as to prevent surface water accumulation within the parking area and to prevent surface water runoff to an adjoining property or the public way. During site plan review, the Planning Board may permit a reduction in the size of some parking spaces to allow compact parking spaces.****D. Dimensions of outdoor parking spaces shall be a minimum of nine feet by 19 feet.****E. Dimensions of indoor parking garage spaces shall be a minimum of nine feet by 18 feet.****§ 195-160. Landscaping.**

- A. Perimeter buffer. Where existing dense plantings do not exist, the perimeter of the developed portion of a project site shall be supplemented with landscaping that will serve to reduce abutters' view of the project and enhance existing mature vegetative buffer where possible. A perimeter fence may be installed within required setbacks to provide additional physical barriers for security and/or additional screening.
- B. Parking buffer. There shall be plantings along the edge and interiors of the surface parking areas to mitigate the heat island effect caused by surface parking. Efforts will be made to ensure that any plantings within the parking area will visually connect the project with the existing mature vegetation

buffer.

- C. Landscaping around structures. There shall be plantings along the perimeter of the buildings where possible and consistent with the Massachusetts Fire Code.

**§ 195-161. Architectural design standards.**

- A. The material selections and detailing of the proposed buildings will be consistent with New England architecture complementing the surrounding neighborhood.
- B. Residential buildings shall be constructed with a minimum of two stories.
- C. A lighting plan shall be required in conjunction with the site plan review. Lighting shall be designed to illuminate the subject property and shall not encroach onto abutting properties. All lighting shall be directed away from adjoining property with no light spillover and shall comply with § 195-34 of the Bylaws.

**§ 195-162. Site plan review.**

- A. Sections 195-104C(1), D, E, F, G, H and J shall apply to projects within the UMW MFOD.
- B. A site plan, as specified in § 195-104.
- C. Narrative analyses of the consequences of the proposed development, including evaluation of the following concerns at a level of detail appropriate to the scale of development proposed, as determined by the Planning Board:
  - (1) Natural environment. Groundwater and surface water quality, groundwater level, stream flows, erosion and siltation, vegetation removal (especially rare species and mature trees) and wildlife habitats.
  - (2) Public services. Traffic safety and congestion, need for water system improvements and need for public sewerage.
  - (3) Visual environment. Visibility of buildings and parking and visual consistency with existing development in the area.

**§ 195-163. Validity of decision.**

- A. Approval of a site plan shall remain valid and shall run with the land indefinitely, provided that a valid building permit has been issued and construction has commenced, including site work, within three years after the site plan approval decision issues, which time shall be extended by the time required to adjudicate any appeal from such approval. For purposes of projects that are phased, the commencement of construction or substantial use on any project phase shall constitute commencement of construction of all remaining phases of the project. This three-year period may also be extended for a specific period of time by majority vote of the Planning Board if it finds the project proponent is actively pursuing other required permits for the project or that there is other good cause for the failure to commence construction within the three-year period. Requests for extensions must be filed with the Planning Board prior to the expiration of the three-year period.
- B. If submittal of a building permit application has not been made within three years after the decision is issued (or any Planning Board approved extension of the three-year period), then site plan review approval shall be null and void, and no construction shall thereafter commenced unless a new site

plan review is approved in accordance with the provisions of this section.

**§ 195-164. Waivers.**

The Planning Board is specifically authorized to waive any requirements in the UMW MFOD. The Board shall base its decision upon findings that the waivers will provide for improved aesthetics created by the design, and practicality of design to lessen environmental, neighborhood, and public service impacts and provided that the Planning Board shall consider, as applicable to the proposed waivers:

- A. Social, economic or community needs which are served by the proposal;
- B. Traffic flow and safety, including parking and loading;
- C. Adequacy of utilities and other public services;
- D. Neighborhood character and social structures;
- E. Impacts on the natural environment; and
- F. Potential fiscal impact, including impact on Town services, tax base and employment.

**§ 195-165. Appeals.**

Any decision issued by the Planning Board under this UMW MFOD may be appealed to a court of competent jurisdiction pursuant to MGL c. 40A, § 17.

**§ 195-166. Severability.**

In the event that one or more of the provisions of this article are determined to be illegal or unenforceable by a court of competent jurisdiction, then the illegality or unenforceability of any such provision shall not affect the validity of any other provision of this article which remains in full force and effect.

ARTICLE XXVI  
**MBTA Communities Multifamily Overlay District (MCMOD)**  
**[Added 5-2-2024ATM by Art. 26]**

**§ 195-167. Purpose and intent.**

The purpose of the MBTA Communities Multifamily Overlay District (MCMOD) is to allow multifamily housing as of right in accordance with § 3A of the Zoning Act (Massachusetts General Laws Chapter 40A). This zoning provides for as-of-right multifamily housing to accomplish the following purposes:

- A. Encourage the production of a variety of housing sizes and typologies to provide equal access to new housing throughout the community for people with a variety of needs and income levels;
- B. Locate housing within walking distance of public transit to promote general public health, reduce the number of vehicular miles traveled, support economic development, and meet community-based environmental goals, including reducing greenhouse gases and improving air quality; and
- C. To ensure compliance with MGL c. 40A, § 3A.

**§ 195-168. Establishment and applicability.**

The locations and boundaries of the MCMOD overlay districts are hereby established and made part of this bylaw as shown on the Umass West Area District Map (Map 20, Block 74, Lots 1, 4, and 11), dated February 20, 2024, and the Route 110 West RM Area District Map (Map 92, Block 320, Lots 1, 2, 3, 4, 5, and 6), dated February 20, 2024.

- A. Applicability of MCMOD. An applicant may develop multifamily housing located within an MCMOD in accordance with the provisions of this article.
- B. Underlying Zoning. The MCMOD is an overlay district superimposed on underlying zoning districts. The regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the respective underlying zoning district(s) shall remain in full force, except for uses allowed as of right in the MCMOD. Uses that are not identified in § 195-169 are governed by the requirements of the underlying zoning district(s).
- C. Relationship with other zoning provisions.
  - (1) Per MGL Chapter 40A, § 3A, for MCMOD as-of-right development, any zoning provisions that would normally require the need for a special permits, variances, zoning amendment, waiver, or other discretionary zoning approval are not applicable nor required for an MCMOD application.
  - (2) The following existing zoning articles are specifically incorporated into the MCMOD by reference, and remain applicable to MCMOD projects:
    - (a) Article VII, § 195-34, Outdoor illumination.
    - (b) Article VIII, Environmental Protection Standards.
    - (c) Article XIX, Administration and Enforcement, § 195-104.
    - (d) Article XX, Terminology.

**§ 195-169. Allowed uses.**

Multifamily dwellings designed under the MCMOD shall meet the following standards:

A. By right, with site plan review (per § 195-174 of the MCMOD article):

- (1) Multifamily dwellings, greater than three dwelling units per 40,000 square feet.
- (2) Accessory uses. The following uses are considered accessory as of right to any of the permitted uses in this section.
  - (a) Parking, including surface parking and parking within a structure such as an aboveground or underground parking garage or other building on the same lot as the principal use.
  - (b) Accessory uses for residential uses are permitted to the same extent they would be permitted in the RM Zoning District.
- (3) Uses permitted in the underlying zoning district are allowed as set forth in the Use Regulation Schedule of the Zoning Bylaw.<sup>67</sup>

**§ 195-170. Design and development standards.**

Development standards in the MCMOD are applicable to all multifamily development with more than three units. These standards are components of the site plan review process in § 195-174, Site plan review.

A. Architectural design standards.

- (1) Not more than 24 dwelling units in a single structure, serving not more than six dwelling units from a single entrance, limiting building length to not more than 200 feet, having unbroken roof area of not more than 3,000 square feet.
- (2) To enhance the buildings and structures and create visual interest that varies the appearance of a building mass, breaks up long blank walls, expresses the individuality of each, and enhances the character of the neighborhood, applicants shall vary at least three of the Priority 1 elements below, and at least two of the Priority 2 elements below:
  - (a) Priority 1:
    - [1] Roofline.
    - [2] Stepbacks.
    - [3] Modulation.
    - [4] Recesses.
    - [5] Height.
    - [6] Color.
  - (b) Priority 2:
    - [1] Windows.

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67. Editor's Note: The Use Regulation Schedule is included as an attachment to this chapter.

[2] Entries.

[3] Building form.

[4] Architectural materials and details.

- (3) Architectural elements and variations shall not be restricted to a single facade. All sides of a building shall display a similar level of quality and architectural interest.
- (4) The required minimum distance between buildings that are structurally connected by roofing, fencing, or other means that is not enclosed or heated shall be determined by the Building Commissioner for by-right projects and the Planning Board for projects requiring site plan review.

B. Landscaping.

- (1) Property lines, parking, and roadway buffers (public and private). Where existing dense plantings do not exist along perimeter property lines, a twenty-foot landscaped buffer shall be provided with landscaping that will serve to reduce abutters' view of the project and enhance existing mature vegetative buffer where possible. Landscape buffers may include but are not limited to trees, shrubs, pedestrian amenities, berms, lawns, fences, and walls.
- (2) Within the twenty-foot-perimeter landscaped buffer, no more than 10 feet can be manicured lawn.
- (3) A perimeter fence, residential in character, may be installed within required setbacks to provide additional physical barriers for security and/or additional screening.
- (4) Landscaping around structures. There shall be landscaping plantings along the perimeter of the buildings where possible and consistent with the Massachusetts Fire Code.

C. Lighting.

- (1) A lighting plan shall be required in conjunction with the site plan review. Lighting shall be designed to illuminate the subject property and shall not encroach onto abutting properties. All lighting shall be directed away from adjoining property with no light spillover and shall comply with § 195-34 of the Bylaws.

D. Utilities.

- (1) Services. All utilities shall be installed underground unless otherwise approved by the Planning Board.

E. Recreational and open space.

- (1) Twenty-five percent of the total lot area for multifamily dwellings shall be set aside as recreational and open space. At least 75% of the required open space must be usable, defined as not including wetlands as defined by MGL Chapter 131, § 40.
- (2) Open space shall remain free from structures, parking and drives, and such area shall be left either in its natural state, landscaped, or developed for outdoor recreational facilities and agricultural uses. Outdoor recreational facilities shall include incidental recreational structures such as boardwalks and pathways, swimming pools and decks, patio areas, grill stations, firepits, hammocks, tables and seating, playground(s), bocce turf courts, landscaping and dog parks or



other similar features.

- (3) Any area transferred to another entity by deed, easement or other similar document that includes criteria for preservation as open space shall continue to be included in the recreational and open space and density calculations for the developed site.

F. Sidewalks.

- (1) Sidewalks shall provide direct connections among building entrances, the public sidewalk (if applicable), internal access roadways which lead to abutting public roadways, bicycle storage, and parking.
- (2) Entries. Where feasible, entries shall be clearly defined and linked to a paved pedestrian network that includes the public sidewalk.

G. Signage.

- (1) Any building or identification signage shall comply with signage requirements in the RM District per § 195-31.

**§ 195-171. Density and Dimensional Requirements.**

A. Density.

- (1) Maximum density shall be 15 dwelling units per acre for multifamily dwellings.

B. Table of Dimensional Standards. Notwithstanding anything to the contrary in this Zoning Bylaw, the dimensional requirements applicable in the MCMOD are as follows:

Standard	
Minimum lot size	40,000 square feet
Height	
Stories (maximum)	3
Stories (minimum)	2
Feet (maximum)	35
Minimum open space	25%
Maximum building coverage	40%
Minimum frontage (feet)	150
Front yard setback (feet)	20
Side yard setback (feet)	20 <sup>1</sup>
Rear yard setback (feet)	20 <sup>1</sup>

**NOTES:**

<sup>1</sup> Increase to 25 feet where abutting an RA or RB District.

- C. Multiple principal and accessory buildings/structures on lots. In the MCMOD, lots may have more than one principal and accessory building/structures and shall be interconnected by accessways suitable for emergency responses and pedestrians.

(1) Accessory buildings/structures shall not exceed 20 feet or two stories.

**§ 195-172. Parking.**

- A. Vehicular parking.

(1) Multifamily dwellings:

- (a) Off-street parking spaces shall be provided at a rate of not less than 1.6 parking spaces per unit, which shall include both resident and guest parking.
- (b) Applicants are encouraged, but not required, to provide additional visitor parking beyond the minimum parking requirement.

(2) All required parking spaces may be located on surface parking lots, in accessory garages, or in a dedicated parking area on the lot. During site plan review, the Planning Board may permit a reduction in the size of some parking spaces to allow compact parking spaces and pervious parking surfaces.

(a) Dimensions of outdoor parking spaces shall be a minimum of nine feet by 19 feet.

(b) Dimensions of indoor parking garage spaces shall be a minimum of nine feet by 18 feet.

- B. Bicycle parking/storage.

(1) Covered bicycle storage shall be provided at a rate of one bicycle parking space per dwelling unit.

(2) For multifamily dwellings of 25 or units or more, covered bicycle parking spaces shall be integrated into the structure of the building(s).

**§ 195-173. Affordability requirements.**

Affordability requirements in the MCMOD are applicable to all multifamily development with three or more units.

- A. Applicability. Affordability requirements are applicable to all residential developments with three or more dwelling units, whether new construction, substantial rehabilitation, expansion, reconstruction, or residential conversion (applicable projects). No project may be divided or phased to avoid the requirements of this section.

- B. Affordability requirements.

(1) Subsidized housing inventory. All units affordable to households earning 80% or less of area median income created in the MCMOD under this section must be eligible for inclusion on the Executive Office of Housing and Livable Communities' ("EOHLC") Subsidized Housing

Inventory and as such they must comply with all applicable requirements under 760 CMR 56.00 et seq. This shall include a requirement that the applicant execute a regulatory agreement for all affordable units as set forth by the EOHLC as part of its local action unit requirements.

- C. Provision of affordable housing. In applicable projects, not fewer than 10% of housing units constructed shall be affordable housing units. The Town prefers to have affordable units created rather than to accept payments in lieu. When the size of a development triggers a requirement for one full affordable unit, the unit must be created on-site as part of the project.

(1) Fractional units.

- (a) When the requirement for affordable housing units results in a fraction of a unit, the applicant shall have the choice to provide an additional affordable unit that complies with the regulations in this section, or to convert the fraction of a unit to a cash payment to the Town's Housing Stabilization Fund as shown in the table below. The monetary contribution shall be based on the total development cost limit for suburban/rural areas outside Metro Boston as articulated in the most current Massachusetts Qualified Allocation Plan for the Low Income Housing Tax Credit Program, issued by the EOHLC, or its successor agency.

Number of units	Payment in Lieu Fraction Required	Number of Mandatory Affordable Units
3	0.30	—
4	0.40	—
5	0.50	—
6	0.60	—
7	0.70	—
8	0.80	—
9	0.90	—
10	0.0	1
11	0.10	1
12	0.20	1

- (b) Any payment as an in-lieu contribution for affordable housing units shall be made as follows: at least 50% of the total owed prior to the issuance of a building permit; and the remaining total owed prior to the issuance of an occupancy permit.

**§ 195-174. Site plan review.**

- A. Section 195-104C(1), D, E, F, G, and J shall apply to projects within the MCMOD in addition to the Planning Board's Site Plan Rules and Regulations.
- B. Site plan approval. Site plan approval for uses listed in § 195-169, Allowed uses, shall be granted upon determination by the Planning Board that the application meets the development standards set forth in § 195-170, Design and development standards, and § 195-104E.

**§ 195-175. Validity of decision.**

- A. Approval of a site plan shall remain valid and shall run with the land indefinitely, provided that a valid building permit has been issued and construction has commenced, including site work, within three years after the site plan approval decision issues, which time shall be extended by the time required to adjudicate any appeal from such approval. For purposes of projects that are phased, the commencement of construction or substantial use on any project phase shall constitute commencement of construction of all remaining phases of the project. This three-year period may also be extended for a specific period of time by majority vote of the Planning Board if it finds the project proponent is actively pursuing other required permits for the project or that there is other good cause for the failure to commence construction within the three-year period. Requests for extensions must be filed with the Planning Board prior to the expiration of the three-year period.
- B. If submittal of a building permit application has not been made within three years after the decision is issued (or any Planning Board approved extension of the three-year period), then site plan review approval shall be null and void, and no construction shall thereafter commence unless a new site plan review is approved in accordance with the provisions of this section.

**§ 195-176. Waivers.**

The Planning Board is specifically authorized to waive any requirements in the MCMOD. The Board shall base its decision upon findings that the waivers will provide for improved aesthetics created by the design, and practicality of design to lessen environmental, neighborhood, and public service impacts and provided that the Planning Board shall consider, as applicable to the proposed waivers:

- A. Social, economic or community needs which are served by the proposal;
- B. Traffic flow and safety, including parking and loading;
- C. Adequacy of utilities and other public services;
- D. Neighborhood character and social structures;
- E. Impacts on the natural environment; and
- F. Potential fiscal impact, including impact on Town services, tax base and employment.

**§ 195-177. Severability.**

In the event that one or more of the provisions of this article are determined to be illegal or unenforceable by a court of competent jurisdiction, then the illegality or unenforceability of any such provision shall not affect the validity of any other provision of this article which remains in full force and effect.

**Regulations**

**Chapter 200**

**GENERAL PROVISIONS**

**[HISTORY: Adopted as indicated in article histories. Amendments noted where applicable.]**

ARTICLE I  
**Acceptance by Board of Health**  
**[Adopted 10-4-1999]**

**§ 200-1. Acceptance of renumbering of regulations.**

The Health Regulations of the Town of Chelmsford, Middlesex County, Massachusetts, adopted by the Board of Health of the Town of Chelmsford, as renumbered, revised and codified by General Code Publishers Corp., and consisting of Chapter 201, Health Regulations, of the Code of the Town of Chelmsford, are hereby approved.

**§ 200-2. Continuation of existing provisions.**

The provisions of Chapter 201, insofar as they are substantively the same as those of regulations in force immediately prior to this acceptance of Chapter 201, are intended as a continuation of such regulations and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior regulation. All such provisions are hereby continued in full force and effect and are hereby reaffirmed as to their adoption by the Board of Health of the Town of Chelmsford, and it is the intention of said Board of Health that each such provision contained in Chapter 201 of the Code is hereby reaffirmed as it appears in the Code.

**§ 200-3. Changes in previously adopted regulations.**

- A. In compiling and preparing the Health Regulations for renumbering and revision as part of the Code, certain grammatical and other minor changes were made in said regulations. It is the intention of the Board of Health that all such changes be accepted as part of the regulations as if the regulations so changed had been previously formally adopted to read as such.
- B. In addition, the following changes, amendments or revisions are made herewith, to become effective upon the effective date of this enactment. (Chapter and section number references are to the regulations as they have been renumbered and appear in the Code.)
  - (1) In § 201-7, Subsection B is amended to conform to the current wording of MGL c. 111, § 111, and the following wording is deleted: "When a householder knows that a person within his family or house is sick with a disease dangerous to the public health, he shall immediately give notice thereof to the board of health in the manner required by the statute, (General Laws, Chapter 111, Section 109, as amended by Chapter 265 of the Acts of 1938) provided, however, that in cases in which a physician has been called in his notification will be accepted in place of the householder's notification."

ARTICLE II  
**Acceptance by Planning Board**  
**[Adopted 10-13-1999]**

**§ 200-4. Acceptance of renumbering of regulations.**

The Subdivision Regulations of the Town of Chelmsford, Middlesex County, Massachusetts, adopted by the Planning Board of the Town of Chelmsford, as renumbered, revised and codified by General Code Publishers Corp., and consisting of Chapter 202, Subdivision of Land, of the Code of the Town of Chelmsford, are hereby approved.

**§ 200-5. Continuation of existing provisions.**

The provisions of Chapter 202, insofar as they are substantively the same as those of regulations in force immediately prior to this acceptance of Chapter 202, are intended as a continuation of such regulations and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior regulation. All such provisions are hereby continued in full force and effect and are hereby reaffirmed as to their adoption by the Planning Board of the Town of Chelmsford, and it is the intention of said Planning Board that each such provision contained in Chapter 202 of the Code is hereby reaffirmed as it appears in the Code.

**§ 200-6. Changes in previously adopted regulations.**

- A. In compiling and preparing the Subdivision Regulations for renumbering and revision as part of the Code, certain grammatical and other minor changes were made in said regulations. It is the intention of the Planning Board that all such changes be accepted as part of the regulations as if the regulations so changed had been previously formally adopted to read as such.
- B. In addition, the following changes, amendments or revisions are made herewith, to become effective upon the effective date of this enactment. (Chapter and section number references are to the regulations as they have been renumbered and appear in the Code.)
  - (1) Section 202-9C is amended to delete "Planning Board Engineer" and "Superintendent of Streets" and to add "Director of Public Works."
  - (2) Section 202-19B is amended to change "Tree Warden" to "Department of Public Works."



ARTICLE III  
**Acceptance by Board of Selectmen**  
**[Adopted 10-4-1999]**

**§ 200-7. Acceptance of renumbering of regulations.**

The Traffic Rules and Orders of the Town of Chelmsford, Middlesex County, Massachusetts, adopted by the Board of Selectmen of the Town of Chelmsford, as renumbered, revised and codified by General Code Publishers Corp., and consisting of Chapter 203, Traffic Rules and Orders, of the Code of the Town of Chelmsford, are hereby approved.

**§ 200-8. Continuation of existing provisions.**

The provisions of Chapter 203, insofar as they are substantively the same as those of regulations in force immediately prior to this acceptance of Chapter 203, are intended as a continuation of such regulations and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior regulation. All such provisions are hereby continued in full force and effect and are hereby reaffirmed as to their adoption by the Board of Selectmen of the Town of Chelmsford, and it is the intention of said Board of Selectmen that each such provision contained in Chapter 203 of the Code is hereby reaffirmed as it appears in the Code.

**§ 200-9. Changes in previously adopted regulations.**

- A. In compiling and preparing the Traffic Rules and Orders for renumbering and revision as part of the Code, certain grammatical and other minor changes were made in said regulations. It is the intention of the Board of Selectmen that all such changes be accepted as part of the regulations as if the regulations so changed had been previously formally adopted to read as such.
- B. In addition, the following changes, amendments or revisions are made herewith, to become effective upon the effective date of this enactment. (Chapter and section number references are to the regulations as they have been renumbered and appear in the Code.)
  - (1) In § 203-1, Definitions:
    - (a) The definition of "official traffic signals" is amended to change "not inconsistent and orders" to "not inconsistent with these rules and orders."
    - (b) The definition of "official traffic signs" is amended to change "inconsistent with these rules and order" to "not inconsistent with these rules and orders."
    - (c) The definition of "safety zone" is amended to delete "which set apart as a safety zone."
  - (2) In § 203-7, the wording "shall so far as practicably to uniform" is amended to "shall so far as practicable be uniform."
  - (3) Section 203-19G is amended to delete "nor within the intersection of any street or road."
  - (4) In § 203-30, the entry "Parking so as not to leave 10 feet of unobstructed travel" is amended to add "in an alley" after "parking," and the following new entry is added: "Parking in a street, other than an alley, so as not to leave 18 feet of unobstructed travel: \$25."
  - (5) Section 203-47, Violations and penalties, is amended to read as follows: "Except as otherwise provided in these rules and orders, any person violating any of the provisions of these rules and

orders or any rule or regulation made by the Board of Selectmen pursuant thereto shall be guilty of a violation and, upon conviction thereof, shall be liable to a fine not to exceed \$20."

ARTICLE IV  
**Other Regulations**

**[The following regulations are not included in the Code but are available through the office of the Town Clerk: the Board of Appeals Rules of Procedure; the Regulations for Cemeteries; the Historic District Standards; and the Sewer Commission Regulations.]**

{END OF CHAPTER}



## HEALTH REGULATIONS

### **Chapter 201**

## HEALTH REGULATIONS

**[HISTORY: Adopted by the Board of Health of the Town of Chelmsford 6-19-1951. Amendments noted where applicable.]**

ARTICLE I  
**Enforcement**

**§ 201-1. Inspections.**

Any person, firm or corporation given a permit or issued a license in the Town by the Board of Health shall be open at all times for inspection by said Board or its agents.

**§ 201-2. Violations and penalties.**

Whoever violates any of these rules and regulations shall forfeit a sum not exceeding \$100, except when otherwise provided by law or by these regulations.

## ARTICLE II

**Domestic Animals****[Amended 12-10-2018; 1-7-2019; 3-4-2019; 11-4-2019; 12-7-2020; 9-13-2021; 3-7-2022]****§ 201-3. (Reserved)****§ 201-3.1. Authority.**

These regulations are adopted under the authority of MGL c. 111, § 31, as reasonable health regulations designed to protect the health and quality of life of those who reside within the Town of Chelmsford, the control of disease, the abatement of nuisances, the promotion of sanitary living conditions, and the protection of the environment from damage and pollution. These regulations shall take effect as of the date of their approval as indicated below. These regulations are not intended to apply to any parcel or parcels of land used for the primary purpose of commercial agriculture, or accessory thereto, the use of which is governed by the provisions of Chapter 127, Right to Farm, of the Town of Chelmsford Bylaws. Nothing herein shall obligate the Chelmsford Board of Health to enforce any provision of the Chelmsford Zoning Bylaws.

**§ 201-3.2. Permit required; enforcement.**

- A. No person shall keep a domestic animal, as defined herein, within the limits of the Town of Chelmsford, in any commercial structure or residential dwelling or on any parcel of land of which he/she is the owner, lessee, tenant or occupant, (hereinafter the "premises") without annually obtaining a permit for the keeping of domestic animals (hereinafter the "permit") from the Board of Health. Said permit shall not be transferable as to other animals nor assignable for the use of other persons, nor for use at other premises.
- B. In order to be granted a permit, each of the following requirements must be met at the time of the filing of the initial application; and at the time of each annual refiling of an application as may be required hereinafter:
  - (1) The premises must be a single-family residential dwelling.
  - (2) A fully completed application in form to be provided by the Board of Health to be filed together with:
    - (a) At the time of the filing of an initial application, a site plan [from Middlesex (Northern District) Registry of Deeds or from Town of Chelmsford GIS mapping website] showing the location of the proposed structures, and which confirms lot size and property lines, the location of any drains and wells providing potable water to the premises or any other property and compliance with these regulations of the location upon said premises of the facility, as hereinafter defined to be used for the keeping or restraining of any domestic animal for which a permit is being sought. Upon completion of construction of the structure, an on-site inspection will be performed to confirm the structure was constructed in the location shown on the site plan. At the time of each renewal of the permit, the applicant will be required to certify the continuing accuracy of such site plan, which site plan and subsequent certification shall be an integral part of the application and will be relied upon by the Board of Health in the granting of the permit. On a case-by-case basis, the Board of Health for good cause may require an updated or more detailed site plan from any applicant;

- (b) A written maintenance plan detailing the facility cleaning schedule, rodent, pest and predator control measures, manner of the systematic collection, storage and disposal of animal solid waste, manner of the storage and disposal of feed and nuisance prevention measures. At a minimum, rodent control measures must provide for the inspection of the premises for potential rodent infestation at regular intervals. At the time of each renewal of the permit, the applicant will be required to certify continuing compliance with such maintenance plan; which written maintenance plan and subsequent certification shall be an integral part of the application and will be relied upon by the Board of Health in the granting of the permit. On a case-by-case basis, the Board of Health for good cause may require an updated or more detailed written maintenance plan from any applicant;
  - (c) Correspondence of the Chelmsford Building Department confirming compliance of the premises to the minimum lot size required by § 195-6E, Animals Accessory to Dwellings, or any successor section thereto, of the Bylaws of the Town of Chelmsford at such time;
  - (d) Certification by the Chelmsford Conservation Commission of the location of wetlands upon or adjacent to the premises;
  - (e) Such licensing fee as the Board of Health may establish from year to year; and
  - (f) Such additional information or substantiation as the Board of Health may deem necessary or appropriate in the evaluation of each application.
- (3) Permits shall expire on March 31 of each year, unless sooner suspended or revoked by the Board of Health upon violation of any of the provisions of these regulations.
- C. These regulations may be enforced by the use of the noncriminal disposition pursuant to MGL c. 40, § 21D. If enforced by means of noncriminal disposition, fines shall be \$50 for the first violation, \$100 for the second violation and \$150 for the third violation and any subsequent violation. Each day of noncompliance shall constitute a separate and new offense.
- D. Persons who have had a permit denied, suspended or revoked shall be ordered to remove all unlicensed animals from the premises within a timeframe determined by the Board of Health.
- E. Permits shall be posted at all times in a conspicuous and public area of the facility.
- F. The maximum numbered of permitted domestic animals per premises shall be 20.
- G. It shall be the sole responsibility of the applicant prior to the filing of an application to ensure that all applicable building permits are obtained for construction of a facility and to verify that all applicable zoning laws are adhered to, including without limitation § 195-6E of the Chelmsford Zoning Bylaws.

### **§ 201-3.3. (Reserved)**

### **§ 201-3.4. Inspections.**

- A. At the time of the filing of any application for a permit, the Board of Health, its agent or representative, with or without prior notice to the applicant, may enter upon the applicant's premises without hindrance to confirm the accuracy of the applicant's application.
- B. The premises of any individual granted a permit pursuant to these regulations shall be open at all times for inspection by the Board of Health, its agent or representative, and, with or without prior notice to the individual, the Board of Health, its agent or representative, may enter upon such



premises without hindrance or delay to confirm compliance of the individual to these regulations or to respond to a complaint filed with the Board of Health concerning the keeping of domestic animals upon such premises. Except in situations of a public health emergency, such inspections shall be conducted during normal business hours.

### **§ 201-3.5. Definitions.**

As used in this Chapter 201, the following terms shall have the meanings indicated:

**ABUTTER** — The owners or tenants of property which adjoins the premises upon which domestic animals are to be kept whether or not said properties are separated by a public way.

**BOARD OF HEALTH** — The appropriate and legally designated health authority of the Town of Chelmsford or its authorized agent or representative, having the usual powers and duties of a Board of Health within the Commonwealth of Massachusetts.

**CATTLE** — All kinds of domesticated ruminates such as but not limited to sheep, goats, and bovine animals.

**COOP** — A structure for the keeping or housing of poultry, pigeons, or other types of fowl, sometimes referred to herein as a henhouse.

**CORRAL** — A pen or enclosure for confining animals.

**DOMESTIC ANIMAL** — Any animal, including but not limited to poultry, bird, reptile, hog, cow, horse, ponies, goats, swine, cattle, sheep, turkeys, ducks, geese, pigeons, rabbits, game birds, donkeys, llamas, alpacas, and mules, but excluding typical household pets which are housed primarily inside a residential dwelling.

**EQUINE** — All animals of the equine family such as but not limited to horses, mules, and donkeys.

**FACILITY** — Any corral, building, dry lot, enclosure, run, shed, stable, stall, coop, pen, or structure used for the keeping or restraining of any domestic animal except such of those that are subject to regulation under the provisions of:

- A. Section 2B of Chapter 128 of the General Laws pertaining to commercial riding stables;
- B. Section 39A of Chapter 129 of the General Laws pertaining to pet shops;
- C. Sections 136A through 175 of Chapter 140 of the General Laws pertaining to dogs; and
- D. Chapter 127, Right to Farm, of the Town of Chelmsford Bylaws.

**FEED** — A food mixture or preparation used for consumption by domestic animals kept at a facility.

**MALODOR** — An unpleasant or offensive odor.

**OTHER ANIMALS** — Animals that include but are not limited to feral animals.

**OWNER** — Every person who alone, or jointly, or severally with others:

- A. Has a legal title to any permitted premises; or
- B. Has care, charge, or control of any permitted premises as agent, executor, executrix, administrator, trustee, lessee, or guardian of the estate of the holder of legal title. Each such person thus representing the holder of legal title is bound to comply with the provisions of these regulations as if he were the owner.

- C. Any individual, partnership, corporation, firm, association, or group, including a city, town, county, or other governmental unit, owning property or carrying on activities subject to these regulations.

PASTURE — A plot of land used for grazing and/or feeding of animals.

PEN — A structure for the keeping or housing of one or more animals.

POULTRY — All domesticated or semi-domesticated edible birds such as, but not limited to, chickens, turkeys, ducks, guinea fowl, pheasants, and pigeons.

RODENT — Any animal of the order of Rodentia such as, but not limited to, rabbits, guinea pigs, hamsters, chinchillas, squirrels, rats, mice, and gerbils.

ROOSTER — An adult male chicken.

RUN — The fenced or enclosed outdoor space adjacent to a chicken coop or henhouse.

RUNOFF — Any liquid, from any source, that flows over the surface of the ground.

SITE PLAN — A plan showing the entire property (including all property lines) with the existing and proposed structures accurately plotted thereon.

STABLE — A building or structure in which animals are sheltered and/or fed.

STALL — A compartment in a stable used for the keeping of one or more animals.

SWINE — Any hoofed mammal of the porcine species.

UNSANITARY CONDITIONS — The state of being of a facility, or the area adjacent to a facility, which, in the opinion of the Board of Health, is conducive to or results in breeding of flies; creation of malodors; vermin infestation; liquid effluent; runoff; disease carriers; and/or noise in such concentrations and of such duration as to cause a nuisance; be injurious or, on the basis of current information, potentially injurious to human health; or an unreasonable interference with the comfortable enjoyment of life and property by the owner or an abutter.

VERMIN — Any of various destructive insects, or small animals including but not limited to flies, mosquitoes, lice, mice, and rats.

WETLAND — Any jurisdictional wetland as defined by MGL c. 131, § 40 and/or the Chelmsford Wetlands Bylaw.

### **§ 201-3.6. General requirements.**

- A. No person, firm, or corporation shall exhibit, raise, board, train, or keep within the limits of the Town of Chelmsford, in any building, or on any premises on which he may be the owner, lessee, tenant, or occupant, any cattle, equine, swine, poultry or other animal as defined in § 201-3.5 above without a permit.
- B. The permit shall specify the maximum number of domestic animals which may be kept on any premises. No animals in excess of the number specified in the permit shall be kept therein even temporarily. Currently the maximum number of domestic animals per premises is 20.
- C. No person shall maintain equines or cattle anywhere within the Town of Chelmsford without providing approved facilities as described in § 201-3.7 hereinafter of these regulations.
- D. The procedure for obtaining a permit for a stable in accordance with these regulations pertains to adherence with relevant state sanitary codes and conditions only. It shall be the sole responsibility of the applicant to ensure that all applicable building permits are obtained for construction of any stable

or other structure and to verify that all applicable zoning laws are adhered to (including § 195-6E of the Chelmsford Zoning Bylaws).

- E. No person shall keep an animal in the Town of Chelmsford except in compliance with these requirements. Animals not normally found or kept as domesticated animals (such as but not limited to feral animals, reptiles and wildlife) shall not be permitted within the Town of Chelmsford.
- F. These regulations shall not apply to a parcel of land defined as a farm by any local, state, or federal law or regulation, including without limitation the provisions of Chapter 127, Right to Farm, of the Town of Chelmsford Bylaws.

**§ 201-3.7. Construction and maintenance of facilities.**

- A. The minimum requirement for a facility shall be an open shed with proper drainage provided, offering maximum protection with a weatherproof room, excepting henhouses, and at least three sides, enough head room for the animal to be housed and floored with material that can be kept clean and dry.
- B. The owner or other person or persons having control of any existing building or buildings hereafter erected or converted into a facility for the keeping of domestic animals shall maintain said facility in a clean and sanitary condition and in accordance with the written maintenance plan on file with the Board of Health, free from decaying food, vermin, feces, and stagnant water.
- C. It shall be the responsibility of the owner or person or persons having control of the facility to rodent proof the facility which requires that the facility be built and maintained in such a manner as to deny access by rodents and eliminate the conditions that make rodents comfortable and provide shelter for rodents. Routine inspection and treatment by a commercial pest company is recommended and may be required as a condition of the granting of a permit at the discretion of the Board of Health.
- D. A corral shall be dry, well-drained, kept clean and fenced. A pasture must also be adequately fenced to contain the animals therein. Fencing may be of wood, smooth woven wire, or charge electric wire. In the case of the use of charge electric wire, there shall be at least one warning label where the fence is located on street frontage, and at fifty-foot intervals if the frontage exceeds 100 feet. All fencing shall be high enough to discourage dumping or reaching over by third parties. If corral is not grassed, dust control measures shall be implemented.
- E. To minimize the opportunity for injury to third parties, property barriers such as fencing or closely planted trees or shrubs shall be installed, or other necessary or appropriate measures taken, to discourage third parties, particularly unaccompanied minor children, from entering into the area of the facility.
- F. Property barriers such as fencing or closely planted trees or shrubs shall be installed, or other appropriate screening measures taken, on lots where the location of the facility will ordinarily interfere with the comfortable and uninterrupted enjoyment by an abutter of his property.
- G. An adequate supply of potable water shall be available at or near the facility for feeding, cleaning, and fire protection purposes.

**§ 201-3.8. Sanitary requirements.**

- A. No owner or person or persons having control of the facility shall willfully or through negligence, cause, suffer, allow or permit:
  - (1) The floor and/or the ground of the facility to be designed, constructed and/or maintained so as

to cause or contribute to unsanitary conditions at said facility.

- (2) Permit or facilitate the drainage or liquid effluent containing urine and/or fecal matter from any animal kept at the facility to be discharged in runoff, or to flow over the surface of the ground onto abutting property, public ways, or wetlands.
- B. Management and disposal of manure and soiled bedding shall be such as to minimize odors, rodents and breeding of flies. Without limitation:
- (1) The owner shall provide a pit constructed of cement or other impermeable material for the reception of manure and other refuse and by-products of the domestic animals. The Board of Health may accept alternative storage options proposed by an owner at its discretion, provided such option provides equal protection against discharge in runoff, or any flow over the surface of the ground onto abutting property, public ways, or wetlands.
  - (2) Manure shall not be stockpiled between the period of April 15 and October 15.
  - (3) During warm weather, manure shall be treated with lime or superphosphate or other appropriate material to minimize odors and shall be treated with approved insecticides or other means for fly control.
  - (4) The dimensions, topography and/or drainage conditions of any particular premises may, in the opinion of the Board of Health, require off-premises disposal of the manure. In such cases it shall be the responsibility of the owner to dispose of the manure in a safe and sanitary manner. The manure shall not be put out for general Town trash collection.
  - (5) Manure shall be stored not less than 50 feet from abutting front, side and rear property lines.
- C. Animals shall be maintained in a clean and healthy condition. The animals shall be protected from vermin such as but not limited to sucking insects which may transmit diseases to humans.
- D. Any feed that is stored on, at, or proximate to the facility shall be stored in closed and secured, moisture, vermin and rodent resistant containers such as galvanized steel.
- E. No owner of a facility shall, willfully or through negligence, cause, suffer, allow, or permit an infestation of vermin at said facility. The owner or person or persons having control of the facility may be held responsible for expenses incurred by the Town of Chelmsford, abutters or third parties upon the failure of such owner or person or persons to vermin-proof the facility.
- F. Dead animals shall be buried, incinerated, or otherwise disposed of in such a way as to prevent the attraction of flies and prevent odors. If buried, the animal shall be put in a hole, the bottom of which shall be a minimum of four feet above high water and covered with at least four feet of compacted dirt. The burial site shall be at least 15 feet from any lot line and 100 feet from any wetland and must have prior written approval of the Board of Health. In an emergency situation, an owner may bury an animal prior to written approval by the Board of Health, but must notify the Board of Health within 48 hours that such has occurred and must confirm that the burial site meets these requirements.
- G. Proximity to wetlands and potable water.
- (1) No portion of a facility shall be located within 50 feet of a wetland area, nor less than 200 feet upstream from the high-water mark of any known source of drinking water supply nor less than 100 feet from any well providing potable water for human consumption or within Zone 1 of a public water supply.

- (2) No manure storage area shall be located within 100 feet of a wetland area, nor less than 200 feet upstream from the high-water mark of any known source of drinking water supply nor less than 100 feet from any well providing potable water for human consumption or within Zone 1 of a public water supply.
- H. The maintenance of a facility in an unsanitary condition as defined in this § 201-3.8 may result in a fine and/or the revocation or suspension of the permit.
- I. Upon revocation of a permit by the Board of Health, the owner shall not be obligated to remove the facility but may repurpose the facility in compliance with the then Zoning Bylaws and Building Code of the Town of Chelmsford.
- J. No domestic animal as herein defined shall be housed within any part of a residential dwelling.

**§ 201-4. (Reserved)****§ 201-4.1. Keeping of equines/cattle.**

- A. No permit shall be issued to keep a horse, sheep, goat, cow (or other bovine animals) unless the usable area, drainage conditions and dimensions of the lot are acceptable to the Board of Health and the Chelmsford Animal Control Officer.
- B. Under no circumstances shall a horse, sheep, goat, cow (or other bovine animal) be allowed to roam free; nor should it be left tethered, unless attended by a responsible person. Repeated violation of these regulations will result in revocation or suspension of the permit.
- C. No horse, sheep, goat, cow (or other bovine animal) shall be kept in the Town of Chelmsford without having the necessary immunization certificate as required by the Division of Animal Health, Department of Agriculture, Commonwealth of Massachusetts.

**§ 201-4.2. Keeping of poultry.**

- A. No permit shall be issued to keep poultry unless the usable area, drainage conditions and dimensions of the lot are acceptable to the Board of Health. The Board of Health Agent shall notify the Animal Control Officer of all permits issued.
- B. No poultry shall be allowed to forage, stray or roam unrestricted at the premises or elsewhere; hens must at all times be confined to the coop/henhouse and run.
- C. No rooster shall knowingly be kept except on a parcel of land defined as a farm by any local, state, or federal law or regulation including without limitation the provisions of Chapter 127, Right to Farm, of the Town of Chelmsford Bylaws. Once a rooster is identified in a flock, the Board of Health shall be immediately so advised in writing and the rooster must be permanently removed for within the Town of Chelmsford.
- D. The number of hens per a single premises shall not exceed six per lot, except that an additional two hens may be added per every five feet of additional setback provided, up to a maximum of 20 hens.
- E. Perceptible noise from chickens at the premises boundary must conform to all existing bylaws.
- F. Odors from chickens, chicken manure, or other chicken related substances shall not be perceptible at the premises boundaries.

- G. Henhouses and runs shall be maintained in such a manner as to prevent the spread of infectious or contagious diseases, and shall be kept in a clean and sanitary condition, free from decaying food, filth, feces, vermin infestation and stagnant water. Henhouses and runs must be routinely cleaned pursuant to the written maintenance plan on file with the Board of Health or more frequently as may be required to prevent odor and disease.
- H. The location of the henhouse and run must conform to all relevant lot area and setback and other zoning requirements. In an instance of a conflict between these regulations and a Zoning Bylaw, the more restrictive shall control.
- I. Hens must be enclosed and segregated from wild migratory fowl.
- J. All henhouses and runs shall be located not less than 50 feet of any wetland area as defined in the Massachusetts Wetlands Protection Act, MGL c. 131, § 40 and/or the Chelmsford Wetlands Bylaws.
- K. Henhouses and runs.
  - (1) All henhouses and runs shall be located not less than 25 feet from any side abutting property lot line of a residentially used lot and not less than 30 feet from any rear abutting property lot line of a residentially used lot, and not less than 40 feet from the front lot line.
  - (2) Reasonable efforts shall be made to screen the henhouse and runs from street view and the Board of Health may in its discretion require fencing or screening as part of its permitting process.
  - (3) Except as otherwise herein provided, henhouses and runs shall not be situated in the front or side yards of the premises. Henhouses and runs situated in the side yard of a premises, which are otherwise in compliance with these regulations, may be permitted, provided the henhouse and run were situated in the side yard in 2018 and further provided the owner of the premises had been issued a permit for domestic animals in 2018. The opportunity to retain the henhouse and run in the side yard of a premises shall lapse should the Board of Health determine that the applicant is at any time in violation of these regulations and shall not be transferable to any subsequent owner of the premises.
  - (4) For lots with frontage on multiple streets, front yards shall be determined based upon the legal address for the premises, unless in the Board of Health in its discretion determines that the front yard should be based upon another street.
- L. The Board of Health or its agents may order the removal of the chickens upon a determination that the chickens pose a health risk to the owner, his/her family or the residents of Chelmsford.
- M. Deceased chickens shall be disposed of by incineration or burial or otherwise in compliance with applicable law and best practices, within a reasonable time but in no event more than 48 hours after death.
- N. The owner of the facility shall comply with all applicable provisions of MGL c. 129 regarding livestock disease control.
- O. Feed shall be disbursed to the hens only within the confines of the henhouse and run. Any spillage of food outside of the henhouse and run shall be immediately cleaned up.
- P. Section 201-4.2 shall not only apply to chickens but shall also apply to all species within the poultry family.

**§ 201-4.3. Keeping of swine.**

The keeping of swine is not allowed except on a parcel of land defined as a farm by any local, state, or federal law or regulation, regulation including without limitation the provisions of Chapter 127, Right to Farm, of the Town of Chelmsford Bylaws.

**§ 201-5. (Reserved)****§ 201-5.1. Nonconforming preexisting permits.**

- A. The Board of Health, following a public hearing and upon written notice to all abutters, may award a nonconforming preexisting permit to an owner with a lot size not conforming to the provisions of § 195-6E of the Chelmsford Zoning Bylaws; provided such owner had been issued a permit for domestic animals in 2018, but only if the Board of Health determines:
- (1) That unnecessary hardship would result from the strict application of the provisions of § 195-6E of the Chelmsford Zoning Bylaws to the applicant;
  - (2) That the applicant had been issued a permit in 2018 and that the permit in 2018 had been issued in error; and
  - (3) That there has been no change in owners or the size or configuration of the applicant's lot since the date of the issuance of the 2018 permit.
- B. The applicant must demonstrate that issuance of a nonconforming preexisting permit is not otherwise in conflict with any other regulation or bylaw of the Town of Chelmsford, is consistent with the intent of and is otherwise in compliance with these regulations and that granting of a nonconforming preexisting permit shall not be burdensome or detrimental to the neighborhood or abutters.
- C. Special conditions may be imposed by the Board of Health as a prerequisite to the issuance of a nonconforming preexisting permit and may include, without exception, the exclusion of certain domestic animals, the limitation of the number of domestic animals to be permitted, routine commercial pest control inspections and reporting to the Board of Health, and fencing and screening requirements.
- D. Timely application for a nonconforming preexisting permit must be requested each consecutive year commencing 2019, failing which the opportunity to request a nonconforming preexisting permit shall lapse. The opportunity to request a nonconforming preexisting permit shall also lapse should the Board of Health determine that the applicant is at any time in violation of these regulations.
- E. The opportunity to request such nonconforming preexisting permit shall not be transferable to any subsequent owner of the premises.
- F. The applicant for such nonconforming preexisting permit shall pay the cost of all publications and mailings and shall have timely filed an application for a permit as required by the terms hereof, and shall have been denied a permit solely by reason of the size of the applicant's lot.

**§ 201-5.2. Application of regulations.**

- A. Any previously validly issued permits, meaning permits meeting all applicable Board of Health regulations and the provisions of § 195-6E of the Chelmsford Zoning Bylaws when issued, may be renewed annually, provided neither the owners, conditions, and agreements contained in the original application nor the size or configuration of the applicant's lot have not changed. All other

requirements must be met.

- B. All other individuals requesting permits in 2019 and thereafter must comply with these regulations in totality.
- C. All renewal of permits subsequent to the adoption of these regulations shall be subject to the adopted schedule of fees.

**§ 201-5.3. Severability/amendment.**

- A. 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.
- B. These regulations or any portions thereof may be amended, supplemented or repealed from time to time by the Board of Health, as provided by law and applicable regulations.

**§ 201-5.4. Effective date.**

- A. These regulations were accepted and approved by vote of the Chelmsford Board of Health, at a regularly scheduled meeting held on December 10, 2018, and were revised at a regularly scheduled meeting held on January 7, 2019. A public hearing was held on December 3, 2018, and another public hearing was held on January 7, 2019, for the further revisions. These regulations are to be in full force and effect retroactive to January 1, 2019 (and shall thus be applicable to all permit applications for 2019) and shall be available in the office of the Chelmsford Board of Health and the Town Clerk.
- B. These regulations were amended, accepted and approved by vote of the Chelmsford Board of Health, at a regularly scheduled meeting held on March 4, 2019. These regulations are to be in full force and effect retroactive to January 1, 2019 (and shall thus be applicable to all permits applications for 2019), and shall be available in the office of the Chelmsford Board of Health and the Town Clerk.
- C. At a regularly scheduled Board of Health meeting on November 4, 2019, § 201-5.2 of the regulation was amended, accepted, and approved by majority vote, to change dates from 2019 to 2020, and 2020 to 2021. The remainder of the existing regulation remains in full force and effect.
- D. At a regularly scheduled Board of Health meeting on December 7, 2020, § 201-3.2, § 201-3.5, and § 201-5.2, were amended, accepted, and unanimously approved. The remainder of the existing regulation remains in full force and effect.
- E. This regulation has been amended, voted on, and unanimously approved at a regularly scheduled Board of Health meeting on September 13, 2021, and will go into effect on September 13, 2021. The changes approved at the Board of Health's September 13, 2021, meeting consisted of administrative renumbering; no substantive changes to the regulation were made at this time.
- F. This regulation has been amended, voted on, and unanimously approved at a regularly scheduled Board of Health meeting on March 7, 2022, and will go into effect on March 7, 2022. The changes approved at the Board of Health's March 7, 2022, meeting consisted of an administrative correction.



## ARTICLE III

**Lifeguard Variance Regulation****[Amended 10-4-1999; 6-5-2017; 2-11-2019; 9-13-2021 by Board of Health]****§ 201-6. Authority and purpose.**

Pursuant to 105 CMR 435, "Minimum standards for swimming pools, State Sanitary Code, Chapter V," the Chelmsford Board of Health has determined that lifeguards (105 CMR 435.23) are necessary at all facilities defined by this code.

**§ 201-7. Variance.**

Pursuant to the provisions of the variance section (105 CMR 435.46), the Chelmsford Board of Health will make available to applicants with swimming pools existing and in operation on June 5, 2017, a variance upon the following terms:

**§ 201-8. Requirements.**

- A. Enforcement thereof would do manifest injustice. (Note: must show more than the burden of the cost).
- B. The applicant has to prove the same degree of protection can be achieved without strict application of the provision requiring lifeguards while the facility is open. At a minimum, the applicant must demonstrate supervision which meets the following criteria:
  - (1) During the operational days and times for the lifeguard variance, the pool water testing must be performed according to Section 435.29, "Chemical Standards," by a certified pool operator (CPO) or a pool monitor. If pool water testing is to be performed by a pool monitor, such pool monitor must be trained by a certified pool operator on the proper technique to perform water testing. The certified pool operator must submit to the Board of Health written documentation that includes the date and names of each pool monitor trained in pool water testing and indicate that each individual trained is competent in performing pool water testing.
  - (2) The pool monitor will have the following duties:
    - (a) Supervises and monitors the bacteriological, chemical and clarity issues of the pool water to be in compliance with Section 435.29, "Chemical Standards;" includes 4X testing and bodily fluid accident control; the water testing must be spaced to include at least one peak usage time; failure in any of these areas requires immediate pool closure.
    - (b) Maintain and sign a written log that includes chemical and clarity testing in accordance with MA law 105 CMR 435.00, Minimum Standards for Swimming Pools (State Sanitary Code: Chapter V). The information shall be set forth on the applicable MA form "Appendix A Swimming Pool Testing Records" as per Section 435.47 of the Pool Code.
  - (3) The CPO will have the following duties:
    - (a) Supervises and monitors the bacteriological, chemical and clarity issues of the pool water to be in compliance with Section 435.29, "Chemical Standards;" includes 4x testing and bodily fluid accident control; the water testing must be spaced to include at least one peak usage time; failure in any of these areas requires immediate pool closure.
    - (b) Balance pool water quality based on the chemical testing results.

- (c) If performing Chemical Standards water testing, must maintain and sign a written log that includes chemical and clarity testing in accordance with MA law 105 CMR 435.00, Minimum Standards for Swimming Pools (State Sanitary Code: Chapter V). The information shall be set forth on the applicable MA form "Appendix A Swimming Pool Testing Records" as per Section 435.47 of the Pool Code.
- C. If applying for a variance not to have a lifeguard [mid-week only (Monday through Friday) not including any federal holidays], the application must be accompanied by the following:
  - (1) A minimum of eight weeks of records showing attendance within the pool area during posted hours (anyone inside the fence, on the deck, or in the pool) to set mid-week average.
  - (2) Above records must be certified by the individual making the request as true and accurate.
  - (3) Documentation of the certified pool operator who will perform all duties listed above.
- D. In the case of any expected/scheduled high volume (greater than 10 people) use of the pool during hours which this variance applies, lifeguards will be required.
- E. Evidence of prior written notification to all owners/occupants/members about variance request must be documented.
  - (1) In the case of hotels/motels, a posting of notice at the pool on or before February 25 for the upcoming season will be sufficient.

**§ 201-9. Reapplication.**

A reapplication with no changes is \$100.

**§ 201-10. Grant of a variance.**

The grant of a variance is at the discretion of the Board; the grant of a variance in one year is not a guarantee of the grant of a variance in any subsequent year. Without exception, a variance will be withheld if the Board identifies manifest error in the application submitted or determines that the information being provided in support of the application has been fabricated and/or does not evidence proper and timely maintenance and testing of the pool or reporting of the required information.

**§ 201-11. Variance exclusions.**

This variance will not be available to applicants with swimming pools not existing and in operation on June 5, 2017; but not in operation due to pending repairs or maintenance.

**§ 201-12. Effective date.**

This Chelmsford Board of Health Lifeguard Variance Regulation was amended, voted on, and unanimously approved, at a regularly scheduled Board meeting on February 11, 2019, and will go into effect on February 11, 2019.

## ARTICLE IV

**Emergency Lodging Programs**

**[Added 8-3-2015; amended 11-2-2015; 2-1-2016; 9-13-2021 by Board of Health; 11-1-2021 by Board of Health]**

**§ 201-13. Authority.**

This article shall be effective on and after September 1, 2015, as to new placements and January 1, 2016, as to existing placements, and so remain in effect until terminated, modified or amended in writing by the Chelmsford Board of Health. It is enacted under authority granted by, but not limited to, Massachusetts General Laws, Chapter 111, Sections 31, 31C, 122, 142A through 142M. Board of Health regulations are an exercise of the police power under which the various levels of government hold responsibility for protection of the public health, safety and welfare. Excluding from implementation of this article until July 1, 2016, children enrolled in the Chelmsford Public Schools as of September 2, 2015, and their parents or legal guardians and siblings residing in the lodging establishments with such children as of September 2, 2015.

**§ 201-14. Purpose.**

This article has been enacted by the Board of Health for the purpose of protecting the health, safety and well-being of the general public and the individuals being housed and sheltered in motels, hotels, long term/extended stay establishments and other lodging establishments within the Town of Chelmsford as part of any government sponsored housing/sheltering program.

**§ 201-15. Definitions.**

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

FULL KITCHEN — Must have the following located in unit/room:

- A. Refrigerator/freezer unit (minimum nine cubic feet).
- B. Kitchen sink/dishwasher combination of sufficient size (12 inches by 10 feet by five inches minimum) and adequate space to store, prepare and serve food in a sanitary manner (two feet by nine feet counter top and 20 square feet of cabinets, minimum).
- C. Electric stove and microwave.
- D. Kitchen area, a minimum of 75 square feet.
- E. Landlord to provide reasonably necessary cookware and amenities, including without exception, flatware, plates, bowls, cups, glasses and table settings.

HABITABLE ROOM/UNIT — Every room/unit or enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes, excluding rooms/units containing toilets, bathtubs or showers and

HOTEL — A place that has rooms in which people can stay especially when they are traveling: a place that provides food, lodging, and other services for paying guests for usually less than seven days.

KITCHENETTE — Must have the following located in unit:

- A. Refrigerator/freezer unit (minimum three cubic feet).

- B. Kitchen sink of minimum size (12 inches by 10 inches by five inches minimum) and adequate space to store, prepare and serve food in a sanitary manner (two feet by six feet countertop and nine square feet of cabinets, minimum).
- C. A permanently installed electric cooktop (two heating elements) and microwave.
- D. A kitchen area of a minimum of 40 square feet.
- E. Landlord to provide reasonably necessary cookware and amenities, including, without exception, flatware, plates, bowls, cups, glasses and table settings.

**LODGING ESTABLISHMENT** — A place where a person can rent a room(s)/unit(s) to stay for a short period of time: a place to sleep. Other services may be supplied. This definition includes hotels, motels, long term/extended stay establishments, bed-and-breakfasts, inns, resorts and the like.

**LONG-TERM/EXTENDED STAY ESTABLISHMENT** — A lodging establishment with additional amenities that people stay for a period usually longer than seven days.

**MONTHLY REPORT** — A report that consists of room/unit size, room/unit type, number of people occupying the room/unit, start date, departure date required, and actual departure date. Addendum A<sup>68</sup>

**MOTEL** — A small-sized low-rise lodging establishment which provides sleeping accommodation with limited services for usually less than seven days. They have direct access to individual rooms from the parking area.

**SINGLE ROOM/UNIT** — A habitable room/unit with one or two beds without any kitchen facility.

**SINGLE ROOM/UNIT WITH KITCHENETTE** — A habitable room/unit with one or two beds and kitchenette facility

**SINGLE ROOM/UNIT WITH FULL KITCHEN** — A habitable room/unit with one or two beds with full kitchen facilities.

**SINGLE ROOM/UNIT WITH FULL KITCHEN AND SEPARATE BEDROOM** — A habitable room/unit with one bed/bedroom and one couch/bed unit with full kitchen facilities.

#### **§ 201-16. Requirements.**

- A. Minimum space requirements for all single room/unit setups: at least 150 square feet of floor space for the first occupant and at least 100 square feet of floor space for the second occupant, 75 square feet for the third occupant and 50 square feet for the fourth occupant. (Bathroom facilities not included in habitable space needs or in meeting kitchen needs; must be totally separate).
- B. Maximum occupancy per square footage of room/unit.
  - (1) One person needs: 150 square feet.
  - (2) Two persons need: 250 square feet.
  - (3) Three persons need: 325 square feet.
  - (4) Four persons need: 375 square feet.
- C. Maximum stay period per room/unit-type/occupant number.

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**68. Editor's Note:** Said addendum is on file in the Town offices.

- (1) Single room/unit:\* \*\*
  - (a) One person: 35 days.
  - (b) Two persons: 28 days.
  - (c) Three persons: 21 days.
  - (d) Four persons: 14 days.
- (2) Single room/unit with kitchenette\* or a minimum of two meals a day provided: \*\*
  - (a) One person: 150 days.
  - (b) Two persons: 120 days.
  - (c) Three persons: 90 days.
  - (d) Four persons: 60 days.
- (3) Single room/unit with full kitchen:\* \*\*
  - (a) One person: 180 days.
  - (b) Two persons: 150 days.
  - (c) Three persons: 120 days.
  - (d) Four persons: 90 days.
- (4) Single room/unit with full kitchen, separate bedroom and couch bed unit:\* \*\*
  - (a) One person: 365 days.
  - (b) Two persons: 365 days.
  - (c) Three persons: 270 days.
  - (d) Four persons: 180 days.

## NOTES:

\*Restriction on stay period based on one or more of the following: lack of kitchen capacity, storage space, and privacy issues.

\*\*If any room/unit is 150 square feet or more above the minimum requirement listed above, the stay period may be extended by 25% more days.

- D. A permit is required from the Chelmsford Board of Health, renewed annually on the 31st of December. Annual permit fee set per the Board of Health fee schedule.
- E. All units/rooms meeting the above requirements must have an initial pre-occupancy inspection by this office to ensure compliance to this article. The initial pre-occupancy inspection is included in the yearly permit application. Requests for additional rooms/units to be added to the permit will require a pre-occupancy inspection at a fee set by the Board of Health.
- F. Reinspections may occur as deemed necessary by the Chelmsford Health Department. A reinspection

fee is set by the Board of Health.

- G. As each unit/room is vacated, the ownership of the establishment is required to submit documentation (letter or email) to the Chelmsford Health Department confirming that the occupant(s) have left the unit/room before the expiration of the approved stay period. Prior to a new occupant entering the unit/room, it must be inspected by the Chelmsford Health Department at a fee per inspection per unit/room. Fees are set by the Chelmsford Board of Health.
- H. To ensure compliance, the ownership of said business is required to submit the \*monthly report to the Chelmsford Health Department. The \*monthly report lists unit/room size, room type, number of people occupying the room, start date, departure date required, and actual departure date.  
  
\*Addendum A (Monthly report)<sup>69</sup>
- I. Should the occupant and/or agency need to extend the stay beyond the designated time frame due to extraordinary circumstances the request must be in writing to the Health Department indicating the exact reason the extension is needed. An occupant and/or agency may only request an extension two times.

#### **§ 201-17. Enforcement and remedies.**

The Board of Health may take enforcement action deemed appropriate and lawful, including but not limited to revocation of existing permits/licenses, criminal prosecution, civil action for injunctive relief or money damages, or both. The Board of Health may levy fines of not less than \$50 for the first offense. (Each day of violation shall constitute a separate offense). Any succeeding day of violation may be punished by a fine of no more than \$300 per day per offense.

#### **§ 201-18. Severability.**

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

#### **§ 201-19. Effective date.**

- A. This article shall take effect by vote of the Board of Health at its regularly scheduled meeting held on July 7, 2014, and is to be in full force and effect immediately upon adoption. Adopted by the Board of Health effective July 7, 2014.
- B. This article has been amended and approved by vote by the Board of Health on August 3, 2015, November 2, 2015, and February 1, 2016.
- C. This article has been amended, voted on, and unanimously approved at a regularly scheduled Board of Health meeting on September 13, 2021, and will go into effect on September 13, 2021.
- D. This article has been amended, voted on, and unanimously approved at a regularly scheduled Board of Health meeting on November 1, 2021, and will go into effect on November 1, 2021.

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<sup>69</sup>. Editor's Note: Said addendum is on file in the Town offices.

## ARTICLE V

**Commercial Refuse/Dumpster Collection Licensing and Operation<sup>70</sup>**

**[Added 1-12-1981; amended 2-9-1988; 12-10-1990; 12-9-1991; 4-19-2007; 7-11-2011; 9-13-2021 by Board of Health; 11-1-2021 by Board of Health]**

**§ 201-20. Location and maintenance.**

- A. Dumpster must be located and placed in a manner approved by the Board of Health. A plot plan prepared by the applicant shall be on file with the Board of Health showing approved location of the dumpster in relation to business serviced.
- B. All dumpsters must be enclosed or screened as required by the Board of Health. Dumpsters must be placed on an impervious pad (asphalt or cement).
- C. A dumpster is not to be filled between 11:00 p.m. and 6:00 a.m., at which times the lids are to be locked. The lids must be closed when dumpster is not in use during all times. Extenuating circumstances will be determined by this Board on individual basis and exceptions will be made in the best interest for the public health of the community. The business filing for an exemption must do so in writing and state reasons.
- D. A dumpster must be of sufficient size and capacity to eliminate overflowing and the property owner or authorized agent of the premises utilizing service must immediately empty contents when full.
- E. A dumpster must be situated as not to obstruct view of flowing traffic.
- F. It shall be the responsibility of the property owner or agent being serviced to maintain the dumpster area free of odors, rodents, flies, insects, scattered debris, overflowing, and all other nuisances.

**§ 201-21. Property owner to obtain permit.**

- A. The property owner or authorized agent responsible for maintaining a dumpster service is required to have a permit from the Board of Health by making application at the Board of Health Office. This must be preceded with the approval of the Building Department and any other appropriate Town board or commission. The application shall include the owner's address and telephone number. Fee for permit, not transferable, will be set by the Board and renewable May 31 of each year.
- B. Municipal authorized agents must comply with § 201-20 and Subsection A. When application is submitted, a permit will be granted with no charge.

**§ 201-22. Contractors supplying dumpster service.**

- A. The contractor supplying the dumpster service will make an application for a refuse collection permit to remove, transport, or dispose of garbage, offal, or other offensive substances, as well as rubbish, trash, debris, and other materials including scrap. Such license shall expire December 31 of each year but may be renewable on application as herein provided.
- B. The contractor supplying the dumpster service must have evidence that a Board of Health permit has been issued for the dumpster before they place a dumpster on property. If said contractor is notified by the Board of Health of a revoked permit, it must be removed within five days of notice.

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70. Note: Any large metal or durable waste receptacle, compacting unit or drop-off type unit that is used to temporarily collect and store any trash, rubbish, recyclables, garbage, offal, debris or any other like materials for disposal shall be referred to as a "dumpster" in this article.

- C. The contractor shall state on the application, home address, business address, the telephone number under which the business is operated as well as the telephone number and name owner/agent of property being serviced. He shall sign the application.
- D. The contractor shall have the name and telephone number conspicuously displayed on the dumpster.
- E. The emptying of the dumpster contents by the contractor shall not commence before 7:00 a.m.
- F. The fee for the license for the contractor to transport shall be set by the Board annually and renewable July 1 each year.
- G. The dumpster contractor shall have the dumpster deodorized when emptied or if necessary washed, sanitized as directed by order of the Board of Health.
- H. The contractor shall remove the contents as not to cause spillage during removal and transportation.
- I. The Board of Health may revoke a contractor's license for unsatisfactory service of a property at any time and order services to be suspended.
- J. Whenever a dumpster remains overflowing or an overflowing condition is continuously being repeated, the Board of Health may order the contractor in writing to immediately remove the dumpster and contents from the premises being serviced.

**§ 201-23. Violations and penalties; applicability.**

- A. Violations of §§ 201-20, 201-21 and 201-22 after notification by an Inspector of the Board of Health and notified by certified mail may result in a penalty of not less than \$10, nor more than \$300. Each day's violation, not corrected, shall constitute a separate violation.
- B. Violation of those provisions relating to the contents of dumpsters shall be punishable by Subsection A.
- C. This article apply to all dumpsters in the Town of Chelmsford, or similar units whether for residential, commercial, industrial, or municipal use.

**§ 201-23.1. Effective date.**

- A. This article was accepted and approved by vote of the Chelmsford Board of Health, at a regularly scheduled meeting held on January 12, 1981. This article was amended and approved by vote of the Chelmsford Board of Health on February 9, 1988, December 10, 1990, April 19, 2007, July 11, 2011.
- B. This article has been amended, voted on, and unanimously approved at a regularly scheduled Board of Health meeting on September 13, 2021, and will go into effect on September 13, 2021. The changes approved at the Board of Health's September 13, 2021, meeting consisted of administrative renumbering, no substantive changes to the regulation were made at this time.
- C. This article has been amended, voted on, and unanimously approved at a regularly scheduled Board of Health meeting on November 1, 2021, and will go into effect on November 1, 2021.



## ARTICLE VI

**Subsurface Sewage and Wastewater Disposal; Groundwater Protection**  
**[Added 4-10-1987; amended 4-3-1995; 1-11-2021; 6-17-2021; 7-12-2021; 3-7-2022]****§ 201-24. Regulation in addition to State Code.**

The Chelmsford Board of Health enforces the following additional regulations in conjunction with all applicable state regulations (Title V, The State Environmental Code).

- A. Grease trap (external). A grease trap (capacity to be determined at time of septic system design by flow estimate) must be installed for all food service establishments. This excludes cottage kitchens not located in Zone 2 and who operate less than 25 hours a week on average. Cottage kitchens are only allowed to cook non-TCS (time/temperature control for safety) foods.

**§ 201-25. Groundwater protection; discharge of wastewaters from all developments.**

- A. Authority. The Board of Health, in accordance with 105 CMR 400.00, State Sanitary Code, Chapter 1, shall protect the health and well-being of the Town of Chelmsford.
- B. Purpose. The purpose of this regulation is to protect the groundwater resource of the Town of Chelmsford. The intent of this regulation is to prevent the contamination of subsurface potable water supplies from non-sanitary wastewater being introduced into the ground from a facility with a higher likelihood of such a discharge when compared to typical residential usage.
- C. Definitions. Definitions used herein are as indicated in 310 CMR 15.000.
- D. Applicability. This regulation applies to the following situations:
  - (1) A property or facility with an on-site subsurface sewage disposal system governed by 310 CMR 15.000 (Title 5 of the Massachusetts Environmental Code).
  - (2) A property or a facility has a disposal area located within a Zone I or Zone II protection zone of a public water supply as identified on the Mass GIS mapping system or the Town of Chelmsford MA GIS mapping system.
  - (3) A property or facility with nonresidential usage either wholly (examples would include schools, office buildings, manufacturing establishments, transportation hubs, etc.) or partly (examples would include an apartment building with ground-level commercial or retail use, a school campus with dormitories and a maintenance garage, etc.).
- E. Intent. The intent of this regulation is not to govern wastewater from typical residential facilities and activities such as houses, apartments, trailer parks, etc., nor their associated ancillary uses such as swimming pools, parking garages, tennis courts, etc., nor is the intent of this regulation to govern a disposal area which is not within a Zone I or a Zone II.
- F. Requirements.
  - (1) The following activities are prohibited:
    - (a) Generation or discharge of non-sanitary sewage.
    - (b) Generation or discharge of commercial sewage waste.
    - (c) Generation or discharge of industrial waste.

- (d) Operation or disposal of waste from a treatment works.
  - (e) Disposal of waste in a Class I, II, III or IV well as regulated by the underground injection control program (310 CMR 27).
- (2) For a property or facility subject to these regulations, the following is required:
- (a) The facility generating wastewater shall be examined on an annual basis. A report must be provided describing the sources of wastewater generated at the site and their disposition and management. Said report shall be completed by a civil, environmental, or sanitary engineer licensed in Massachusetts, or by a Massachusetts-licensed registered sanitarian. Written notice of the date and time of the examination shall be provided at least seven calendar days beforehand to the Chelmsford Board of Health so a concurrent examination can occur if desired. A written report regarding the sources of wastewater at the facility or property, as well as their disposition or management, shall be provided to the Board of Health within 14 calendar days of completion of the examination.
  - (b) All residential and nonresidential sewage shall receive treatment by a DEP-approved secondary treatment unit authorized for general use. Sanitary sewage which may be managed by a humus/composting toilet, or a greywater system is exempt from this requirement.
  - (c) The on-site wastewater system shall be designed and constructed to provide a mechanism for collecting water samples for analysis at a point after the secondary treatment unit but prior to the disposal area. The water sample collection mechanism shall be built and maintained to be easily accessible and secure from damage or contamination.
  - (d) The DEP-approved secondary treatment unit authorized for general use shall be examined twice per year within 14 days of March 15 and within 14 days of September 15. Examination shall be completed by a wastewater treatment plant operator licensed in Massachusetts with at least a Grade II municipal license. Written notice of the date and time of the examination shall be provided at least seven calendar days beforehand to the Chelmsford Board of Health so a concurrent examination can occur if desired. A written report regarding the operation of the secondary treatment unit and other components of the on-site wastewater system shall be provided to the Board of Health within 14 calendar days of completion of the examination.
  - (e) Effluent sample(s) shall be collected twice per year within 14 days of March 15 and within 14 days of September 15. Effluent shall be collected from a location in the flow path following the DEP-approved secondary treatment unit and prior to the disposal area. Effluent shall be collected by an employee of a DEP-approved laboratory. Written notice of the date and time of the sample collection shall be provided at least seven calendar days beforehand to the Chelmsford Board of Health so a concurrent examination can occur if desired. A written report describing the findings of the effluent sampling along with copies of the laboratory analysis reports shall be provided to the Board of Health within 21 calendar days of sample collection.
  - (f) Effluent samples shall be analyzed for the following parameters:
    - [1] pH, temperature and specific conductance: field analysis of grab sample to be completed at each site examination.

[2] Total nitrogen, Total phosphorous, Orthophosphate, VOC scan (EPA method #624 or approved equal): laboratory analysis of grab sample to be completed at each site examination.

- (g) The on-site wastewater system shall be subject to an annual permit to operate. Permit is issued by the Board of Health and renewable on January 1 of each year provided all other aspects of the regulation have been complied with. Application for renewal of said permit shall be submitted by November 30 and shall contain all reports and data as described above as well as the required fee(s).

G. Variance.

- (1) Variances to these regulations shall be granted for seriously aggrieved parties by the Board of Health when, in its opinion:
  - (a) The person requesting a variance has established that enforcement of the provision of these regulations from which a variance is sought would be manifestly unjust, considering all the relevant facts and circumstances of the individual case; and
  - (b) The person requesting a variance has established that the level of public health and environmental protection, that is at least equivalent to that provided under these regulations, can be achieved without strict application of the provision of the regulation from which a variance is sought.
  - (c) 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 substantially all beneficial use of the subject property in order to be manifestly unjust.
- (2) Every request for a variance shall be made in writing and shall state the specific variance(s) sought and reason therefor. The request for variance must indicate the current property owner as well as the applicant, if different.
- (3) No variance request shall be heard except after the applicant has notified all abutters as well as abutters located across a street or way by certified mail at his or her own expense at least 14 days prior to the Board of Health meeting date at which the variance request will be on the agenda. The notification shall state the specific variance(s) sought and the reason(s) therefor, shall indicate the date, place, and time of the hearing, and shall indicate that the abutters may view the proposal at the Health Department during regular business hours. The applicant shall also notify the water supplier who owns or uses the public well that the property or facility is located within, which has a protection Zone I or Zone II, by certified mail at his or her own expense at least 14 days prior to the Board of Health meeting at which the variance request will be on the agenda.
- (4) No hearing will be scheduled unless the design plan or other information submitted has been reviewed and found to be technically complete and accurate.
- (5) Cancellation of a public hearing shall require renotification of abutters by the applicant.

## ARTICLE VII

**Groundwater Protection Zone****[Added 2-9-1988; amended 4-3-1995; 8-2-2021 by Board of Health]****§ 201-26. Authority and purpose.**

This article adopted pursuant to MGL c. 111, § 31 for the purpose of preserving the public health as it relates to standards for groundwater protection within the Town of Chelmsford.

**§ 201-27. Establishment of Zone.**

- A. The Groundwater Protection Zone (GPZ) is established as an overlay district to the Town's map. This GPZ was defined by the surficial geology of the area and groundwater flow (based on a U.S. Geological Survey Surficial Geology Map the Chelmsford Facilities Plan by Weston & Sampson Engineers, Inc., Chelmsford Board of Health, Chelmsford Water Districts, and Town Engineering Dept.) Any area in which groundwater flow is directed toward an existing well or future water source and the surficial geology is stratified sand and gravel deposits (soils which yield groundwater to wells) is included in the GPZ. Also included are areas within 150 feet of the center line of any stream which flows into the GPZ.
- B. If a property owner questions the location of any boundary of a GPZ, the owner may engage, at his own cost, a professional hydrogeologist, or soils engineer, who must be approved by the Chelmsford Board of Health, to determine if the land in question is a recharge area for present and future use.

**§ 201-28. Environmental impact report.**

If a site exists within the Groundwater Protection Zone, the applicant must do an environmental impact report which includes but is not limited to the following:

- A. Submit a geohydrology report prepared by an engineering firm having capabilities in this area.
- B. The primary focus will be on ground water protection, quality, quantity, existing and future.
- C. Review of intended use and potential use.
- D. Written request for a hearing with the Board of Health.

**§ 201-29. Hearing.**

Upon receipt of a written hearing request, the Board shall set a time and place for the hearing and shall inform the applicant in writing. The hearing shall commence within 30 days from the day on which the written request was made, unless a later time is agreed to in writing by the Board and the person requesting the hearing. At the hearing, the person requesting the hearing shall be given an opportunity to be heard and show why an approval shall occur. After the close of the hearing, the Board shall issue a written decision to sustain, modify, or decline the request and shall mail a copy of the decision, by certified mail, return receipt requested, to the person who requested the hearing. If the Board sustains or modifies the request, it shall be carried out within the time allotted in the original order or in the modification.

## ARTICLE VIII

**Private Wells****[Added 2-9-1988; 7-2-2018; 8-2-2021 by Board of Health; 9-13-2021 by Board of Health]****§ 201-30. (Reserved)****§ 201-30.1. Purpose.**

The purpose of this article is to provide for the protection of the public's health, safety, welfare, and the environment by, among other things, requiring the proper siting, construction and testing of all private drinking wells, irrigation/agricultural wells, and geothermal wells.

**§ 201-30.2. Authority.**

This article is adopted by the Chelmsford Board of Health, pursuant to its authority under Massachusetts General Laws, Chapter 111, § 31. This article supersedes all previous regulations for private wells adopted by the Board of Health.

**§ 201-30.3. Definitions.**

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

**AGENT** — Any person designated and authorized by the Board to implement, in whole or part, this article. To the extent provided by the Board, the agent shall have all the authority of the Board and shall be directly responsible to the Board and under its direction and control.

**AGRICULTURE/AGRICULTURAL** — The cultivation of land, raising crops, and feeding, breeding, and raising livestock; farming; the production of crops, livestock or poultry for profit or personal uses; to include the housing of livestock for profit or personal recreational activities.

**APPLICANT** — Any person who applies to have a private well constructed.

**AQUIFER** — A water bearing geologic formation, group of formations, or part of a formation that contains sufficient saturated permeable material to yield significant quantities of water to wells and springs.

**BENTONITE GROUT** — A mixture of bentonite (API Standard 13A) and water in a ratio of not less than one pound of bentonite per gallon of water.

**BOARD** — The Board of Health of Chelmsford, Massachusetts, or its authorized agent.

**BUSINESS OF DIGGING OR DRILLING** — A person who charges a fee for digging or drilling a well, or a person who advertises for hire to dig or drill wells within the Commonwealth of Massachusetts.

**CASING** — Impervious durable pipe placed in a boring to prevent the walls from caving and to serve as a vertical conduit for water in a well.

**CERTIFIED LABORATORY** — A laboratory certified by the Department of Environmental Protection for the analysis of drinking water and required water quality analytes. Provisional certification is acceptable.

**CERTIFIED WELL DRILLER** — Any person certified with the Department of Environmental Protection Well Driller Program to dig or drill wells in the Commonwealth of Massachusetts.

**CONCRETE** — A mixture consisting of Portland cement (ASTM Standard C150, type I or API Standard 10, Class A), sand, gravel, and water in a proportion of not more than five parts of sand plus gravel to one part cement, by volume, and not more than six gallons of water. One part cement, two parts sand, and three

parts gravel are commonly used with up to six gallons of water.

**DWELLING** — The building or place of shelter in which individuals live; a place of residence, abode, home.

**IRRIGATION ONLY/OTHER NONPOTABLE USES ONLY WELL** — A well that is intended to produce water for uses other than human consumption, to include watering lawns, gardens, and agricultural use for livestock, crops, and the like.

- A. Except as hereinafter provided, an irrigation only/other nonpotable uses only well, shall not be used as a source of water for human consumption and is a secondary source of water. The irrigation-only/other nonpotable uses well shall not be connected at any time to a dwelling or a building unless the well meets the requirements of a private drinking water well and has the Board's written approval. All irrigation-only wells must have Board-approved signage posted on site.
- B. An irrigation-only/other nonpotable uses only well may be plumbed into a structure, such as a barn, stable, or silo, which houses livestock or in which crops are cultivated or stored, for the sole purpose of providing for the care of such livestock and crops, and the maintenance of the structure which houses the livestock, or in which the crops are being cultivated and stored, with the prior written approval of the Board in each instance. Written approval of the Board shall be at the sole discretion of the Board and shall require at a minimum clear and convincing evidence (a) that the irrigation only/other nonpotable uses only well will not be available for use as a source of water for human consumption within the structure, (b) that appropriate controls are in place which will hinder the use of the irrigation only/other nonpotable uses only well as a source of human consumption within the structure, and (c) that a notice or notices, in such number, form, dimensions and verbiage as the Board may deem appropriate, are predominantly displayed within and upon the structure strictly prohibiting human consumption of water from the irrigation only/other nonpotable uses only well. Any plumbing of the well must be color-coded and tagged dictating a potable or nonpotable well. Plumbing must be green for a potable well and yellow for a nonpotable well.
- C. Under no circumstances shall an irrigation-only/other nonpotable uses only well be plumbed into a structure providing a source of water for human consumption, or into a bathroom, kitchen, breakroom, or any living area within any such structure, unless the irrigation-only/other nonpotable uses only well meets the criteria of a private drinking water well and has the prior written approval of the Board. The applicant must provide written documentation to show that a private water line is not accessible in any abutting way, and that permission to tie into such waterline cannot be obtained from the authority having jurisdiction over the water line.

**LIVESTOCK** — Animal, such as cattle, pigs, poultry, or horses, raised for home use or profit, especially on a farm, that have been domesticated and are kept by individuals or businesses as a working animal, food source, or a pet, especially a member of those species that have, through selective breeding, become notably different from their wild ancestors; intending and meaning to exclude from this definition exotic animals of foreign origin or character, not native or indigenous to its owner's locale; or introduced from abroad and not fully naturalized.

**MASSDEP** — Massachusetts Department of Environmental Protection.

**NEAT CEMENT GROUT** — A mixture consisting of one bag (94 pounds) of Portland cement (ASTM Standard C 150, Type I or API Standard 10, Class A) to not more than six gallons of clean water. Bentonite (API Standard 13A), up to 2% by weight of cement, shall be added to reduce shrinkage. Other additives, as described in ASTM Standard C494, may be used to increase fluidity and/or control setting time.

**PERSON** — An individual, corporation, company, association, trust, or partnership.

**POTABLE WATER** (also known as **DRINKING WATER**) — Water that is safe to drink or to be used for food preparation, without risk of health problems.

**PRIVATE DRINKING WATER WELL** — Any dug, driven, or drilled hole, with a depth greater than its largest surface diameter constructed or used to supply water for human consumption that is not regulated by 310 CMR 22.00.

**PUMPING (AQUIFER) TEST** — A procedure used to determine the characteristics of a well and adjacent aquifer by installing and operating a pump.

**SAND CEMENT GROUT** — A mixture consisting of Portland cement (ASTM Standard C150, Type I or API Standard 10, Class A), sand, and water in the proportion of one part cement to three or four parts sand, by volume, and not more than six gallons of water per bag (94 pounds) of cement. Up to 5%, by weight, of bentonite (API Standard 13A) shall be added to reduce shrinkage.

**STATIC WATER LEVEL** — The level of water in a well under nonpumping conditions.

**STRUCTURE** — A combination of materials assembled at a fixed location to give support or shelter, such as a building, framework, retaining wall, fence, or the like.

**SURFACE WATERS** — Water on the surface of the ground such as lakes, streams, rivers, natural or man-made ponds, impoundments, wetlands or reservoir.

## **§ 201-31. (Reserved)**

### **§ 201-31.1. Well construction permit.**

- A. A Massachusetts-certified well driller shall obtain a permit from the Board of Health prior to the commencement of construction of a private well.
- B. Each permit application to construct a well shall include the following:
  - (1) The property owner's name and address.
  - (2) The well driller's name and proof of valid Massachusetts certification.
  - (3) A plan with a specified scale, signed by a registered surveyor or engineer, showing the location of the proposed well in relation to existing or proposed above or below ground structures.
  - (4) A description of prior and current land uses within 200 feet of a residential site and 400 feet of agricultural, commercial, or industrial site from the proposed well location, which represent a potential source of contamination, including, but not limited to the following:
    - (a) Existing and proposed structures;
    - (b) Subsurface sewage disposal systems;
    - (c) Subsurface fuel storage tanks;
    - (d) Public and private ways;
    - (e) Utility rights-of-way; and
    - (f) Any other potential sources of pollution.
  - (5) Proof that the owner of any property abutting the applicant's property has been notified of the

applicant's intention to install a well.

(6) A permit fee of \$125 (as set annually by the Board of Health).

C. The permit shall be on site at all times that work is taking place. Each permit shall expire six months from the date of issuance unless revoked for cause or extended. Permits may be extended for one additional six-month period provided that a written explanation for the request is received by the Board prior to the one-year expiration date.

D. Well construction permits are not transferable.

### **§ 201-31.2. Water supply certificate.**

A. The issuance of a water supply certificate by the Board shall certify that the private well may be used as a drinking water supply. A water supply certificate must be issued for the use of a private well prior to the issuance of an occupancy permit for an existing structure or prior to the issuance of a building permit for new construction which is to be served by the well.

B. The following shall be submitted to the Board of Health to obtain a water supply certificate:

(1) A well construction permit.

(2) A copy of the water well completion report as required by MassDEP Well Driller Program regulations (310 CMR 46).

(3) A copy of the pumping test report required pursuant to § 201-31.4 of this article.

(4) A copy of the water quality report required pursuant to § 201-31.5 of this article.

C. Upon the receipt and review of the above documents, the Board shall make a final decision on the application for a water supply certificate. A final decision shall be in writing and shall comprise one of the following actions:

(1) Issue a water supply certificate.

(2) Deny the applicant a water supply certificate and specify the reasons for the denial.

(3) Issue a conditional water supply certificate with those conditions which the Board deems necessary to ensure fitness, purity, and quantity of the water, derived from that private well. These conditions may include, but not be limited to, requiring treatment and/or additional testing of the water.

### **§ 201-31.3. Well siting.**

A. In locating a well, the applicant shall identify on a plan all potential sources of contamination which exist or are proposed within 200 feet of the site if residential and 400 feet if agricultural, commercial, or industrial. When possible, the well shall be located up gradient of all potential sources of contamination and shall be as far away from potential sources of contamination as possible, given the layout of the property.

B. No well shall be permitted for use as a potable water source unless it meets the following setback requirements:

(1) Fifteen feet from the property line;



- (2) Fifty feet from public or private roadway;
  - (3) Twenty-five feet from right-of-way;
  - (4) Fifty feet from building sewer line or septic tank;
  - (5) One hundred feet from leaching field or drywell;
  - (6) One hundred feet from stable, barnyard, manure storage;
  - (7) Fifteen feet from power line or overhead distribution line;
  - (8) Fifty feet from any surface water, including but not limited to wetlands.
- C. The Board reserves the right to impose minimum setback requirements from other potential sources of contamination not listed above. All such additional setback requirements shall be listed, in writing, as a condition of the well construction permit.
- D. Each private well shall be located so that it is accessible for repair, maintenance, testing, and inspection. The well shall be completed in a water bearing formation that will produce the required volume of water under normal operating conditions.
- E. Water supply lines shall be installed at least 10 feet from and 18 inches above any sewer line.
- F. Well heads must be 18 inches above grade. Whenever water supply lines must cross sewer lines, both lines shall be constructed of Class 150 pressure pipe and shall be pressure tested to assure water tightness.
- G. No private residential well, or its associated distribution system, shall be connected to either the distribution system of a public water supply system or any type of waste distribution system.
- H. There shall only be one service by a private well. If two or more dwellings are connected to one private well it shall be treated as a public water supply by this Board and must meet all requirements for testing required by the state statute.

#### **§ 201-31.4. Water quantity and pumping test.**

- A. The applicant shall submit to the Board for review and approval a pumping test report. The pumping test report shall include, at a minimum, the name and address of the well owner, well location referenced to at least two permanent structures or landmarks, date the pumping test was performed, depth at which the pump was set for the test, location for the discharge line, static water level immediately before pumping commenced, discharge rate and, if applicable, the time the discharge rate changed, pumping water levels and respective times after pumping commenced, maximum drawdown during the test, duration of the test, including both the pumping time and the recovery time during which measurements were taken, recovery water levels and respective times after cessation of pumping, and reference point used for all measurements.
- B. In order to demonstrate that the well capacity can provide the required volume of water, a pumping test shall be conducted in the following manner:
- (1) The volume of water necessary to support the household's daily need shall be determined using the following equation: (number of bedrooms plus one bedroom) x (110 gallons per bedroom) x (safety factor of 2) = number of gallons needed daily.

- (2) The storage capacity of the well shall be determined using the measured static water level and the depth and radius of the drill hole or casing.
  - (3) The required volume shall be calculated by adding the volumes of water in Subsection B(1) and (2) above. It is this volume of water that must be pumped from the well within a twenty-four-hour period.
- C. The pumping test may be performed at whatever rate is desired. Following the pumping test, the water level in the well must be shown to recover to 100% of the pre-pumped static water level within a twenty-four-hour period.
- (1) Example 1: a one-bedroom house with a well six inches in diameter containing 200 feet of standing water:
    - (a) One bedroom + one bedroom = (two bedrooms) x (110 gallons per bedroom) x (safety factor of two) = 440 gallons needed daily.
    - (b) The volume of a six-inch well is 1.5 gallons for every foot of water column length. Therefore, (200 feet of standing water) x (1.5 gallons per foot) = 300 gallons.
    - (c) Four hundred forty gallons + 300 gallons = 740 gallons that must be pumped from the well in 24 hours or less to demonstrate suitable capacity. Recovery to 100% of the static water level must also occur within 24 hours after cessation of pumping.
  - (2) Example 2. For a four-bedroom house with a well that is six inches in diameter containing 100 feet of standing water:
    - (a) Four-bedroom house + one bedroom = (five bedrooms) x (110 gallons per bedroom) x (safety factor of two) = 1,100 gallons needed daily.
    - (b) The volume of a six-inch well is 1.5 gallons for every foot of water volume length. Therefore, (100 feet of standing water) x (1.5 gal/ft.) = 150 gallons.
    - (c) One thousand gallons + 150 gallons = 1,250 gallons that must be pumped from the well in 24 hours or less to demonstrate suitable capacity. Recovery to at least 85% of the static water level must also occur within 24 hours after cessation of pumping.

**§ 201-31.5. Water quality testing.**

- A. After the construction of the well has been completed and disinfected, and prior to using it as a private drinking water well, baseline water quality testing shall be conducted.
- B. A water sample shall be collected either after purging three well volumes or following the stabilization of the pH, temperature, and specific conductance in the pumped well. The water sample to be tested shall be collected at the pump discharge or from a disinfected tap in the pump discharge line. In no event shall a water treatment device be installed prior to sampling.
- C. Initial water quality testing, utilizing the applicable US EPA approved method for drinking water testing, shall be conducted by a Massachusetts-certified laboratory in good standing. The Massachusetts-certified laboratory must not be under review or revocation from DEP. The Massachusetts-certified lab must include their state-issued ID number on the report and shall include analysis for the following parameters:
  - (1) Alkalinity magnesium.

- (2) Ammonia mercury.
  - (3) Arsenic nitrate/nitrite.
  - (4) Calcium odor.
  - (5) Chloride pH.
  - (6) Chlorine potassium.
  - (7) Color sodium.
  - (8) Copper sulfate.
  - (9) E. coli bacteria turbidity.
  - (10) Fluoride total coliform bacteria.
  - (11) Hardness VOC 524.
  - (12) Iron.
  - (13) Lead.
  - (14) Manganese.
- D. When testing for bacteria the sample must not contain chlorine.
- E. In wells drilled into bedrock the Board of Health requires that in addition to the parameters listed above, a gross alpha screen and radon test be performed. If the gross alpha screen detects radiation of 15 pci/l or more, then the water must be analyzed for radium and uranium concentrations.
- F. The owner of every well used for drinking water serving a property which is rented or leased shall have its water tested at a Massachusetts certified laboratory for the following chemical and bacteriological parameters at a minimum of once a year: total coliform bacteria, e. coli bacteria, nitrate, nitrite, pH, sodium, and iron. All other required chemical parameters should be tested at a minimum of every 10 years. The Board of Health may require more frequent testing, or testing for additional parameters, where other water quality problems are known or suspected to exist.
- G. The owner of a rental property shall submit results of all water quality tests annually to the Board of Health and make results available to all tenants of the property. In cases where the well water does not meet the water quality standards outlined above, the Board of Health may require the property owner to provide an alternative approved source of drinking water for the tenants.
- H. Prior to selling, conveying, or transferring title to real property, the owner shall have tested the water of every private drinking water well serving that property. A water sample from each well shall be submitted to a Massachusetts certified laboratory for testing for the parameters listed in the Water Quality section of this document. This water quality testing shall have been performed not more than one year prior to transfer of the property. Results of the water quality testing shall be submitted to the Board of Health prior to property transfer.
- I. In addition, the owner shall give copies of all available water quality test results of which he/she has knowledge (regardless of age of results) for the private well in question to any buyer and/or broker involved in the transfer. In the event that there is no buyer at the time the water is tested, a copy of all water test results must be given by the owner to the buyer before the property is put under agreement.

- J. For irrigation only/other nonpotable uses only wells, the Board recommends annual testing for E. coli bacteria and nitrate/nitrite, as accidental consumption could result in acute exposure.
- K. Water quality sampling for geothermal wells is not required under this article. Parameters required for these types of wells are specified in the MassDEP Ground Source Heat Pump permitting requirements.
- L. The Board reserves the right to require retesting of the above parameters, or testing for additional parameters when, in the opinion of the Board, it is necessary due to local conditions or for the protection of public health, safety, welfare and the environment. All costs and laboratory arrangements for the water testing are the responsibility of the applicant.
- M. Following a receipt of the water quality test results, the well owner shall submit a water quality report to the Board, which includes:
  - (1) A copy of the certified laboratory's test results.
  - (2) The name and contact information of the individual who performed the sampling.
  - (3) Where in the system the water sample was obtained.
- N. This article requires that private drinking water wells meet all current Massachusetts' Primary and Secondary Drinking Water Standards and Guidelines adopted by the MassDEP Office of Research and Standards (ORS). In any case where a private drinking water well does not meet such standards or guidelines, as it deems necessary for the protection of public health, safety or welfare, that the Board may take action, but not limited to, requiring the property owner to provide an alternative source of drinking water.

**§ 201-31.6. Well construction.**

- A. Pursuant to 310 CMR 46.02(1), no person in the business of digging or drilling shall construct a well unless certified by the MassDEP Well Drillers Program.
- B. Any work involving the connection of the private well to the distribution system of the residence must conform to the local plumbing code. All electrical connections between the well and the pump controls and all piping between the well and the storage and/or pressure tank in the house must be made by a pump installer or certified well driller, including the installation of the pump and appurtenance(s) in the well or house.
- C. It is prohibited by 310 CMR 22.22(2)(j) to have a cross connection between a public water system and a private well used for either drinking water or irrigation purposes.
- D. A physical connection is not permitted between a water supply which satisfies the requirements of this article, and another water supply that does not meet the requirements of this article without prior approval of the Board.
- E. General well design and construction. All private wells shall be designed and constructed such that:
  - (1) The materials used for the permanent construction are durable in the specific hydrogeologic environment that occurs at the well site.
  - (2) No unsealed opening is being left around the well that could conduct surface water or contaminated groundwater vertically to the intake portion of the well or transfer water from one formation to another.

- (3) Permanent construction materials shall not leach or contribute toxic substances, taste, odors, or bacterial contamination to the water in the well.
- (4) The driller shall operate all equipment according to generally accepted standards in the industry and shall take appropriate precautions to prevent damage, injury or other loss to persons and property at the drilling site.
- (5) Well construction design shall ensure that surface water does not enter the well through the opening or by seepage through the ground surface. Construction site waste and materials shall be disposed of in such a way as to avoid contamination of the well, any surface water or the aquifer. During any time that the well is unattended, the contractor shall secure the well in a way as to prevent either tampering with the well and/or the introduction of foreign material into the well.
- (6) All water used for drilling, well development, or to mix a drilling fluid shall be obtained from a source which will not result in contamination of the well or the water bearing zones penetrated by the well. Water from wetlands, swamps, ponds, and other similar surface features shall not be used.
- (7) Water shall be conveyed in clear sanitary containers or water lines and shall be chlorinated to an initial concentration between 50 mg/l and 100 mg/l. All drilling equipment, including pumps and down hole tools, shall be cleaned and disinfected prior to drilling each new well or test hole.
- (8) All drilling fluids shall be nontoxic. Drilling fluid additives shall be stored in clean containers and shall be free of material that may adversely affect the well, the aquifer, or the quality of the water to be pumped from the well. Surfactants shall be biodegradable. The use of biodegradable organic polymers shall, when possible, be avoided.
- (9) All wells, including those that have been hydro-fractured, shall be developed in order to remove fine materials introduced into the pore spaces or fractures during construction. One or more of the following methods shall be used for development: over-pumping, backwashing, surging, jetting, air-lift pumping.
- (10) The completed well shall be sufficiently straight so that there will be no interference with installation, alignment, operation, or future removal of the permanent well pump.

F. Well casing.

- (1) Private water supply wells shall be constructed using either steel or thermoplastic well casing. The casing shall be of adequate strength and durability to withstand anticipated formation and hydrostatic pressures, the forces imposed on it during installation, and the corrosive effects of the local hydrogeologic environment.
- (2) All casing used in the construction of private wells shall be free of pits, breaks, gouges, deep scratches and other defects. If previously used casing is installed, it shall be decontaminated and disinfected prior to installation.
- (3) Installation of water well casing shall be done in a manner that does not alter the shape, size, or strength of the casing and does not damage any of the joints or couplings connecting sections of the casing. A standard drive shoe shall be used when casing is installed. The drive shoe shall be either welded or threaded to the lower end of the string of casing and shall have a beveled metal cutting edge forged, cast, or fabricated for this specific purpose.

- (4) Upon completion of the installation procedure, the entire length of the casing above the intake shall be watertight.
  - (5) Well casing shall not be cut off below the land surface unless a pitless adapter or a pitless unit is installed or an abandoned well is being permanently plugged. If a pitless adaptor is installed, it must be inspected annually by a licensed well professional and the report must be submitted to the Board of Health. Well casing terminating above-grade shall extend at least 12 inches above the predetermined ground surface at the wellhead except when the well is located in a floodplain. When a well is located in a floodplain, the well casing shall extend at least two feet above the level of the highest recorded flood. The top of the well casing shall be reasonably smooth and level.
- G. Well screen. A well screen is required for all drilled wells that are completed in unconsolidated formations. All well screens shall be of Grade 304 stainless steel. Wells completed in bedrock do not require a screen unless the bedrock formation is brittle in nature or has a potential for collapse. The well screen aperture openings, screen length, and diameter shall be selected so as not to limit the aquifer's water yielding characteristics while preventing access of soil particles that would detract from well efficiency and yield.
- H. Grouting and sealing.
- (1) Private wells drilled in bedrock shall be grouted from the ground surface or to the bottom of the pitless adaptor (if present) to 15 feet into competent bedrock. Neat cement grout, sand cement grout, or Bentonite grout shall be used. It shall have a permeability of at least one by  $10^{-7}$  and be emplaced using standard grouting techniques as described in the MassDEP Private Well Guidelines, as amended.
  - (2) All wells completed with the casing extending above grade shall have a surface seal designed to eliminate the possibility of surface water flowing down the annular space between the well casing and the surrounding backfilled materials. The surface seal shall extend to a depth below the local frost line.
- I. Wellhead completion.
- (1) All wells shall be equipped with a sanitary seal or watertight cap designed to prevent surface water and foreign matter from entering the well.
  - (2) All wells except flowing artesian and dug wells shall be vented. The opening of the vent pipe shall be covered with a twenty-four-mesh corrosion resistant screen and shall be large enough to prevent water from being drawn into the well through electrical conduits or leaks in the seal around the pump when the pump is turned on. The vent pipe shall terminate in a downward position at or above the top of the casing.
  - (3) All connections to a well casing made below ground shall be protected by either a pitless adapter or a pitless unit that complies with the most recent revision of National Sanitation Foundation Standard Number 56, entitled "Pitless Well Adapters."
  - (4) Above-grade connections into the top or side of a well casing shall be at least 12 inches above the established ground surface or two feet above the level of the highest known flood, whichever is higher. Above-grade connections shall be sealed so that they are watertight.
  - (5) The ground immediately surrounding the well casing shall be sloped downward and away from the well in all directions to eliminate the possibility of surface water ponding.

**J. Disinfection.**

- (1) Upon completion of well construction, the well driller shall disinfect the well. If a pump is to be installed immediately upon completion of the well, the pump installer shall disinfect the well and the pumping equipment after the pump has been installed.
- (2) If the pump is not installed upon completion of the well, the pump installer shall, upon installation, disinfect the well and the pumping equipment. The pump installer shall also disinfect the entire water supply system immediately after any maintenance or repair work is done on the pump.
- (3) When a well is disinfected, the initial chlorine concentration shall be 100 mg/l throughout the entire water column.
- (4) For newly constructed or altered wells in which the pump is not immediately installed, the chlorine concentration used to disinfect the well shall be 100 mg/l. Upon installation of the pump, the well, the pumping equipment, and the distribution system, if connected, shall be disinfected with a chlorine concentration of 100 mg/l.
- (5) The disinfectant solution shall remain undisturbed in the well for a minimum of two hours. After all the chlorine has been flushed from the water supply system, a water sample shall be collected and submitted to a Massachusetts-certified laboratory. For new wells, the sample shall be tested pursuant to § 201-31.3 of this article.
- (6) Only certified well drillers are authorized to physically alter or repair a well. For wells that have undergone repair, a sample shall be tested for total coliform bacteria and any other parameters deemed appropriate by the Board, prior to being put back in use.

**§ 201-31.7. Geothermal wells (ground source heat pump wells).**

- A. Ground source heat pump wells installed in the Town of Chelmsford must comply with all regulations of the Mass DEP as set forth in the "Guidelines for Ground Source Heat Pump Wells."
- B. Only closed-loop GSHPW systems are approved in Town. All other well types require a variance from the Board.

**§ 201-31.8. Prohibitions for wells for human consumption.**

- A. Surface water supplies for private water supplies shall be prohibited.
- B. Cisterns shall be prohibited for human consumption.
- C. Private well water systems intended as sources of potable water shall not be approved where a public water line is accessible in any abutting way and where permission to tie into such water line can be obtained from the authority having jurisdiction over it. The Board of Health may require the owner or occupant of an existing building or buildings, wherever a public water line is accessible in an abutting way, to cause such building or buildings to be connected with the public water line in a manner and within a period of time satisfactory to the Board of Health.
- D. No dug wells allowed for potable use.
- E. No irrigation-only well permit will be issued if a property is located within an aquifer protection district or the zone of influence of a municipal water well.

**§ 201-31.9. Decommissioning.**

- A. Abandoned wells, test holes, and borings shall be decommissioned so as to prevent the well, including the annular space outside the casing, from being a channel allowing the vertical movement of water.
- B. The owner of a private well shall decommission the well if any of the following criteria are met:
  - (1) Construction of the well is terminated prior to completion of the well.
  - (2) The well owner notifies the Board that the use of the well is to be permanently discontinued.
  - (3) The well has been out of service for at least three years.
  - (4) The well is a potential hazard to public health or safety and the situation cannot be corrected.
  - (5) The well is in such a state of disrepair that its continued use is impractical or unsafe.
  - (6) The well has the potential for transmitting contaminants from the land surface into an aquifer or from one aquifer to another and the situation cannot be corrected.
- C. The property owner shall ensure that all abandoned wells and test holes or borings associated with the well installation are properly plugged before work at the site is completed. Only certified well drillers may plug abandoned wells, test holes, and borings.
- D. Abandoned overburden wells or borings shall be completely filled with a low-permeability grout, which cures with a final permeability of less than  $1 \times 10^{-7}$  cm/sec. Wells shall be plugged with neat cement grout, sand cement grout, concrete, or bentonite grout.
- E. Regardless of the type used, the grout used for plugging shall:
  - (1) Be sufficiently fluid so that it can be applied through a tremie pipe from the bottom of the well upward.
  - (2) Remain as a homogeneous fluid when applied to the subsurface rather than disaggregating by gravity into a two-phase substance.
  - (3) Be resistant to chemical or physical deterioration.
  - (4) Not leach chemicals, either organic or inorganic, that will affect the quality of the groundwater where it is applied.
- F. The plugging materials shall be introduced at the bottom of the well or boring and placed progressively upward to a level approximately four feet below the ground surface. Sealing materials shall not be poured from the land surface into the well, borehole, or annular space being sealed.
- G. The well driller shall install a surface seal after the well or boring has been plugged. Before the surface seal is placed, casing remaining in the hole shall be cut off. The remaining four feet at the top of the well or boring shall then be filled with concrete. The top of the seal shall comprise a concrete slab above the top of the plugged well or boring. This concrete slab shall be at least six inches thick and shall be at least two feet greater in diameter than the well casing or borehole wall.

**§ 201-32. Enforcement.**

- A. The Board has authority to investigate suspected or known violations of this article and/or violations of any water supply certificate conditions. The Board may take actions, as it deems appropriate,



within its authority for the protection of public health, safety welfare, or the environment, and to enforce any of the provisions of this article.

- B. If any investigation reveals a violation of this article or the water supply certificate conditions, the Board may order the private well owner to comply with the violated provision(s), and/or take other action within its authority as the Board deems appropriate.
- C. Any order the Board issues shall be in writing and served in the following manner:
  - (1) Personally, by any person authorized to serve civil process,
  - (2) By any person authorized to serve civic process by leaving a copy of the order at the property owner's address.
  - (3) By sending the property owner a copy of the order by registered or certified mail, return receipt requested, or
  - (4) By posting a copy of the order in a conspicuous place on or about the premises and by advertising it for at least three out of five consecutive days in one or more newspapers of general circulation within the municipality where the private well is located, if the property owner's last and usual place of residence is unknown or outside the commonwealth.

#### **§ 201-33. Hearing.**

- A. Any person to whom the Board issues an order may request a hearing before the Board by filing with the Board within seven days after the day the order was served a written request for a hearing. Upon receipt of a hearing request, the Board shall set a time and place for the hearing and shall inform the well owner in writing. The hearing shall commence within 30 days from the day on which the written request was made unless a later time is agreed to in writing by the Board and the person requesting the hearing. At the hearing, the person requesting the hearing shall be given an opportunity to be heard and show why the order should be modified or withdrawn. After the close of the hearing, the Board shall issue a written decision to sustain, modify, or withdraw the order and shall mail a copy of the decision, by certified mail, return receipt requested, to the person who requested the hearing. If the Board sustains or modifies the order, it shall be carried out within the time period allotted in the original order or in the modification.
- B. Every notice, order, or other record prepared by the Board in connection with the hearing shall be entered as a matter of public record in the office of the clerk of the city or town, or in the office of the Board.
- C. If a request for a hearing is not filed with the Board within seven days after the day an order has been served or if after a hearing, the order has been sustained in whole or any part, each day's failure to comply with the order as issued or sustained shall constitute a separate violation.

#### **§ 201-34. Appeal.**

- A. Any person aggrieved by the final order, variance, well construction permit, or certificate of water supply determination of the Board may appeal to any court of competent jurisdiction as provided by the laws of the commonwealth.

#### **§ 201-35. Violations and penalties.**

Any person who violates any provision of this article, or who fails to comply with any final order of the

Board, for which a penalty is not otherwise provided in any of the Massachusetts General Laws, shall upon conviction be fined not less than \$25 nor more than \$500. Each day's failure to comply with a final order or any provision of this article shall constitute a separate violation.

#### **§ 201-36. Variance.**

- A. The Board may grant a variance to any provision of this article when, in its opinion, the enforcement would result in manifest injustice, and the applicant has demonstrated that the equivalent degree of protection will be provided without strict application of the particular provision(s) sought to be varied.
- B. Every request for a variance shall be in writing and shall state the specific provision of this article from which variance is sought, the reasons for seeking the variance and proof of the notice required below. The request shall also contain the information to establish manifest injustice and equivalent degree of protection. At least 10 days prior to submission of the application to the Board, the applicant shall provide notice of their intent to the request a variance as follows: a) by certified mail, return receipt requested, to all abutters of the property upon which the private well will be or is located; and b) publication in a newspaper of general circulation in the town or city in which the private well will be or is located. The notice shall include, at a minimum, the name and address of the applicant, a statement of the provision(s) of this article from which a variance is sought, and the reason for seeking the variance. Any grant or denial of a variance shall be in writing and shall contain a brief statement of the reasons for approving or denying the variance. A copy of each variance shall be conspicuously posted for 30 days following its issuance and shall be available to the public at all reasonable hours in the Office of the Town Clerk or Office of the Board of Health. No work shall be done under any variance until 30 days elapse from its issuance, unless the Board certifies in writing that an emergency exists.
- C. The Board may issue a variance subject to such conditions as it deems necessary to public health, safety, welfare, or the environment. Any such conditions shall be stated in writing in the Board's grant of the variance. The Board may revoke, modify, or suspend, in whole or in part, a variance after the property owner has been notified in writing and is afforded an opportunity to be heard, pursuant to § 201-33 of this article.

#### **§ 201-37. Severability.**

If any provision of this article or the application thereof is held to be invalid by a court of competent jurisdiction, the invalidity shall be limited to said provision(s) and the remainder of this article shall remain valid and effective. Any part of this article subsequently invalidated by a new state law or modification of an existing state law shall automatically be brought into conformity with the new or amended law and shall be deemed to be effective immediately, without recourse to a public hearing and the customary procedures for amendment or repeal of such regulation.

#### **§ 201-38. (Reserved)**

##### **§ 201-38.1. Effective date.**

This article was originally approved by vote of the Chelmsford Board of Health, at their regularly scheduled meeting held on May 14, 2018. A public hearing was held at the June 4, 2018, regularly scheduled Board of Health meeting. Before said date of June 4, 2018, this article shall be published, and a copy placed on file in the Board of Health Office. This article was accepted by vote of the Chelmsford Board of Health at their regularly scheduled meeting on July 2, 2018, and is to be in full force and effect on

and after July 2, 2018. At its hearing on August 2, 2021, the Board of Health adopted the recodification of this article, without making any substantive changes to the provisions herein. At its hearing on September 13, 2021, the Board of Health a adopted the recodification of this article, without making any substantive changes to the provisions herein. This article or any portions thereof may be amended, supplemented, or repealed from time to time by the Board, as provided by law and applicable regulations.

**§ 201-38.2. Disclaimer.**

The issuance of a well permit shall not be construed as a guarantee or certification by the Board or its agents that the water system will function satisfactorily or that the water supply will be of sufficient quality or quantity for its intended use.

## ARTICLE IX

**Food Service and Retail Food Establishments****[Added effective 8-14-1989; amended 11-1-1999; 8-2-2021; 3-7-2022]****§ 201-39. Authority and purpose.**

This article is adopted pursuant to MGL c. 111, § 31, for the purpose of protecting the public health and as supplemental regulations to 105 CMR 590.000 and 595.000, the State Sanitary Code.

**§ 201-40. Modification of existing regulations.**

Requirements for all food establishments, food service, retail food establishment, and cottage kitchens.

- A. All such establishments must install a separate subsurface sewage facility including an exterior grease trap. This excludes cottage kitchens not located in Zone 2 and who operate less than 25 hours a week on average. Cottage kitchens are only allowed to cook non-TCS (time/temperature control for safety) foods.
- B. All kitchen preparation and storage areas must be totally separated from all normal household use.
- C. Utensils. All self-serve utensils must be individually wrapped, either separately or in sets.

**§ 201-41. Variance.**

The owner of the property must file a request for a hearing in writing along with all supporting data.

## ARTICLE X

**Model Floor Drains****[Added 3-12-1990; amended 12-10-1990; 7-29-2004; 10-4-2021 by Board of Health]****§ 201-42. (Reserved)****§ 201-42.1. Statement of purpose.**

- A. A local floor drain discharge prohibition is required under the MA Wellhead Protection Regulations, 310 CMR 22.21(2). The floor drain control, which must be implemented by the municipality, specifically prohibits the following activity: any floor drainage systems in existing facilities, in industrial or commercial hazardous material and/or hazardous waste process areas or storage areas, which discharge to the ground without a MassDEP permit or authorization. Any existing facility with such a drainage system shall be required to either seal the floor drain (in accordance with the state plumbing code, 248 CMR 10.00), connect the drain to a municipal sewer system (with all appropriate permits and pretreatment), or connect the drain to a holding tank meeting the requirements of all appropriate MassDEP regulations and policies. This article has been designed to meet the requirements for the Massachusetts Department of Environmental Protection's Wellhead Protection "Source Approval" Regulations, 310 CMR 22.21(2)(a)8, within designated Zone II areas. This model regulation also covers the entire Town to be consistent with the state regulations (310 CMR 27.00) prohibiting discharges of the nature discussed in this article.
- B. Whereas.
- (1) Floor drains in industrial and commercial facilities are often tied to a system leading to a leaching structure (e.g., dry well, cesspool, leach field) or a septic system; and
  - (2) Poor management practices and accidental and/or intentional discharges may lead petroleum and other toxic or hazardous materials into these drainage systems in facilities managing these products; and
  - (3) Improper maintenance or inappropriate use of these systems may allow the passage of contaminants or pollutants entering the drain to discharge from the leaching structure or septic system to the ground; and
  - (4) Discharges of hazardous wastes and other pollutants to floor drains leading to leaching structures and septic systems have repeatedly threatened surface and ground water quality throughout Massachusetts; and
  - (5) Surface and ground water resources in the Town of Chelmsford contribute to the town's drinking water supplies.
- C. The Town of Chelmsford adopts the following regulation, under its authority as specified in § 201-42.2, as a preventative measure for the purposes of preserving and protecting the Town of Chelmsford's drinking water resources from discharges of pollutants to the ground via floor drains and minimizing the threat of economic losses to the Town due to such discharges.

**§ 201-42.2. Scope of authority.**

The Town of Chelmsford Board of Health adopts the following regulation pursuant to authorization granted by M.G.L. c.111 §§ 31 and 122. The regulation shall apply, as specified herein, to all applicable facilities, existing and new, within the Town of Chelmsford.

**§ 201-43. Definitions.**

For the purposes of this article, the following words and phrases shall have the following meanings:

**COMMERCIAL AND INDUSTRIAL FACILITY** — A public or private establishment where the principal use is the supply, sale, and/or manufacture of services, products, or information, including but not limited to; manufacturing, processing, or other industrial operations; service or retail establishments; printing or publishing establishments; research and development facilities; small or large quantity generators of hazardous waste; laboratories; hospitals.

**DEPARTMENT and/or MASS DEP** — The Massachusetts Department of Environmental Protection.

**DISCHARGE** — The accidental or intentional disposal, deposit, injection, dumping, spilling, leaking, incineration, or placing of toxic or hazardous material or waste upon or into any land or water so that such hazardous waste or any constituent thereof may enter the land or waters of the commonwealth. Discharge includes, without limitation, leakage of such materials from failed or discarded containers or storage systems and disposal of such materials into any on-site leaching structure or sewage disposal system.

**FLOOR DRAIN** — An intended drainage point on a floor constructed to be otherwise impervious which serves as the point of entry into any subsurface drainage, treatment, disposal, containment, or other plumbing system.

**LEACHING STRUCTURE** — Any subsurface structure through which a fluid that is introduced will pass and enter the environment, including, but not limited to, dry wells, leaching catch basins, cesspools, leach fields, and oil/water separators that are not watertight.

**OIL/WATER SEPARATOR** — A device designed and installed to separate and retain petroleum-based oil or grease, flammable wastes as well as sand and particles from normal wastes while permitting normal sewage or liquid wastes to discharge into the drainage system by gravity. Other common names for such systems include MDC traps, gasoline and sand traps, grit and oil separators, grease traps, and interceptors.

**TOXIC OR HAZARDOUS MATERIAL** — Any substance or mixture of physical, chemical, or infectious characteristics posing a significant, actual, or potential hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or water of the Town of Chelmsford. Toxic or hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, and all substances defined as toxic or hazardous under Massachusetts General Laws (MGL) Chapter 21C and 21E or Massachusetts Hazardous Waste regulations (310 CMR 30.000), and include such products as solvents, thinners, and pesticides in quantities greater than normal household use.

**USE OF TOXIC OR HAZARDOUS MATERIAL** — The handling, generation, treatment, storage, or management of toxic or hazardous materials.

**§ 201-44. Prohibitions.**

With the exception of discharges that have received (or have applied and will receive) a Mass DEP- issued permit prior to the effective date of this article, no floor drain(s) shall be allowed to discharge, with or without pretreatment (such as an oil/water separator), to the ground, a leaching structure, or septic system in any industrial or commercial facility if such floor drain is located in either:

- A. An industrial or commercial process area.
- B. A petroleum, toxic, or hazardous materials and/or waste storage area.
- C. A leased facility without either Subsection A or B of this section, but in which the potential for a

change of use of the property to a use which does have either Subsection A or B is, in the opinion of the Board of Health or its agent, sufficient to warrant the elimination of the ground discharge at the present.

**§ 201-45. Requirements for existing facilities.**

- A. The owner of a facility in operation prior to the effective date of this article with a prohibited floor drain system as defined under § 201-44 shall:
- (1) Disconnect and plug all applicable inlets to and outlets from (where possible) applicable leaching structures, oil/water separators, and/or septic systems.
  - (2) Remove all existing sludge in oil/water separators, septic systems, and where accessible, leaching structures. Any sludge determined to be hazardous waste shall be disposed of in accordance with state hazardous waste regulations (310 CMR 30.00). Remedial activity involving any excavation and/or soil groundwater sampling must be performed in accordance with appropriate Mass DEP policies.
  - (3) Alter the floor drain system so that the floor drain shall be either:
    - (a) Connected to a holding tank that meets all applicable requirements of Mass DEP policies and regulations, with hauling records submitted to the Chelmsford Board of Health at the time of hauling.
    - (b) Connected to municipal sanitary sewer line, if available, with all applicable Mass DEP and local permits.
    - (c) Permanently sealed. Any facility sealing a drain shall be required to submit for approval to the Board of Health a hazardous waste management plan detailing the means of collecting, storing, and disposing any hazardous materials or wastes.
- B. Any oil/water separator remaining in use shall be monitored weekly, cleaned not less than every 90 days, and restored to proper conditions after cleaning so as to ensure proper functioning. Records of the hauling of the removed contents of the separator shall be submitted to the Board of Health at the time of hauling.
- C. Compliance with all provisions of this article must be accomplished in a manner consistent with Massachusetts Plumbing, Building, and Fire Code requirements.
- D. Upon complying with one of the options listed under § 201-45A(3), the owner/operator of the facility shall notify the Mass DEP of the closure of said system by filing the Mass DEP's UIC Notification Form (which may be obtained by calling Mass DEP at 617-292-5770) and sending a copy to the Chelmsford Board of Health.

**§ 201-46. Effective dates for all facilities.**

The effective date of this article is the date posted on the front page of the regulation, which shall be identical to the date of adoption of the regulation.

A. Existing facilities.

- (1) Owners/operators of a facility affected by this article shall comply with all of its provisions within 120 days of the effective date.

- (2) All applicable discharges to the leaching structures and septic systems shall be discontinued immediately through temporary isolation or sealing of the floor drain.

B. New facilities.

- (1) As of the effective date of the regulation, all new construction and/or applicable change of use within the Town of Chelmsford shall comply with the provisions of this article.
- (2) Certification of conformance with the provisions of this article by the Health Department shall be required prior to issuance of construction and occupancy permits.
- (3) The use of any new oil/water separator shall comply with the same requirements as for existing systems, as specified above in § 201-45B.

**§ 201-47. Violations and penalties.**

Failure to comply with provisions of this article will result in the levy of fines of not less than \$200, but no more than \$1,000. Each day's failure to comply with the provisions of this article shall constitute a separate violation.

**§ 201-48. Severability.**

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



## ARTICLE XI

**Residential-Commercial Refuse Collection**

**[Added 6-11-1990; amended 12-10-1990; 12-9-1991; 9-13-2021 by Board of Health; 11-1-2021 by Board of Health]**

**§ 201-49. Authority.**

In accordance with the authority vested in the Town of Chelmsford Board of Health, this article is hereby established.

**§ 201-50. Definitions.**

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

**ACCEPTABLE WASTE** — All household garbage, trash, rubbish, refuse and combustible agricultural waste normally generated and disposed of by or on behalf of the Town, but excluding.

- A. Explosives and ordnance materials, oil, sludges, highly flammable substances, cesspool or other human wastes, human and animal remains, motor vehicles, farm or other large machinery, nonburnable construction materials and demolition debris and hazardous refuse of any type or kind, such as cleaning fluids, crankcase oils, cutting oils, paints, acids, caustics, poisons, drugs, radioactive materials, fine powdery earth used to filter cleaning fluid and refuse of similar nature;
- B. Any item of waste exceeding six feet in any one of its dimensions or being in whole or in part of a solid mass, the solid mass portion of which has dimensions such that a sphere with a diameter of eight inches could be contained within such solid mass portion; and
- C. All other items of waste which would be likely to pose a threat to health or safety, or the acceptance and disposal of which may cause damage to waste disposal facilities, or be in violation of any judicial decision, order or action of any federal, state or local governmental or any agency thereof, or any other regulatory or applicable law or regulations.

**LICENSED REFUSE COLLECTOR** — Those persons or companies who have applied for and obtained the appropriate license(s) to collect refuse within the corporate limits of Chelmsford, Massachusetts.

**RECYCLABLE MATERIALS** — Those materials placed in a "Chelmsford Recycles" blue or maroon recycling bin or other container designated for recycling purposes, which shall include, but not be limited to, clear glass, brown glass, green glass, tin cans, aluminum cans, HDPE plastics (milk and water containers), PET plastics (soda bottles) and newspapers in paper bags. Refuse haulers shall not collect recyclable materials unless they are contracted by the Town of Chelmsford to do so.

**REFUSE COLLECTION VEHICLE** — All vehicles used for deliveries of residential acceptable waste to the solid waste disposal facility, which must be in safe, clean condition, and in good repair.

**RESIDENTIAL ACCEPTABLE WASTE** — That acceptable waste generated within the Town of Chelmsford as is collected on behalf of the Town or disposed of by its residents, the sources of which are residential households or municipal buildings located in the Town.

**RESIDENTIAL HOUSEHOLDS** — All inhabited dwellings up to and including three-family dwellings.

**THE BOARD** — The Chelmsford Board of Health, the Town department responsible for overseeing the licensing and regulation of residential refuse collection.

**TIPPING FEE** — The cost per ton for disposing of quantities of residential acceptable waste at waste disposal facilities.

TON — A "short ton" of 2,000 pounds.

TRASH CONTAINER — Any container used for containing trash at the curb for pickup; for example, metal or plastic trash cans, cardboard boxes, etc.

**§ 201-51. Licensing requirements.**

- A. Collection and removal of refuse. Persons and companies engaged in the collection of solid waste shall collect household rubbish, paper, cardboard cartons, garbage, and other waste materials from residential households in the Town of Chelmsford and shall remove said rubbish, paper, cardboard cartons, garbage and other waste materials to a location or facility outside the limits of the Town of Chelmsford in accordance with these rules and regulations as well as all other applicable laws and regulations.
- B. Permit. All refuse collection companies will be required to obtain a permit from the Town of Chelmsford Board of Health prior to commencing with the collection of solid waste. The fee for the annual permit shall be set by the Board of Health and renewable December 31 of each year.
- C. Application and renewal. At the time of the initial application and subsequent renewals, the refuse collection company shall submit to the Board the following information:
  - (1) A list of references including but not limited to large commercial customers and municipal buildings.
  - (2) The names of all towns where residential trash is or has been collected from.
  - (3) A description of the collection vehicle(s) to be used, and proof of registration and insurance for each separate vehicle.
  - (4) A description of the method of collecting payment from customers, and samples of any stickers used, and the contract signed by residents.
  - (5) The name of the waste disposal site(s) to which Chelmsford's refuse will be taken. The refuse collector will supply documentation that all disposal sites meet all federal, state and local regulations.
  - (6) Upon request, refuse collectors shall produce documentary proof that they are entitled to dispose of trash in a licensed waste disposal site.
- D. Bond. Prior to the issuance of a license, the refuse collector will post with the Town a bond for faithful performance in the amount of \$10,000 issued by a company licensed to do business in the Commonwealth of Massachusetts.
- E. Insurance.
  - (1) The refuse collector shall furnish the Town with certificates from an insurance company licensed to do business in the Commonwealth of Massachusetts. The licensee shall maintain during the period of licensing the following insurance with companies and in forms acceptable to the Town and in adequate amounts. This shall protect him performing work covered under the license and the Town and its employees, agents and officials from all claims and liability for damages for bodily injury, including accidental death, and for property damage, which may arise from operations under licensing.
  - (2) The amounts of such insurance shall be for each policy, not less than:

- (a) Workmen's compensation: as required by the Laws of Massachusetts.
  - (b) Bodily injury liability, including death: \$1,000,000 on account of any one person and \$1,000,000 aggregate limit.
  - (c) Property damage liability: \$1,000,000 on account of any one accident and \$1,000,000 aggregate.
  - (d) Contingent coverage for subcontractors for Subsection E(2)(b) and (c) above.
  - (e) Automobiles and trucks, including hired vehicles: bodily injury liability, including death: \$1,000,000 on account of any one person and \$1,000,000 on account of any one accident.
- (3) All policies shall be so written that the Town of Chelmsford will be notified of cancellation or restrictive amendment at least 15 days prior to the effective date of such cancellation or amendment.
- F. Indemnity. The licensed refuse collector will take all responsibility for the work and take all precautions for preventing injuries to persons or property; shall bear all losses resulting to him on account of the amount or character of the work; shall assume the defense of, and indemnify and hold harmless the Town, its officers, agents and servants from all claims relating to:
- (1) Labor and materials furnished to the work.
  - (2) The invention, patent rights used in doing the work.
  - (3) Injuries to any person or corporation received or sustained by or from the licensed refuse collector and his employees doing the work, in consequence of any improper materials, implements, or labor used therein.
  - (4) Any act, omission or neglect of the collector and his employees therein.
- G. Federal and state licenses. The licensee shall submit copies of all applicable federal and state licenses.
- H. License period. The license issued will be valid for a period of not more than one year. The licensee must submit an annual application for renewal.

#### **§ 201-52. Reports.**

The following reports are to be submitted to the following Town Boards as required after collection begins.

- A. Tonnage. Reports on the tonnage of residential solid waste removed from the Town of Chelmsford shall be submitted to the Board of Health and the Board of Selectmen twice yearly on January 1 and July 1.
- B. Customer lists. Revised residential customer lists shall be submitted to the Board of Health and the Board of Selectmen twice yearly January 1 and July 1 and shall indicate any changes in the customers served. All new customers shall be indicated as well as those customers who have terminated their agreements with the licensed refuse collector.
- C. Termination of service. Within seven days of termination of service by a residential customer, the Board of Selectmen must be notified.

#### **§ 201-53. Operational procedures.**

- A. Time of collection. Solid waste shall be collected between the hours of 6:30 a.m. and 6:30 p.m. (prevailing time) Monday through Friday inclusive, with the exception of holidays observed by the Town of Chelmsford.
- B. Holidays. Whenever a scheduled collection falls on a legal holiday, that day's collection and the remaining collections for the week, if any, shall be the following day. The holidays observed by the Town are: New Year's Day, Martin Luther King's Birthday, President's Day, Patriot's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, Christmas Day.
- C. Routes. Licensed refuse collectors shall have established routes which have been approved by the Board of Health and should take appropriate steps to operate according to the approved routes. Trash shall be collected from each street on the same day as the Town provided trash collection service.
- D. Town contracted refuse collectors. Any refuse collector who is contracted by the Town of Chelmsford to collect residential and/or municipal trash are not allowed to comingle trash collected under the Town of Chelmsford's contract with any other trash from any other source.
- E. Acceptable waste. The licensed refuse collector shall collect acceptable wastes from their residential customers in Chelmsford provided that the residential acceptable waste is contained in barrels, plastic bags or tied bundles.
- F. Unacceptable waste. The licensed refuse collector may refuse to collect any residential waste if there is any indication that the material is not an acceptable waste or if it is not properly containerized. The licensed refuse collector will notify his customer of the reason(s) for refusal of collecting the waste.
- G. Spilled waste. The licensed refuse collector shall take reasonable care in collecting refuse. Refuse shall not be scattered about the streets or into private property. Refuse which is accidentally spilled shall be immediately picked up by the collector and removed together with other wastes.
- H. Stickers. Any stickers used must not appear to be similar in design, color or general appearance to those provided by the Town.
- I. Recyclables. The licensed refuse collector shall not collect recyclable materials in the "Chelmsford Recycles" recycling bin or other container designated for recycling purposes, unless they are contracted by the Town of Chelmsford to do so.
- J. Inspection. The licensed refuse collector shall allow Board of Health agents and/or other agents of the Town to inspect his/her vehicle and any load if there is a due cause of suspicion of any violations of any applicable laws, rules or regulations.

**§ 201-54. Responsibilities of property owner.**

- A. Weekly trash pickup. Trash must be disposed of on a weekly basis.
- B. Time at curb. Trash and recyclables must be at the curb by 6:30 a.m. but no sooner than 6:30 p.m. the day before. All trash containers must be removed from the curbside within 12 hours of collection.
- C. Trash container size. Trash containers must be no larger than 32 gallons and weigh no more than 80 pounds total (including trash and container), and must be able to be easily picked up by one person. Bags must be no larger than 39 gallons and weigh no more than 40 pounds. Brush must be bundled.
- D. Fullness of trash container. Trash containers must not be filled more than three inches above the top

edge of the container.

- E. Lids. All trash containers must have lids.

**§ 201-55. Violations and penalties.**

- A. Suspension of licenses. Any refuse collection license may be suspended or revised by the Board of Health upon receipt of evidence satisfactory to the Board that the Licensee has not conformed with the requirements of this article, or such further regulations as may be adopted for the collection and disposal of refuse or upon recommendation of the Board of Health.
- B. Residential violations. Violations of § 201-54 of this article shall be punishable by a fine of \$25 per violation.

**§ 201-56. Severability.**

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

**§ 201-56.1. Effective date.**

- A. These rules and regulations shall be effective as of June 11, 1990. This article has been amended, voted on, and unanimously approved at a regularly scheduled Board of Health meeting on December 12, 1990, and shall be effective as of December 12, 1990. This article has been amended, voted on, and unanimously approved at a regularly scheduled Board of Health meeting on December 9, 1991, and shall be effective as of December 9, 1991.
- B. This article has been amended, voted on, and unanimously approved at a regularly scheduled Board of Health meeting on September 13, 2021. The changes approved at the Board of Health's September 13, 2021, meeting consisted of administrative renumbering; no substantive changes to the regulation were made at this meeting.
- C. This article has been amended, voted on, and unanimously approved at a regularly scheduled Board of Health meeting on November 1, 2021, and shall be effective as of November 1, 2021.

## ARTICLE XII

**Prohibiting Smoking in Smoking Bars and Prohibiting Hookah/Water Pipes  
[Added effective 3-1-1992; amended 4-1-2014; 9-13-2021 by Board of Health]****§ 201-57. Purpose.**

The purpose of this article is to protect the health of the employees and the general public in the Town of Chelmsford.

**§ 201-58. Authority.**

This article is promulgated under the authority granted to the Chelmsford Board of Health pursuant to Massachusetts General Laws Chapter 111, § 31 that "[b]oards of health may make reasonable health regulations."<sup>71</sup> It is also promulgated pursuant to Massachusetts General Laws Chapter 270, Section 22(j) which states in part that "[n]othing in this section shall permit smoking in an area in which smoking is or may hereafter be prohibited by law including, without limitation: any other law or . . . health . . . regulation. Nothing in this section shall preempt further limitation of smoking by the commonwealth . . . or political subdivision of the commonwealth."

**§ 201-59. Definitions.**

- A. As used in this article, the following words shall have the following meanings, unless the context requires otherwise:

**E-CIGARETTE** — Any electronic device, not approved by the United States Food and Drug Administration, composed of a mouthpiece, heating element, battery and/or electronic circuits that provides a vapor of liquid nicotine to the user, or relies on vaporization of any liquid or solid nicotine. This term shall include such devices whether they are manufactured as e-cigarettes, e- cigars, e-pipes or under any other product name.

**ENCLOSED** — A space bounded by walls, with or without windows or fenestrations continuous from floor to ceiling and enclosed by one or more doors, including but not limited to an office, function room or hallway.

**HOOKAH PIPE** — Shall refer to a pipe with one or more long flexible tube(s) connected to a container where smoke is cooled by passing through water and may be referred as a hookah pipe, water pipe, hubble-bubble, kalia, narghile or any derivative thereof.

**MANAGER** — An individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of the establishment.

**OUTDOOR SPACE** — An outdoor area, open to the air at all times and cannot be enclosed by a wall or side covering.

**SMOKING (or SMOKE)** — The lighting of a cigar, cigarette, pipe or other tobacco product or possessing a lighted cigar, cigarette, pipe or other tobacco or nontobacco product designed to be combusted and inhaled.

**SMOKING BAR** — An establishment that primarily is engaged in the retail sale of tobacco products for consumption by customers on the premises and is required by Mass. General Law Ch. 270, § 22 to maintain a valid permit to operate a smoking bar issued by the Massachusetts Department of

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71. This sentence is only applicable to Board of Health regulations. If enacting an ordinance or by-law, this section can begin with the second sentence, with the word "also" omitted.

Revenue. "Smoking bar" shall include, but not be limited to, those establishments that are commonly known as "cigar bars" and "hookah bars."

- B. Terms not defined herein shall be defined as set forth in M.G.L. Ch. 270, § 22 and/or 105 CMR 661. To the extent any of the definitions herein conflict with M.G.L. Ch. 270, § 22 and 105 CMR 661, the definition contained in this article shall control.

**§ 201-60. Smoking prohibited.**

- A. Hookah pipes (as defined herein) and the smoking thereof are hereby prohibited in all establishments subject to Board of Health regulations in the Town of Chelmsford, as well as outdoor spaces accessory thereto.
- B. Smoking is hereby prohibited in Chelmsford in accordance with M.G.L. Ch. 270, § 22 and 22(j) (commonly known as the "Smoke-free Workplace Law").
- C. Pursuant to M.G.L. Ch. 270, § 22(j) smoking is also hereby prohibited in the Town of Chelmsford in smoking bars as defined in M.G.L. Ch. 270, § 22(a) and herein, also known as cigar bars and hookah bars, and outdoor spaces accessory to any smoking bars.
- D. The use of e-cigarettes is prohibited wherever smoking is prohibited per M.G.L. Ch. 270, § 22 and § 201-60C of this article.

**§ 201-61. Enforcement.**

- A. Any person, or any owner, manager, or other person in control of a building or outdoor space, who violates this article or who allows, by action or inaction, any violation of this article shall be punished by a fine of:
- (1) \$100 for the first violation;
  - (2) \$200 for a second violation occurring within two years of the date of the first offense; and
  - (3) \$300 for a third or subsequent violation occurring within two years of the second violation.
- B. Each calendar day on which a violation occurs shall be considered a separate offense.
- C. This article shall be enforced by the Board of Health and its designees.
- D. Violations of this article may be disposed of by a civil penalty using the noncriminal method of disposition procedures contained in Section 21D of Chapter 40 of Massachusetts General Law without an enabling ordinance or bylaw. The disposition of fines assessed shall be subject to § 111-188 of Chapter 111.
- E. If an owner, manager, or other person in control of a building, vehicle or vessel violates this article repeatedly, demonstrating egregious noncompliance as defined by regulation of the Department of Public Health, the Board of Health may revoke or suspend the license to operate and shall send notice of the revocation or suspension to the Department of Public Health.
- F. Any person may register a complaint to initiate an investigation and enforcement with the Board of Health, the local inspection department or the equivalent.

**§ 201-62. Severability.**

If any paragraph or provision of this article is found to be illegal or against public policy or unconstitutional, it shall not affect the legality of any remaining paragraphs or provisions.

**§ 201-63. Conflict with other laws or regulations.**

Notwithstanding the provisions of § 201-60 of this article, nothing in this article shall be deemed to amend or repeal applicable fire, health or other regulations so as to permit smoking in areas where it is prohibited by such fire health or other regulations.

**§ 201-64. Effective date.**

- A. This article shall be effective as of April 1, 2014.
- B. This article has been amended, voted on, and unanimously approved at a regularly scheduled Board of Health meeting on September 13, 2021, and will go into effect on September 13, 2021. The changes approved at the Board of Health's September 13, 2021, meeting consisted of administrative renumbering, no substantive changes to the regulation were made at this time.



## ARTICLE XIII

**Sale of Medical Marijuana****[Added 4-13-1992; amended 3-8-1993; 7-7-2014; 9-13-2021; 3-7-2022]****§ 201-65. Statement of purpose.**

The purpose of these regulations is to complement the commonwealth's regulations governing the cultivation, processing, sale, and the use of medical marijuana under 105 CMR 725.00 to allow for local enforcement, protect public health and welfare, and ensure that registered marijuana dispensary (RMD) environments are controlled to meet the requirements set forth by the Town of Chelmsford's Board of Health. The Massachusetts Department of Public Health (DPH) regulations at 105 CMR 725.00 are not preemptive of local board of health authority.

**§ 201-66. Authority.**

This regulation is promulgated pursuant to the authority granted to the Chelmsford Board of Health by Massachusetts General Laws Chapter 111, § 31, that states in part, "Boards of Health may make reasonable health regulations."

**§ 201-67. Definitions.**

A. Any terms not defined in this section but defined elsewhere in the Town Bylaws, Building Department, and Board of Health Regulations or Commonwealth of Massachusetts laws and regulations shall have the same meanings given therein to the extent the same are not inconsistent with these regulations.

B. For the purpose of this regulation, the following words shall have the following meanings:

BLUNT WRAP — Any tobacco product manufactured or packaged as a wrap wholly or in part from tobacco that is designed or intended to be filled by the consumer with loose tobacco other fillers.

BOARD OF HEALTH — The Town of Chelmsford Board of Health.

BUSINESS AGENT — An individual who has been designated by the owner or operator of any establishment to be manager or otherwise in charge of said establishment.

CARD HOLDER — A registered qualifying patient, a personal caregiver, or a dispensary agent of a RMD who has been issued and possesses a valid registration card.

COMMERCIAL-ROLL-YOUR-OWN (RYO) MACHINE AND CIGARETTE INJECTION TUBES — A mechanical device located in a business or used for sale or distribution of tobacco/marijuana that is designed to roll and wrap tobacco/marijuana into products. RYO machines located in private homes used for solely personal consumption are not commercial RYO machines.

CULTIVATION REGISTRATION — A certificate issued by the Massachusetts Department of Public Health that confirms that a RMD has met all requirements pursuant to the Act and 105 CMR 725.00 and registered by the Massachusetts Department of Public Health.

DISPENSARY AGENT — A board member, director, employee, manager, or volunteer of a RMD, who is at least 21 years of age. Employee includes a consultant or contractor who provides on-site services to a RMD related to the cultivation, harvesting, preparation, packaging, storage, testing, or dispensing of marijuana.

DISPENSARY AGENT PERMIT — A permit issued by the Board of Health to be renewed annually,

which permits an eligible person to be employed at a RMD.

**DISPENSARY AGENT PERMIT HOLDER** — Any person engaged in the sale of marijuana who is a dispensary agent is required to apply for a dispensary agent permit pursuant to these regulations prior to being eligible for employment in a RMD and shall be a permit holder.

**E-CIGARETTE** — Any electronic nicotine and/or marijuana delivery product composed of a mouthpiece, heating element, and battery and/or electronic circuits that provides a vapor of liquid nicotine to the user, or relies on vaporization of solid nicotine or any liquid. This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, e-pipes, or under any other product name.

**ENCLOSED LOCKED AREA** — A closet, room, green house or other indoor or outdoor area, equipped with locks or security devices, that is accessible only to dispensary agents, registered qualifying patients, or personal caregivers.

**HARDSHIP CULTIVATION REGISTRATION** — A registration issued to a qualifying patient under the requirements of 105 CMR 725.035.

**MARIJUANA** — All parts of the plant Cannabis Sativa whether growing or not; the seeds thereof; and resin extracted: from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds and resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake or the sterilized seed of the plant, which is incapable of germination. (M.G.L. Ch. 94C, § 1, "Marijuana")

**MARIJUANA-INFUSED PRODUCTS (MIP)** — A product infused with marijuana that is intended for use or consumption, including but not limited to edible products, ointments, aerosols, oils, and tinctures. These products, when created or sold by a RMD, shall not be considered a food or a drug as defined in M.G.L. c. 84, § 1.

**MEDICAL MARIJUANA TREATMENT CENTER** — A not-for-profit registered under 105 CMR 725.100 to be known as a registered marijuana dispensary (RMD), that acquires, cultivates, possesses, processes (including development of related products such as edible MIPs, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to register qualifying patients or their personal caregivers. Unless otherwise specified, RMD refers to the site(s) dispensing, cultivating, and preparation of marijuana.

**NICOTINE DELIVERY PRODUCT** — Any manufactured article or product made wholly or in part of a tobacco substitute or containing nicotine that is expected or intended for human consumption, but not including a product approved by the United States Food and Drug Administration for sale as a tobacco use cessation or harm reduction product or for other medical purposes and which is being marketed and sold solely for that approved purpose. Nicotine delivery products include, but are not limited to, e-cigarettes.

**PERSONAL CAREGIVER** — A person registered by the Massachusetts Department of Public Health, who is at least 21 years old, who has agreed to assist with registered qualifying patients' medical use of marijuana and is not the registered qualifying patient's certifying physician. An employee of a hospice provider, nursing, or medical facility, a visiting nurse, personal care attendant, or home health aide providing care to a qualifying patient may serve as a personal caregiver, including to patients under 18 years of age as a second caregiver.

**PERSONAL CAREGIVER CULTIVATION FACILITY PERMIT** — Issued by the Board of health

to be renewed annually, that permits a personal caregiver cultivator to operate within the Town of Chelmsford.

**PERSONAL CAREGIVER CULTIVATION PERMIT** — Issued by the Board of Health to be renewed annually, that permits a personal caregiver to cultivate medical marijuana within the Town of Chelmsford.

**PERSONAL CAREGIVER CULTIVATION FACILITY PERMIT** — Issued by the Board of Health to be renewed annually, that permits a personal caregiver cultivator to operate within the Town of Chelmsford.

**PERSONAL CAREGIVER CULTIVATION PERMIT HOLDER** — Any personal caregiver that is required to apply for a personal caregiver permit through the Board of Health pursuant to these regulations prior to being eligible to serve as a personal caregiver and shall be a permit holder.

**PERSONAL CAREGIVER PERMIT** — A permit issued by the Board of Health to be renewed annually, to each personal caregiver. A CORI check is required on all applications applying for permits.

**PERSONAL CAREGIVER PERMIT HOLDER** — Any personal caregiver is required to apply for a personal caregiver permit through the Board of Health pursuant to these regulations prior to being eligible to serve as a personal caregiver and shall be a permit holder.

**RMD OPERATING PERMIT** — A permit issued by the Board of Health to be renewed annually that permits a RMD to operate.

**RMD OPERATING PERMIT HOLDER** — Any person engaged in the operation of a RMD, or his or her business agent, shall apply for and receive a RMD operating permit pursuant to this regulation and be a permit holder.

**SELF-SERVICE DISPLAY** — Any display from which customers may select a marijuana product without assistance from a dispensary agent or store personnel.

**SIXTY-DAY SUPPLY** — The amount of marijuana, or equivalent amount of marijuana in marijuana-infused products, that is registered qualifying patient would reasonably be expected to need over a period of 60 calendar days for his or her personal use, which is 10 ounces, subject to 105 CMH 725.010(I).

**SMOKING** — The lighting of a cigar, cigarette, pipe, blunt, or other tobacco or marijuana product or possessing a lighted cigar, pipe, blunt, or other tobacco or nontobacco product designed to be combusted and inhaled.

**VENDING MACHINE** — Any automated or mechanical self-service device which, upon insertion of money, tokens, or any other form of payment, dispenses or makes marijuana products.

#### **§ 201-68. Registered marijuana dispensary operating permit and dispensary agent permit.**

Any proposed RMD shall obtain a RMD operating permit in the form and manner prescribed by the Board of Health, as set forth herein. Any proposed dispensary agent shall obtain a dispensary agent permit in the form and manner prescribed by the Board of Health, as set forth herein.

- A. No dispensary agent or person shall sell or otherwise distribute marijuana or marijuana products within the Town of Chelmsford without first obtaining a dispensary agent permit issued annually by the Board of Health. No dispensary agent shall sell or otherwise distribute marijuana or marijuana products within the Town of Chelmsford outside of a RMD that has obtained a RMD operating permit. Only RMDs with a permanent, nonmobile location in Chelmsford, meeting any zoning

restrictions, are eligible to apply for a RMD operating permit to maintain a supply of marijuana or marijuana products at the specified location in Chelmsford. Personal caregivers who cultivate medical marijuana in the Town of Chelmsford shall comply with regulations set forth in § 201-69 herein.

- B. In order to support the execution of its responsibilities set forth herein, an annual RMD operating permit fee shall be assessed in an amount that shall be set by the Board of Health.
- C. In order to support the execution of its responsibilities set forth herein, a dispensary agent permit fee shall be assessed in an amount that shall be set by the Board of Health. A person applying for a dispensary agent permit shall submit to the Board of Health a valid government-issued photographic identification card and the application submitted to DPH. Personal caregivers who cultivate medical marijuana in the Town of Chelmsford shall comply with regulations set forth in § 201-69 herein.
- D. As part of the RMD operating permit application process, the applicant will submit to the Board of Health the detailed summary of operating policies and procedures for the RMD as submitted with their Phase II application per 105 CMR 725.00, including, but not limited to, detailed floor plan, provisions for security, prevention of diversion, storage of marijuana, transportation of marijuana, inventory procedures, procedures for quality control and testing of products for potential contaminants, procedures for maintaining confidentiality as required by law, personnel policies, dispensing procedures, record-keeping procedures, plans for patient education, and any plans for patient or personal caregiver home delivery.
- E. As part of the RMD operating permit application process, the applicant will be provided with a copy of this regulation. Each applicant is required to sign a statement declaring that the applicant has read said regulation and that the applicant is responsible for instructing any and all dispensary agents who will be responsible for sales.
- F. Each applicant is required to provide proof of a current RMD registration, issued by the Commonwealth of Massachusetts, before a dispensary agent permit and/or RMD operating permit can be issued by the Board of Health.
- G. The issuance and maintaining a RMD operating permit and/or dispensary agent permit shall be conditioned on an applicant's ongoing compliance with current Commonwealth of Massachusetts requirements and policies regarding marijuana sales.
- H. No RMD operating permit holder shall allow any dispensary agent to sell marijuana or marijuana infused products until such dispensary agent reads this regulation and state laws regarding the sale of marijuana and signs a statement, a copy of which will be placed on file in the office of the RMD operating permit holder, that he/she has read this regulation and applicable State Building Code and Department of Public Health Regulations on medical marijuana.
- I. A RMD operating permit is nontransferable. A new owner of a RMD must apply for a new RMD operating permit. No new RMD operating permit will be issued unless and until all outstanding penalties incurred by the previous RMD operating permit holder are satisfied in full.
- J. Dispensary agents must present their dispensary agent permit to any law enforcement official or Board of Health Agent who questions the dispensary agent concerning their marijuana-related activities.
- K. Each RMD operating permit applicant shall provide written consent from the property owner to operate a RMD in said property. A copy shall be submitted to the Board of Health as part of the RMD's application.

- L. Dispensary agents must display their RMD operating permit, DPH registration card(s), and dispensary agent employee authorization cards within a common area of the RMD in a conspicuous place.
- M. No RMD is permitted to sell alcohol or tobacco products and must not be in possession of either a tobacco sales permit or liquor license issued by the Town of Chelmsford.
- N. No RMD is permitted to hold a food service permit and/or a common victualler license issued by the Town of Chelmsford for on-premises food consumption.
- O. RMDs who wish to produce edible MIPs at their RMD must receive Board of Health approval for food processing and preparation facilities after floor plan review.
- P. A separate RMD operating permit shall be required for each retail establishment selling marijuana and/or marijuana products for each location within the Town of Chelmsford.
- Q. The cultivation, processing, distribution or sale of marijuana for medical purposes shall not exempt any person or entity from complying with all state and local laws, ordinances, regulations, and policies.
- R. The cultivation, processing, distribution or sale of marijuana for medical purposes shall not exempt any person or entity from complying with all state and local laws, ordinances, regulations, and policies. Nothing in this regulation gives any immunity under federal law or poses an obstacle to federal enforcement of federal law.
- S. The issuance of an RMD operating permit under this regulation shall be conditioned on registration approval by the Massachusetts Department of Public Health as required by state law and regulation. Any revocation of an RMD's state registration shall result in an automatic suspension of that RMD's operating permit in the Town of Chelmsford.
- T. A RMD operating permit holder shall submit a copy of all DPH inspection reports to the Board of Health within five business days of the report date.
- U. Issuance and maintenance of a RMD operating permit shall be conditioned on an applicant's consent to periodic inspections by the Board of Health to ensure compliance with this regulation and the safety of public health.
- V. A RMD operating permit holder agrees to maintain a closed-circuit camera system that records all sales transactions. Any recording from the previous twenty-four-hour period must be provided to any law enforcement official or Board of Health agent who requests such recording.
- W. A RMD shall submit to the Board of Health for review its plans to provide reduced-cost or free marijuana to patients with documented verified financial hardship by 105 CMR 725.100(A)(6).
- X. A RMD operating permit will not be renewed if the RMD operating permit holder has failed to pay all fines issued and the time period to appeal the fines has expired and/or has not satisfied any outstanding RMD operating permit suspensions.
- Y. All RMD operating permits and dispensary agent permits expire annually on December 31 and shall be valid for a maximum term of one year, renewable annually on January 1.

**§ 201-69. Registered marijuana dispensary requirements.**

- A. No RMD shall be open for business before 8:00 a.m. or later than 8:00 p.m. daily.

- B. No RMD shall be located within a residential dwelling or mixed-use structure where people reside.
- C. A RMD shall have a functioning sprinkler system, which shall be inspected by the Chelmsford Fire Department, and shall comply with applicable State Building and Fire Codes.
- D. Required signage. The RMD operating permit holder shall conspicuously post signage indicating that the entry to persons not possessing a valid registration card is prohibited. Such notice must be posted in a manner as to be readily seen by a person entering the RMD. Such notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four feet or greater than nine feet from the floor. All notices shall be at least 48 square inches, must use at least two contrasting colors.
- E. RMDs must offer a secure patient or personal caregiver home delivery system that serves every address within Chelmsford's Town limits and provides patient or personal caregiver home delivery service to any patient or personal caregiver residing in the Town of Chelmsford who requires home cultivation or suffers from a physical incapacity to access transportation as described by 105 CMR 725.035(A)(2).
- F. For RMDs that cultivate medical marijuana, the cultivation and processing facility shall not adversely affect the health or safety of the nearby residents or businesses by creating dust, glare, heat, noise, noxious gases, materials, processes, products, or wastes. Growing areas shall be within a self-contained structure, with a one-hour firewall assembly made of green board, well ventilated with odor control, and shall not create humidity or mold issues within the establishment.
- G. All retail sales of medical marijuana must be face-to-face between the dispensary agent and the card holder and occur at the RMD location, unless patient or personal caregiver requires home delivery as outlined herein.
- H. RMDs within the Town of Chelmsford shall not be serviced by drive-through windows.
- I. No person shall distribute, or cause to be distributed, any free samples of marijuana or marijuana products. All means, instruments or devices that allow for the redemption of marijuana or marijuana products are prohibited.
- J. A RMD is prohibited from using self-service displays.
- K. A RMD is prohibited from using vending machines.
- L. Security. The Chelmsford Police Department Rules and Regulations regarding security alarms and systems shall be followed; where this section overlaps, the stricter shall be enforced. The Town of Chelmsford Police Department must have full control capability over the camera operation and over all other remote access service equipment.
- M. Disposal of waste. Minimum requirements for disposal of medical marijuana waste:
  - (1) RMD waste must be made unusable prior to leaving a registered facility's secured storage and management area.
  - (2) RMD waste shall be rendered unusable through the following methods:
    - (a) By grinding and incorporating the medical marijuana waste with nonconsumable, solid wastes listed below such that the resulting mixture is at least 50% nonmarijuana waste, paper waste, plastic waste, cardboard waste, food waste, grease or other compostable oil waste, anaerobic composition, or other compost activators, other wastes approved by the

Board of Health that will render the medical marijuana waste unusable, or soil.

- (b) By incorporating the medical marijuana waste with nonconsumable, recyclable solid wastes, grease or other compostable oil waste, anaerobic composition, or other compost activators, or other wastes approved by the Board of Health that will make the medical marijuana waste unusable.
- (c) After the medical marijuana waste is made unusable, the solid waste shall be:
  - [1] Disposed of as a solid waste at a solid waste site and disposal facility that has a certificate of designation from the local governmental body and that is approved by Department of Environmental Protection or the State of Massachusetts; or
  - [2] Deposited at a compost facility that has a certificate of designation from the Department of Public Health and Environment and approved by the Department of Environmental Protection or the State of Massachusetts.

#### **§ 201-70. Marijuana sales by individuals.**

- A. The sale of marijuana by any person outside of a RMD, or who is not a card holder, is prohibited and shall be punishable in accordance with applicable state and local laws.
- B. The use of marijuana by persons who are not registered qualifying patients, including personal caregivers who are card holders, shall be punishable in accordance with applicable state and local laws.

#### **§ 201-71. Personal caregivers.**

A registered qualifying patient may designate up to two personal caregivers. If the registered qualifying patient has been granted a hardship cultivation registration, the personal caregiver(s) may cultivate marijuana on behalf of the registered qualifying patient at only one location registered with the Board of Health as described in this § 201-71. Cultivation pursuant to a hardship cultivation registration by a personal caregiver constitutes consent for such inspections of the cultivation site in accordance with 105 CMR 725.020.

- A. Hardship cultivation.
  - (1) A registered qualifying patient shall designate up to two personal caregivers as outlined in 105 CMR 725.020 who shall be required to register with the Board of Health if they will be cultivating their own marijuana.
  - (2) Personal caregivers who cultivate within the Town of Chelmsford shall be subject to annual cultivation inspections conducted by the Board of Health.
  - (3) Personal caregivers who cultivate marijuana within the Town of Chelmsford on behalf of a registered qualifying patient shall obtain a personal caregiver cultivation permit from the Board of Health. (A CORI check is required.)
- B. Registration of a personal caregiver cultivation.
  - (1) Personal caregivers who cultivate in the Town of Chelmsford shall submit a copy of the documents provided to the State Department of Public Health as outlined in 105 CMR 725.020(A) to the Board of Health.

- (2) Personal caregivers are required to update application information annually along with the appropriate fee as required by the Board of Health.
- (3) Personal caregivers who cultivate medical marijuana in the Town of Chelmsford shall apply for a personal caregiver cultivation permit with the Board of Health.
- (4) Personal caregivers who cultivate medical marijuana in the Town of Chelmsford shall comply with the regulations set forth in § 201-71C herein.

C. Personal caregiver cultivation facility permit regulations.

- (1) Marijuana cultivation by a personal caregiver within the Town of Chelmsford occurring inside a residential structure shall be fully enclosed and secure and shall not exceed 50 square feet, regardless of how many qualified patients of personal caregivers reside in the premises.
- (2) Marijuana cultivation by a personal caregiver within the Town of Chelmsford occurring inside a nonresidential structure shall be in a fully enclosed, secure and shall not exceed 100 square feet, regardless of how many qualified patients or personal caregivers reside at or utilize the premises.
- (3) The residential structure shall remain at all times a residence, with legal and functioning cooking, sleeping, and sanitation facilities with appropriate means of ingress and egress. These rooms shall not be used for marijuana cultivation where such cultivation will prevent those room's primary use for cooking of meals, sleeping, and bathing.
- (4) Cultivation of medical marijuana shall only take place on impervious surfaces.
- (5) Medical marijuana cultivation area, whether in a fully enclosed and secure structure or inside a residential structure, shall not be accessible to persons under 18 years of age or to any person other than the personal caregiver or cultivation permit holder.
- (6) Written consent of the property owner to cultivate medical marijuana within the residential structure shall be obtained and shall be kept on the premises, and available for inspection by the Board of Health, its subsidiary programs or designees, the Chelmsford Building Department and the Chelmsford Fire Department.
- (7) A portable fire extinguisher that complies with the regulations and standards adopted by the State Fire Marshal and applicable law shall be kept in the fully enclosed and secure structure used for cultivation. If cultivation occurs in a residential structure, a portable fire extinguisher shall be kept in the same room as where the cultivation occurs.
- (8) Personal caregiver cultivation facilities shall have a functioning sprinkler system and inspected by the Chelmsford Fire Department prior to cultivation of medical marijuana.
- (9) Personal caregiver cultivation facilities, including those under the hardship cultivation registration found in 105 CMR 725.035, shall comply with the State Building Code, 780 CMR.

**§ 201-72. Removal and closure of a registered marijuana dispensary or personal caregiver growing establishment.**

- A. Abandonment. An RMD or personal caregiver cultivation facility shall be considered abandoned when the facility ceases cultivation activities for more than one year. If the RMD operating permit holder or personal caregiver cultivation permit holder fails to remove the cultivation facility in



accordance with the requirements herein within 150 days of abandonment or the proposed date of decommissioning the facility, the Town may, upon obtaining any required court order to warrant, enter the property, and physically remove the cultivation installations, structures, equipment, security equipment, and any accessories related to marijuana cultivation at the expense of the RMD operating permit holder or the personal caregiver cultivation permit holder.

- B. Removal procedure. Any RMD or personal caregiver cultivation facility which is proposed to be closed or discontinued shall be cleaned to a condition prior to the establishment of the facility. The RMD operating permit holder or personal caregiver cultivation permit holder shall clean the facility no more than 150 days after the date of abandonment or the proposed date of decommissioning the facility. The RMD operating permit holder or personal caregiver cultivation permit holder shall notify the Board of Health by certified mail of the intended date to close or discontinue cultivation.
- C. Closure or discontinued cultivation.
  - (1) All cultivation installations, structures, equipment, security equipment and any accessories directly related to cultivation activities shall be removed from the facility and properly disposed of by the RMD operating permit holder or personal caregiver cultivation permit holder.
  - (2) Disposal of all solid and hazardous waste shall be in accordance with local, state, and federal waste disposal regulations.
- D. Financial security. A RMD operating permit holder or personal caregiver cultivation permit holder shall provide a noncancellable surety bond or other form of surety approved by the Board of Health to cover the cost of removal, closure, and/or cleanup in the event the Town must remove, close, and/or clean up a RMD or cultivation facility after obtaining any required court order or warrant. The amount and form of the surety bond or other form of surety shall be determined by the Board of Health, but in no event shall exceed more than 150% of the cost of removal, closure, and/or cleanup. The RMD operating permit holder or personal caregiver cultivation permit holder shall submit a fully inclusive estimate of the costs associated with the removal, closure, and/or cleanup, prepared by a qualified hazardous waste remediation contractor. The amount shall include a mechanism for calculating increased removal, closure and/or cleanup costs due to inflation.

#### **§ 201-73. Marijuana possession.**

- A. A card holder must present his or her registration card to any law enforcement official who questions the patient or caregiver regarding his or her possession or use of marijuana.
- B. A card holder must not possess an amount of marijuana that exceeds his/her sixty-day supply.
- C. Growing marijuana is prohibited except for those possessing a valid hardship cultivation registration issued by the Commonwealth of Massachusetts or by a RMD.

#### **§ 201-74. Marijuana use.**

- A. The smoking of any marijuana is prohibited in locations governed by the Massachusetts Smoke Free Workplace Law (MGL Ch. 270 § 22) and by any local laws or regulations that further ban smoking.
- B. The use of marijuana by all persons, including card holders, is prohibited in public schools, on public school grounds, and on all public-school buses.
- C. The use of marijuana is prohibited in all public locations and shall not be used in places where tobacco is prohibited.

**§ 201-75. Fee structure.**

Type	Fee
Personal caregiver	\$100, annually
Hardship cultivation permit/personal caregiver cultivation permit	\$150, annually
Dispensary agent permit	\$150, annually
Initial personal caregiver cultivation facility	\$250
Personal caregiver cultivation facility	\$250, annually
Registered marijuana dispensary operating permit	\$1,000 annually
Initial registered marijuana dispensary operating permit	\$3,000 annually

**§ 201-76. Enforcement.**

- A. Enforcement of this regulation shall be by the Board of Health or its designated agent(s).
- B. Any resident who desires to register a complaint pursuant to the regulation may do so by contacting the Board of Health or its designated agent(s).
- C. Authority to inspect RMDs for compliance and to enforce this regulation shall be held by the Board of Health.
- D. Any person may register a complaint under this regulation to initiate an investigation and enforcement with the Board of Health. Unscheduled compliance inspections may be conducted.
- E. It shall be the responsibility of the RMD operating permit holder, dispensary agent permit holder, personal caregiver permit holder, and/or personal caregiver cultivation permit holder to ensure compliance with all applicable sections of this regulation.
- F. Any RMD operating permit holder, dispensary agent permit holder, personal caregiver permit holder, and/or personal caregiver cultivation permit holder found to be in violation of any of the provisions of these regulations may receive a written warning citation, suspension, or permit revocation. For any violation, the Board of Health or its designee may order the RMD operating permit holder, dispensary agent permit holder, personal caregiver permit holder, or personal caregiver cultivation permit holder to appear for a hearing and/or enter into a corrective action plan to address any and all violations and prevent future violations.
- G. No provision, clause, or sentence of this section of this regulation shall be interpreted as prohibiting the Board of Health from suspending or revoking any license or permit issued by and within the jurisdiction of such. The Board of Health may file a complaint in any court of competent jurisdiction and/or pursue any other remedy as warranted by law to enforce the provisions of this regulation.

**§ 201-77. Violations and penalties.**

- A. Violations of these regulations shall be punishable as follows:
  - (1) In the case of a first violation, a fine of up to \$300.

- (2) In the case of a second violation within 24 months of the date of a prior violation, a fine of up to \$300 and the RMD operating permit, dispensary agent permit, personal caregiver permit, or personal caregiver cultivation permit holder shall be suspended for seven consecutive business days.
  - (3) In the case of three or more violations within a twenty-four-month period, a fine of up to \$300 and the RMD operating permit, dispensary agent permit, personal caregiver permit, or personal caregiver permit holder for 30 consecutive business days.
- B. Refusal to cooperate with inspections pursuant to this regulation shall result in the suspension of the RMD operating permit, dispensary agent permit, personal caregiver permit, or personal caregiver cultivation permit holder for 30 consecutive business days.
- C. In addition to the monetary fines set above, any RMD operating permit holder, dispensary agent permit holder, personal caregiver permit holder, or personal caregiver cultivation permit holder who engages in the sale or distribution of marijuana or marijuana products while his or her RMD operating permit, dispensary agent permit, personal caregiver permit, or personal caregiver cultivation permit is suspended shall be subject to the suspension of all permits issued pursuant to this regulation for 30 consecutive business days.
- D. The Board of Health shall provide notice of the intent to suspend a RMD operating permit, dispensary agent permit, personal caregiver permit, or personal caregiver cultivation permit, which notice shall contain the reasons therefor and establish a time and date for a hearing, which date shall be no earlier than seven days after the date of said notice. The RMD operating permit holder, dispensary agent permit holder, personal caregiver permit holder, or personal caregiver cultivation permit holder shall have an opportunity to be heard at such hearing and shall be notified of the Board of Health's decision and the reasons therefor in writing. After a hearing, the Board of Health shall suspend the RMD operating permit, dispensary agent permit, personal caregiver permit holder, or personal caregiver cultivation permit if the Board of Health finds that a violation of this regulation occurred. For purposes of such suspensions, the Board of Health shall make the determination notwithstanding any separate criminal or noncriminal proceedings brought in court hereunder or under the Massachusetts General Laws for the same offense. All marijuana and marijuana products shall be removed from the retail establishment or cultivation facility upon suspension of the RMD operating permit or personal caregiver cultivation permit. Failure to remove all marijuana and marijuana delivery products shall constitute a separate violation of this regulation.
- E. An individual or person who violates Sections 11.00 of this regulation<sup>72</sup> shall be subject to a penalty of \$500 for each violation.

#### **§ 201-78. Noncriminal disposition.**

Whoever violates any provision of this regulation may be penalized in the amount of \$100 by the noncriminal method of disposition as provided in Massachusetts General Laws, Chapter 40, § 21D, or by filing a criminal complaint at the appropriate venue. Each day any violation exists will be deemed to be a separate offense.

#### **§ 201-79. Additional conditions, limitations, and safeguards.**

- A. No entitlement or vested rights to permitting. No person shall be deemed to have any entitlement or

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72. Editor's Note: So in original.

vested rights to permitting under this regulation by virtue of having received any prior permit from the Town, including, by way of example only, any zoning permit or any wholesale food manufacturer's license. In order to lawfully operate a RMD, any person must qualify for and obtain a special permit in accordance with the requirements of this bylaw.

- B. Conflict of laws. In the event of any conflict between the provisions of this regulation and other applicable state or local law, the stricter provision shall control.
- C. Approval by the Massachusetts Department of Public Health. The issuance of an operating permit or cultivation permit under this regulation shall be conditioned on registration approval by the Massachusetts Department of Public Health as required by state law and regulations. Any revocation of an RMD's state registration or personal caregiver license or hardship certificate shall result in an automatic suspension of that RMD's operating permit, personal caregiver permit, or personal cultivation permit.

**§ 201-80. Severability.**

If any provision of these regulations is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

**§ 201-81. Effective date.**

- A. This regulation shall take effect by vote of the Board of Health at its regularly scheduled meeting held on July 7, 2014, and is to be in full force and effect immediately upon adoption.
- B. This regulation or any portion thereof may be amended, supplemented, or repealed from time to time by the Board, with notice as provided by law, on its own motion, or by petition.
- C. This regulation has been amended, voted on, and unanimously approved at a regularly scheduled Board of Health meeting on September 13, 2021, and will go into effect on September 13, 2021. The changes approved at the Board of Health's September 13, 2021, meeting consisted of administrative renumbering; no substantive changes to the regulation were made at this time.
- D. This regulation has been amended, voted on, and unanimously approved at a regularly scheduled Board of Health meeting on March 7, 2022, and will go into effect on March 7, 2022. The changes approved at the Board of Health's March 7, 2022, meeting consisted of administrative corrections.

## ARTICLE XIV

**Tobacco**

**[Added 7-10-1995; amended 5-5-1997; 7-1-2019; 1-6-2020; 9-13-2021 by Board of Health; 10-4-2021 by Board of Health]**

**§ 201-82. Statement of purpose.**

- A. Whereas there exists conclusive evidence that tobacco smoking causes cancer, respiratory and cardiac diseases, negative birth outcomes, irritations to the eyes, nose and throat<sup>73</sup>;
- B. Whereas the U.S. Department of Health and Human Services has concluded that nicotine is as addictive as cocaine or heroin<sup>74</sup> and the Surgeon General found that nicotine exposure during adolescence, a critical window for brain development, may have lasting adverse consequences for brain development,<sup>75</sup> and that it is addiction to nicotine that keeps youth smoking past adolescence<sup>76</sup>;
- C. Whereas a Federal District Court found that Phillip Morris, RJ Reynolds and other leading cigarette manufacturers "spent billions of dollars every year on their marketing activities in order to encourage young people to try and then continue purchasing their cigarette products in order to provide the replacement smokers they need to survive" and that these companies were likely to continue targeting underage smokers<sup>77</sup>;
- D. Whereas more than 80% of all adult smokers begin smoking before the age of 18, more than 90% do so before leaving their teens, and more than 3.5 million middle and high school students smoke<sup>78</sup>;
- E. Whereas 18.1% of current smokers aged less than 18 years reported that they usually directly purchased their cigarettes from stores (i.e., convenience store, supermarket, or discount store) or gas stations, and among 11th grade males this rate was nearly 30%<sup>79</sup>;
- F. Whereas the Institute of Medicine (IOM) concludes that raising the minimum age of legal access to tobacco products to 21 will likely reduce tobacco initiation, particularly among adolescents aged 15 to 17, which would improve health across the lifespan and save lives<sup>80</sup>;
- G. Whereas cigars and cigarillos can be sold in a single "dose;" enjoy a relatively low tax as compared to cigarettes; are available in fruit, candy and alcohol flavors; and are popular among youth<sup>81</sup>;

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73. Note: Center for Disease Control and Prevention, (CDC) (2012), Health Effects of Cigarette Smoking Fact Sheet. Retrieved from: [http://www.cdc.gov/tobacco/data\\_statistics/fact\\_sheets/health\\_effects/effects\\_cig\\_smoking/index.htm](http://www.cdc.gov/tobacco/data_statistics/fact_sheets/health_effects/effects_cig_smoking/index.htm).

74. Note: CDC (2010), How Tobacco Smoke Causes Disease: The Biology and Behavioral Basis for Smoking-Attributable Disease. Retrieved from: [http://www.cdc.gov/tobacco/data\\_statistics/sgr/2010/](http://www.cdc.gov/tobacco/data_statistics/sgr/2010/).

75. Note: U.S. Department of Health and Human Services. 2014. The Health Consequences of Smoking - 50 Years of Progress: A Report of the Surgeon General. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 122. Retrieved from: <http://www.surgeongeneral.gov/library/reports/50-years-of-progress/full-report.pdf>.

76. Note: Id. at Executive Summary p. 13. Retrieved from: <http://www.surgeongeneral.gov/library/reports/50-years-of-progress/execsummary.pdf>

77. Note: United States v. Phillip Morris, Inc., RJ Reynolds Tobacco Co., et al., 449 F.Supp. 2d 1 (D.D.C. 2006) at Par. 3301 and Pp. 1605-07.

78. Note: SAMHSA, Calculated based on data in 2011 National Survey on Drug Use and Health and U. S. Department of Health and Human services (HHA).

79. Note: CDC (2013) Youth Risk Behavior, Surveillance Summaries (MMWR 2014: 63 (No SS-04)). Retrieved from: [www.cdc.gov](http://www.cdc.gov).

80. Note: IOM (Institute of Medicine) 2015. Public Health Implications of Raising the Minimum Age of Legal Access to Tobacco Products. Washington DC: The National Academies Press, 2015.

81. Note: CDC (2009), Youth Risk Behavior, Surveillance Summaries (MMWR 2010: 59, 12, note 5). Retrieved from: <http://www.cdc.gov/mmwr/pdf/ss/ss5905.pdf>.

- H. Whereas research shows that increased cigar prices significantly decreased the probability of male adolescent cigar use and a 10% increase in cigar prices would reduce use by 3.4%<sup>82</sup>;
- I. Whereas 59% of high school smokers in Massachusetts have tried flavor cigarettes or flavored cigars and 25.6% of them are current flavored tobacco product users; 95.1% of twelve- to seventeen-year-olds who smoked cigars reported smoking cigar brands that were flavored<sup>83</sup>;
- J. Whereas the Surgeon General found that exposure to tobacco marketing in stores and price discounting increase youth smoking<sup>84</sup>;
- K. Whereas the federal Family Smoking Prevention and Tobacco Control Act (FSPTCA), enacted in 2009, prohibited candy- and fruit-flavored cigarettes,<sup>85</sup> largely because these flavored products were marketed to youth and young adults,<sup>86</sup> and younger smokers were more likely to have tried these products than older smokers<sup>87</sup>, neither federal nor Massachusetts laws restrict sales of flavored noncigarette tobacco products, such as cigars, cigarillos, smokeless tobacco, hookah tobacco, and electronic devices and the nicotine solutions used in these devices;
- L. Whereas the U.S. Food and Drug Administration and the U.S. Surgeon General have stated that flavored tobacco products are considered to be "starter" products that help establish smoking habits that can lead to long term addiction<sup>88</sup>;
- M. Whereas the U.S. Surgeon General recognized in his 2014 report that a complementary strategy to assist in eradicating tobacco related death and disease is for local governments to ban categories of products from retail sale<sup>89</sup>;
- N. Whereas the U.S. Food and Drug Administration and the Tobacco Products Scientific Advisory Committee concluded that menthol flavored tobacco products increased nicotine dependence, decreased success in smoking cessation<sup>90</sup>;

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82. Note: Ringel, J., Wasserman, J., & Andreyeva, T. (2005) Effects of Public Policy on Adolescents' Cigar Use: Evidence from the National Youth Tobacco Survey. *American Journal of Public Health*, 95(6), 995-998, doi: 10.2105/AJPH.2003.030411 and cited in Cigar, Cigarillo and Little Cigar Use among Canadian Youth: Are We Underestimating the Magnitude of this Problem?, *J. Prim. P.* 2011, Aug: 32(3-4):161-70. Retrieved from: [www.ncbi.nlm.nih.gov/pubmed/21809109](http://www.ncbi.nlm.nih.gov/pubmed/21809109).

83. Note: Massachusetts Department of Public Health, 2015 Massachusetts Youth Health Survey (MYHS); Delneve CD et al., *Tob Control*, March 2014: Preference for flavored cigar brands among youth, young adults and adults in the USA.

84. Note: U.S. Department of Health and Human Services. 2012. Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 508-530, [www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf](http://www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf).

85. Note: Carpenter CM, Wayne GF, Pauly JL, et al. 2005. "New Cigarette Brands with Flavors that Appeal to Youth: Tobacco Marketing Strategies." *Health Affairs*. 24(6): 1601-1610; Lewis M and Wackowski O. 2006. "Dealing with an Innovative Industry: A Look at Flavored Cigarettes Promoted by Mainstream Brands." *American Journal of Public Health*. 96(2): 244-251; Connolly GN. 2004. "Sweet and Spicy Flavours: New Brands for Minorities and Youth." *Tobacco Control*. 13(3): 211-212; U.S. Department of Health and Human Services. 2012. Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 537, [www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf](http://www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf).

86. Note: U.S.C. § 387g.

87. Note: U.S. Department of Health and Human Services. 2012. Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 539, [www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf](http://www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf).

88. Note: Food and Drug Administration. 2011. Fact Sheet: Flavored Tobacco Products, [www.fda.gov/downloads/TobaccoProducts/ProtectingKidsfromTobacco/FlavoredTobacco/UCM183214.pdf](http://www.fda.gov/downloads/TobaccoProducts/ProtectingKidsfromTobacco/FlavoredTobacco/UCM183214.pdf); U.S. Department of Health and Human Services. 2012. Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 539, [www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf](http://www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf).

89. Note: See fn. 3 above.

90. Note: [www.fda.gov/downloads/ucm361598.pdf](http://www.fda.gov/downloads/ucm361598.pdf), <https://tobacco.ucsf.edu/tpsac-gave-fda-what-it-needs-to-ban-menthol>

- O. Whereas menthol makes it easier for youth to initiate tobacco use<sup>91</sup>;
- P. Whereas use of e-cigarettes among students in Massachusetts is 20.1%, representing a 78% increase for high schoolers and a 48% increase for middle schoolers from 2017 to 2018<sup>92</sup>;
- Q. Whereas the Massachusetts Department of Environmental Protection has classified liquid nicotine in any amount as an "acutely hazardous waste"<sup>93</sup>;
- R. Whereas in a lab analysis conducted by the FDA, electronic cigarette cartridges that were labeled as containing no nicotine actually had low levels of nicotine present in all cartridges tested, except for one<sup>94</sup>;
- S. Whereas according to the CDC's youth risk behavior surveillance system, the percentage of high school students in Massachusetts who reported the use of cigars within the past 30 days is 10.8% in 2013<sup>95</sup>;
- T. Whereas data from the National Youth Tobacco Survey indicate that more than two-fifths of U.S. middle and high school smokers report using flavored little cigars or flavored cigarettes<sup>96</sup>;
- U. Whereas the sale of tobacco products is incompatible with the mission of health care institutions because these products are detrimental to the public health and their presence in health care institutions undermine efforts to educate patients on the safe and effective use of medication, including cessation medication;
- V. Whereas educational institutions sell tobacco products to a younger population, who are particularly at risk for becoming smokers and such sale of tobacco products is incompatible with the mission of educational institutions that educate a younger population about social, environmental and health risks and harms;
- W. Whereas the Massachusetts Supreme Judicial Court has held that "[t]he right to engage in business must yield to the paramount right of government to protect the public health by any rational means"<sup>97</sup>;
- X. Now, therefore, it is the intention of the Chelmsford Board of Health to regulate the sale of tobacco products.

### § 201-83. Authority.

This article is promulgated pursuant to the authority granted to the Chelmsford Board of Health by Massachusetts General Laws Chapter 111, § 31, which states "Boards of health may make reasonable health regulations".

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91. Note: [www.tobaccofreekids.org/assets/factsheet/0390.pdf](http://www.tobaccofreekids.org/assets/factsheet/0390.pdf)

92. Note: MA YRBS 2017

93. Note: MA YRBS 2017

94. Note: Food and Drug Administration, Summary of Results: Laboratory Analysis of Electronic Cigarettes Conducted by FDA, available at: <http://www.fda.gov/newsevents/publichealthfocus/ucm173146.htm>.

95. Note: See fn. 7.

96. Note: King BA, Tynan MA, Dube SR, et al. 2013. "Flavored-Little-Cigar and Flavored-Cigarette Use Among U.S. Middle and High School Students." *Journal of Adolescent Health*. [Article in press], [www.jahonline.org/article/S1054-139X%2813%29004151/abstract](http://www.jahonline.org/article/S1054-139X%2813%29004151/abstract).

97. Note: *Druzik et al v. Board of Health of Haverhill*, 324 Mass. 129 (1949).

**§ 201-84. Definitions.**

For the purpose of this article, the following words shall have the following meanings:

**ADULT-ONLY RETAIL TOBACCO STORE** (also known as **RETAIL TOBACCO STORE IN MGL CH. 270**) —

- A. An establishment that is not required to possess a retail food permit whose primary purpose is to sell or offer for sale but not for resale, tobacco products and tobacco paraphernalia, in which the sale of other products is merely incidental, and in which the entry of persons under the minimum legal sales age is prohibited at all times, and maintains a valid permit for the retail sale of tobacco products as required to be issued by the Chelmsford Board of Health.
- B. An establishment that does not share space with another business, that has a separate entrance, that does not sell food, beverages or alcohol, that does not have a restaurant license or lottery license, whose only purpose is to sell or offer for retail sale tobacco products and/or tobacco product paraphernalia, in which the entry of persons under the age of 21 is prohibited at all times, and which maintains a valid permit for the retail sale of tobacco products from the Chelmsford Board of Health and applicable state licenses. Entrance to the establishment must be secure so that access to the establishment is restricted to employees and to those 21 years or older. The establishment shall not allow anyone under the age of 21 to work at the establishment.

**BLUNT WRAP** — Any product made wholly or in part from tobacco, manufactured or packaged with loose and removeable leaves or section of a leaf, or as a hollow tube, that may be used by the consumer to wrap or contain loose tobacco or other fillers.

**BUSINESS AGENT** — An individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of said establishment.

**CHARACTERIZING FLAVOR** — A distinguishable taste or aroma, other than the taste or aroma of tobacco, menthol, mint or wintergreen, imparted or detectable either prior to or during consumption of a tobacco product or component part thereof, including, but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb or spice; provided, however, that no tobacco product shall be determined to have a characterizing flavor solely because of the provision of ingredient information or the use of additives or flavorings that do not contribute to the distinguishable taste or aroma of the product.

**CHILD-RESISTANT PACKAGE** — Packaging intended to reduce the risk of a child ingesting nicotine and that meets the minimum standards of 16 CFR 1700 et seq., pursuant to 15 U.S.C. § 1471 through 1476.

**CIGAR** — Any roll of tobacco that is wrapped in leaf tobacco or in any substance containing tobacco with or without a tip or mouthpiece that is in a readily usable state immediately when removed from its packaging without any modification, preparation or assembly required as in a kit or roll-your-own package not otherwise defined as a cigarette under Massachusetts General Law, Chapter 64C, § 1, Paragraph 1. Tobacco leaf in such kits or roll-your-own packages shall be considered "blunt wraps" for the purpose of this article.

**COMPONENT PART** — Any element of a tobacco product, including, but not limited to, the tobacco, filter and paper, but not including any constituent.

**CONSTITUENT** — Any ingredient, substance, chemical or compound, other than tobacco, water or reconstituted tobacco sheet, that is added by the manufacturer to a tobacco product during the processing, manufacturing or packaging of the tobacco product. Such term shall include a smoke constituent.

**COUPON** — Any card, paper, note, form, statement, ticket or other issue distributed for commercial



or promotional purposes to be later surrendered by the bearer so as to receive an article, service or accommodation without charge or at a discount price.

**DISTINGUISHABLE** — Perceivable by either the sense of smell or taste.

**EDUCATIONAL INSTITUTION** — Any public or private college, school, professional school, scientific or technical institution, university or other institution furnishing a program of higher education.

**ELECTRONIC NICOTINE DELIVERY SYSTEM** — An electronic device, whether for one-time use or reusable, that can be used to deliver nicotine or another substance to a person inhaling from the device including, but not limited to, electronic cigarettes, electronic cigars, electronic cigarillos, electronic pipes, vaping pens, hookah pens and other similar devices that rely on vaporization or aerosolization; provided, however, that "electronic nicotine delivery system" shall also include any noncombustible liquid or gel that is manufactured into a finished product for use in such electronic device; provided further, that "electronic nicotine delivery system" shall also include any component, part or accessory of a device used during the operation of the device even if the part or accessory was sold separately; provided further, that "electronic nicotine delivery system" shall not include a product that has been approved by the United States Food and Drug Administration for the sale of or use as a tobacco cessation product or for other medical purposes and is marketed and sold or prescribed exclusively for that approved purpose.

**EMPLOYEE** — Any individual who performs services for an employer.

**EMPLOYER** — Any individual, partnership, association, corporation, trust or other organized group of individuals that uses the services of one or more employees.

**FLAVORED TOBACCO PRODUCT** — Any tobacco product or component part thereof that contains a constituent that has or produces a characterizing flavor. A public statement, claim or indicia made or disseminated by the manufacturer of a tobacco product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such tobacco product, that such tobacco product has or produces a characterizing flavor shall constitute presumptive evidence that the tobacco product is a flavored tobacco product.

**HEALTH CARE INSTITUTION** — An individual, partnership, association, corporation or trust or any person or group of persons that provides health care services and employs health care providers licensed, or subject to licensing, by the Massachusetts Department of Public Health under MGL c. 112 or a retail establishment that provides pharmaceutical goods and services and is subject to the provisions of 247 CMR 6.00. Health care institutions include, but are not limited to, hospitals, clinics, health centers, pharmacies, drug stores, doctor offices, optician/optometrist offices and dentist offices.

**LIQUID NICOTINE CONTAINER** — A package from which nicotine or other substance in a solution or other form is accessible through normal and foreseeable use by a consumer and that is used to hold a soluble nicotine or other substance in any concentration; provided, however, that "liquid nicotine container" shall not include a sealed, prefilled and disposable container of nicotine or other substance in a solution or other form in which the container is inserted directly into an electronic cigarette, electronic nicotine delivery system or other similar product if the nicotine or other substance in the container is inaccessible through customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion or other contact by children.

**LISTED OR NONDISCOUNTED PRICE** — The higher of the price listed for a tobacco product on its package or the price listed on any related shelving, posting, advertising or display at the place where the tobacco product is sold or offered for sale plus all applicable taxes if such taxes are not included in the state price, and before the application of any discounts or coupons.

**NONRESIDENTIAL ROLL-YOUR-OWN (RYO) MACHINE** — A mechanical device made available for use (including to an individual who produces cigars, cigarettes, smokeless tobacco, pipe tobacco, or

roll-your-own tobacco solely for the individual's own personal consumption or use) that is capable of making cigarettes, cigars or other tobacco products. RYO machines located in private homes used for solely personal consumption are not nonresidential RYO machines.

PERMIT HOLDER — Any person engaged in the sale or distribution of tobacco products who applies for and receives a tobacco product sales permit or any person who is required to apply for a tobacco product sales permit pursuant to this article, or his or her business agent.

PERSON — Any retailer, individual, firm, partnership, association, corporation, company or organization of any kind, including, but not limited to, an owner, operator, manager, proprietor or person in charge of any establishment, business or retail store.

RETAILER — A person that operates a retail establishment.

SCHOOLS — Public or private elementary or secondary schools.

SELF-SERVICE DISPLAY — Any display from which customers may select a tobacco product, as defined herein, without assistance from an employee or store personnel.

SMOKE CONSTITUENT — Any chemical or chemical compound in mainstream or sidestream tobacco smoke that either transfers from any component of the tobacco product to the smoke or that is formed by the combustion or heating of tobacco, additives or other component of the tobacco product.

SMOKING BAR — An establishment that: (i) exclusively occupies an enclosed indoor space and is primarily engaged in the retail sale of tobacco products for consumption by customers on the premises; (ii) derives revenue from the sale of food, alcohol or other beverages that is incidental to the sale of a tobacco product and prohibits entry to a person under 21 years of age; (iii) prohibits a food or beverage not sold directly by the establishment from being consumed on the premises; (iv) maintains a valid permit for the retail sale of a tobacco product as required to be issued by the Town of Chelmsford; and (v) maintains a valid permit issued by the department of revenue to operate as a smoking bar. "Smoking bar" shall include, but not be limited to, those establishments that are commonly known as "cigar bars" and "hookah bars."

TOBACCO PRODUCT — A product containing or made or derived from tobacco or nicotine that is intended for human consumption, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed or ingested by any other means including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff, electronic cigarettes, electronic cigars, electronic pipes, electronic nicotine delivery systems or any other similar products that rely on vaporization or aerosolization regardless of nicotine content in the product; provided, however, that "tobacco product" shall also include any component, part or accessory of a tobacco product; and provided further, that "tobacco product" shall not include a product that has been approved by the United States Food and Drug Administration for the sale of or use as a tobacco cessation product or for other medical purposes and is marketed and sold or prescribed exclusively for the approved purpose.

TOBACCO PRODUCT FLAVOR ENHANCER — Any product designed, manufactured, produced, marketed or sold to produce a characterizing flavor when added to any tobacco product.

VENDING MACHINE — Any automated or mechanical self-service device, which upon insertion of money, tokens or any other form of payment dispenses or makes cigarettes or any other tobacco products, as defined herein.

#### **§ 201-85. No tobacco sales to persons under 21 years old.**

- A. No person shall sell or provide a tobacco product to a person under 21 years old.
- B. Required signage.

- (1) All retail establishments, including smoking bars and adult-only retail tobacco stores, shall conspicuously post signage inside the establishment, in the form developed and made available by the Massachusetts Department of Public Health. Such signage shall include: (i) a copy of MGL c. 270, §§ 6 and 6A; (ii) referral information for smoking cessation resources; (iii) a statement that sale of tobacco products, including e-cigarettes, to someone younger than 21 years of age is prohibited; (iv) health warnings associated with using electronic nicotine delivery systems; and (v) except in the case of smoking bars, notice to consumers that the sale of flavored electronic nicotine systems are prohibited at all times. Such signage shall be posted conspicuously in the retail establishment or other place in such a manner so that it may be readily seen by a person standing at or approaching the cash register. The notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four feet or greater than nine feet from the floor.
  - (2) All smoking bars and adult-only retail tobacco stores shall post signage, in the form developed and made available by the Massachusetts Department of Public Health, on the exterior of the door providing entrance to the tobacco retail store or smoking bar and such sign shall not be obstructed from view or placed at a height of less than four feet or greater than nine from the bottom of the door. Such signage shall state that "No person younger than 21 years old is permitted on the premises at any time."
  - (3) All smoking bars and those adult-only retail tobacco stores that allow for onsite consumption of tobacco products shall post signage, in the form developed and made available by the Massachusetts Department of Public Health, on the exterior of the door providing entrance to the tobacco retail store or smoking bar and such sign shall not be obstructed from view or placed at a height of less than four feet or greater than nine from the bottom of the door. Such signage shall warn persons entering that smoking and vaping may be present on the premises and provide information concerning the health risks associated with secondhand smoke and the use of tobacco products, including electronic nicotine delivery systems.
- C. Identification. Each person selling or distributing tobacco products or admitting entrance into a smoking bar or adult-only retail tobacco store shall first verify the age of the purchaser by means of a valid government-issued photographic identification containing the bearer's date of birth that the purchaser is 21 years old or older.
- D. All retail sales of tobacco products, as defined herein, must be face-to-face between the seller and the buyer and occur at the permitted location.

**§ 201-86. Tobacco product sales permit.**

- A. No person shall sell or otherwise distribute tobacco products, as defined herein, within the Town of Chelmsford without first obtaining a tobacco product sales permit issued annually by the Chelmsford Board of Health. Only owners of establishments with a permanent, indoor, nonmobile location in Chelmsford are eligible to apply for a permit and sell tobacco products, as defined herein, at the specified location in Chelmsford.
- B. As part of the tobacco product sales permit application process, the applicant will be provided with the Chelmsford regulation. Each applicant is required to sign a statement declaring that the applicant has read said regulation and that the applicant is responsible for instructing any and all employees who will be responsible for tobacco product sales regarding federal, state and local laws regarding the sale of tobacco and this article.

- C. Each applicant who sells tobacco products is required to provide proof of a current tobacco retailer license issued by the Massachusetts Department of Revenue, when required by state law, before a tobacco product sales permit can be issued. Applicant may be asked to provide evidence that a legitimate business transfer or business purchase has taken place.
- D. A separate permit, displayed conspicuously, is required for each retail establishment selling tobacco products, as defined herein, the fee for which shall be determined by the Chelmsford Board of Health annually.
- E. A tobacco product sales permit is nontransferable. A new owner of an establishment that sells tobacco products, as defined herein, must apply for a new permit. No new permit will be issued unless and until all outstanding penalties incurred by the previous permit holder are satisfied in full.
- F. Issuance of a tobacco product sales permit shall be conditioned on an applicant's consent to unannounced, periodic inspections of his/her retail establishment to ensure compliance with this article.
- G. a tobacco product sales permit will not be renewed if the permit holder has failed to pay all fines issued and the time period to appeal the fines has expired and/or the permit holder has not satisfied any outstanding permit suspensions.
- H. A tobacco product sales permit will not be renewed if the permit holder has sold a tobacco product to a person under the age of 21 three times within the previous permit year and the time period to appeal has expired. The violator may request a hearing in accordance with § 201-100, Violations and penalties.
- I. Maximum number of tobacco product sales permits issued to adult-only retail tobacco stores.
  - (1) There shall be no more than three tobacco sales permits issued to adult-only retail tobacco stores in Chelmsford as of October 1, 2019. No permit renewal by an adult-only retail tobacco store will be denied based on the requirements of this subsection except any permit holder who has failed to renew his or her permit within 30 days of expiration will be treated as a first-time permit applicant. New adult-only retail tobacco store applicants for permits who are applying at a time when the maximum number of permits dedicated for adult-only retail tobacco stores have been issued will be placed on a waiting list and will be eligible to apply for a permit on a "first-come, first-served" basis as issued permits to adult-only retail tobacco stores are either not renewed, revoked, or are returned to the Board of Health. Applicants who purchase or acquire an existing adult-only retail tobacco store that holds a valid tobacco product sales permit at the time of the sale or acquisition of said business must apply within 60 days of such sale or acquisition for the permit held by the current permit holder if the applicant intends to operate as an adult-only retail tobacco store, as defined herein.
- J. A tobacco product sales permit shall not be issued to any new applicant for a retail location within 500 feet of a public or private elementary or secondary school as measured by a straight line from the nearest point of the property line of the school to the nearest point of the property line of the site of the applicant's business premises.
- K. As of the effective date of this article, no new adult-only retail tobacco stores shall be located within 25 feet of an existing retailer with a tobacco product sales permit.

**§ 201-87. Cigar sales regulated.**

- A. No person shall sell or distribute or cause to be sold or distributed a single cigar unless such cigar is priced for retail sale at \$2.90 or more.
- B. No person shall sell or distribute or cause to be sold or distributed any original factory-wrapped package of two or more cigars unless such package is priced for retail sale at \$5.80 or more.
- C. This section shall not apply to:
  - (1) A person or entity engaged in the business of selling or distributing cigars for commercial purposes to another person or entity engaged in the business of selling or distributing cigars for commercial purposes with the intent to sell or distribute outside the boundaries of Chelmsford.
- D. The Chelmsford Board of Health may adjust from time to time the amounts specified in this section to reflect changes in the applicable Consumer Price Index by amendment of this article.

**§ 201-88. Sale of flavored tobacco products prohibited.**

No person shall possess, hold, keep, sell or distribute or cause to be sold or distributed any flavored tobacco product, as defined herein, or any flavored tobacco product enhancer except in smoking bars and adult-only retail tobacco stores.

**§ 201-89. Prohibition of the sale of blunt wraps.**

No person or entity shall sell or distribute blunt wraps in Chelmsford.

**§ 201-90. Free distribution and coupon redemption.**

No person shall:

- A. Distribute, or cause to be distributed, any free samples of tobacco products, as defined herein;
- B. Accept or redeem, offer to accept or redeem, or cause or hire any person to accept or redeem or offer to accept or redeem any coupon that provides any tobacco product, as defined herein, without charge or for less than the listed or nondiscounted price; or
- C. Sell a tobacco product, as defined herein, to consumers through any multipack discounts (e.g., "buy two, get one free") or otherwise provide or distribute to consumers any tobacco product, as defined herein, without charge or for less than the listed or nondiscounted price in exchange for the purchase of any other tobacco product.
- D. Subsections B and C shall not apply to products, such as cigarettes, for which there is a state law prohibiting them from being sold as loss leaders and for which a minimum retail price is required by state law.

**§ 201-91. Out-of-package sales.**

- A. The sale or distribution of tobacco products, as defined herein, in any form other than an original factory-wrapped package is prohibited, including the repackaging or dispensing of any tobacco product, as defined herein, for retail sale. No person may sell or cause to be sold or distribute or cause to be distributed any cigarette package that contains fewer than 20 cigarettes, including single cigarettes.
- B. Permit holders who sell liquid nicotine containers must comply with the provisions of 310 CMR

30.000 and must provide the Chelmsford Board of Health with a written plan for disposal of said product, including disposal plans for any breakage, spillage or expiration of the product.

- C. All permit holders must comply with 940 CMR 21.05 which reads: "It shall be an unfair or deceptive act or practice for any person to sell or distribute nicotine in a liquid or gel substance in Massachusetts after March 15, 2016, unless the liquid or gel product is contained in a child-resistant package that, at a minimum, meets the standard for special packaging as set forth in 15 U.S.C. §§ 1471 through 1476 and 16 CFR § 1700 et seq."

**§ 201-92. Self-service displays.**

All self-service displays of tobacco products, as defined herein, are prohibited. All humidors including, but not limited to, walk-in humidors must be locked.

**§ 201-93. Vending machines.**

All vending machines containing tobacco products, as defined herein, are prohibited.

**§ 201-94. Nonresidential roll-your-own machines.**

All nonresidential roll-your-own machines are prohibited.

**§ 201-95. Prohibition of the sale of tobacco products by health care institutions.**

No health care institution located in Chelmsford shall sell or cause to be sold tobacco products, as defined herein. No retail establishment that operates or has a health care institution within it, such as a pharmacy, optician/optometrist, or drug store, shall sell or cause to be sold tobacco products, as defined herein.

**§ 201-96. Prohibition of the sale of tobacco products by educational institutions.**

No educational institution located in the Town of Chelmsford shall sell or cause to be sold tobacco products, as defined herein. This includes all educational institutions as well as any retail establishments that operate on the property of an educational institution.

**§ 201-97. Incorporation of state laws and state regulations.**

- A. The sale or distribution to tobacco products, as defined herein, must comply with those provisions found at 940 CMR 21.00 ("Sale and Distribution of Cigarettes, Smokeless Tobacco Products, and Electronic Smoking Devices in Massachusetts").
- B. The sale or distribution of tobacco products, as defined herein, must comply with those provisions found at MGL Ch. 270, §§ 6, 6A, 7, 28, 29 and MGL Ch. 112, § 61A.

**§ 201-98. Prohibiting smoking in workplaces and public places.**

The Chelmsford Board of Health adopts the Massachusetts Smoke-Free Workplace Law (Massachusetts General Law Chapter 270, § 22) by reference and any future revisions as a local regulation.

- A. Pursuant to Massachusetts General Laws Chapter 270, § 22(j), smoking is also hereby prohibited in the following locations:
- (1) Adult-only retail tobacco store.

- B. A hotel/motel/inn may designate smoking rooms but in no case shall such designated smoking rooms exceed 20% of the total rooms licensed for guests. Nonsmoking rooms shall not be located between smoking rooms. Nonsmoking rooms shall be situated as to utilize physical barriers and ventilation systems to minimize the toxic effect of tobacco smoke on nonsmokers.
- C. No smoking within 30 feet of an entranceway accessible to the public.
- D. Smoking bars are prohibited in the Town of Chelmsford.

**§ 201-99. Nicotine content in electronic nicotine delivery systems.**

No person shall sell an electronic nicotine delivery system with nicotine content greater than 35 milligrams per milliliter; provided, however, that this subsection shall not apply to adult-only retail tobacco stores. Retailers must obtain from a manufacturer documentation indicating the nicotine content of each of their products sold by the retailer, expressed as milligrams per milliliter [105 CMR 665.010(C)].

**§ 201-100. Violations and penalties.**

- A. It shall be the responsibility of the establishment, permit holder and/or his or her business agent, and not their employees, to ensure compliance with all sections of this article. For violations of the sections of this article that incorporate MGL Ch. 270, § 6 and 105 CMR 665, the following penalties apply:
  - (1) In the case of a first violation, a fine of \$1,000.
  - (2) In the case of a second violation within 36 months of the date of the current violation, a fine of \$2,000 shall be issued and the tobacco product sales permit shall be suspended for seven consecutive business days.
  - (3) In the case of three or more violations within a thirty-six-month period, a fine of \$5,000 shall be issued and the tobacco product sales permit shall be suspended for 30 consecutive business days.
- B. For violations of all other sections specific to the Town of Chelmsford, the violator shall receive:
  - (1) In the case of a first violation, a fine of \$300; except that in the case of a first violation of the section of this article pertaining to smoking in the workplace and public places, a fine of \$200.
  - (2) In the case of a second violation within 36 months of the date of the current violation, a fine of \$300 and the tobacco product sales permit shall be suspended for seven consecutive business days; except that in the case of a second violation of the section of this article pertaining to smoking in the workplace and public places, a fine of \$200.
  - (3) In the case of three or more violations within a thirty-six-month period, a fine of \$300 and the tobacco product sales permit shall be suspended for 30 consecutive business days.
  - (4) In the case of four violations or repeated, egregious violations of any section this article within a twenty-four-month period, the Board of Health shall hold a hearing in accordance with this section and may permanently revoke a tobacco product sales permit.
  - (5) State and local regulation fines:

Policies Subject to State Law Fines (§ 201-100)		Policies Subject To Local Regulation Fines (§ 201-101)	
•	Tobacco and vape sales to persons under the age of 21 (MGL Ch. 270, § 6)	•	Prohibition of the sale of blunt wrap
•	Flavored tobacco product sales restrictions (MGL Ch. 270, § 6)	•	Ban on smoking bars
•	Required retailer signage (105 CMR 665.015)	•	Cigar sales regulated
•	Ban on free distribution (105 CMR 665.025)	•	Tobacco product sales in health care institutions
•	Ban on self-service displays [105 CMR 665.010(B)]	•	Tobacco product sales in educational institutions
•	Ban on out-of-package sales (105 CMR 665.030)	•	Nonresidential roll-your-own machines ban
•	Sales without a local tobacco product sales permit for smoking bars and retail tobacco stores only [105 CMR 665.013(A)]	•	Maximum number of tobacco sales permits
•	Failure to check identification of purchaser (105 CMR 665.020)	•	No new tobacco retailer near schools
•	Nicotine content in electronic nicotine delivery systems (MGL Ch. 270, § 6)	•	Mass. Department of Revenue license(s)
•	Coupon redemption (105 CMR 665.025)	•	Retailer possessing, holding, keeping prohibited flavor products



Policies Subject to State Law Fines (§ 201-100)	Policies Subject To Local Regulation Fines (§ 201-101)
<ul style="list-style-type: none"> <li>• Child-proofed liquid nicotine containers required (105 CMR 665.035)</li> <li>• Failure to obtain manufacturer's nonflavored certification [105 CMR 665.010(E)]</li> <li>• Failure to obtain manufacturer's nicotine content certification [105 CMR 665.010(C)]</li> <li>• Admitting a minor into an adult-only retail tobacco store [105 CMR 665.020(B)]</li> </ul>	<ul style="list-style-type: none"> <li>• Local tobacco sales permit requirement for retailers who are neither smoking bars nor retail tobacco stores</li> </ul>

- (6) Permit suspensions and permit revocations are calculated using the total number of a retailer's violations, combining those violations that receive state-mandated fines and those that receive local fines. Where there is a difference in permit suspension periods, the longer period shall apply.
- C. Failure to cooperate with inspections pursuant to this article shall result in the suspension of the tobacco product sales permit for 30 consecutive business days.
- D. In addition to the monetary fines set above, any permit holder who engages in the sale or distribution of tobacco products while his or her permit is suspended shall be subject to the suspension of all Board of Health issued permits for 30 consecutive business days. Multiple tobacco product sales permit suspensions shall not be served concurrently.
- E. The Chelmsford Board of Health shall provide notice of the intent to suspend or revoke a tobacco product sales permit, which notice shall contain the reasons therefor and establish a time and date for a hearing which date shall be no earlier than seven days after the date of said notice. The permit holder or its business agent shall have an opportunity to be heard at such hearing and shall be notified of the Board of Health's decision and the reasons therefor in writing. After a hearing, the Chelmsford Board of Health shall suspend or revoke the tobacco product sales permit if the Board of Health finds that a violation of this article occurred. For purposes of such suspensions or revocations, the Board shall make the determination notwithstanding any separate criminal or noncriminal proceedings brought in court hereunder or under the Massachusetts General Laws for the same offense. All tobacco products, as defined herein, shall be removed from the retail establishment upon suspension or revocation of the tobacco product sales permit. Failure to remove all tobacco products, as defined herein, shall constitute a separate violation of this article.

- F. For purposes of such fines, the Board of Health shall make the determination notwithstanding any separate criminal or noncriminal proceedings brought in court hereunder or under the Massachusetts General Laws for the same offense.

**§ 201-100.1. Noncriminal disposition.**

Whoever violates any provision of this article may be penalized by the noncriminal method of disposition as provided in Massachusetts General Laws, Chapter 40, § 21D where the penalty calls for a monetary fine not exceeding \$300.

**§ 201-101. Separate violations.**

Each day any violation exists shall be deemed to be a separate offense. Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

**§ 201-102. Enforcement.**

- A. Enforcement of this article shall be by the Chelmsford Board of Health or its designated agent(s).
- B. The Board of Health may enforce this article or enjoin violations thereof through any lawful process, and the election of one remedy by the Board of Health shall not preclude enforcement through any other lawful means.
- C. Any resident who desires to register a complaint pursuant to the regulation may do so by contacting the Chelmsford Board of Health or its designated agent(s) and the Board shall investigate.

**§ 201-103. Severability.**

If any provision of this article is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

**§ 201-104. Effective date.**

- A. This article shall be available in the office of the Chelmsford Board of Health, on the Board of Health webpage, at [www.townofchelmsford.us](http://www.townofchelmsford.us), and in the Town Clerk's office.
- B. This article was amended on 1-6-2020 by a 2-0 vote to add under § 201-98, Paragraph 3, "No smoking within 30 feet of an entranceway accessible to the public."
- C. This article has been amended, voted on, and unanimously approved at a regularly scheduled Board of Health meeting on September 13, 2021, and will go into effect on September 13, 2021. The changes approved at the Board of Health's September 13, 2021, meeting consisted of administrative renumbering; no substantive changes to the regulation were made at this time.
- D. This article has been amended, voted on, and unanimously approved at a regularly scheduled Board of Health meeting on October 4, 2021, and will go into effect on October 4, 2021.

## ARTICLE XV

**Body Piercing****[Added 9-8-1997; amended 9-14-1998]****§ 201-105. Purpose.**

- A. The Town of Chelmsford is promulgating rules and regulations which provide minimum requirements to be met by any person performing body piercing upon any individual and for any establishment where body piercing is performed. These requirements shall include, but are not limited to, general sanitation of premises wherein body piercing is to be performed along with sterilization of instruments. These rules and regulations are necessary to protect the public's health by preventing diseases, including but not limited to transmission of Hepatitis B and/or human immunodeficiency virus (HIV/AIDS).
- B. In addition, these rules and regulations shall establish procedures for registration with the Board of Health of all persons performing body piercing, for the requirement of minimal training standards for the prevention of disease transmission and for knowledge of anatomy and physiology, for regular inspection of premises wherein body piercing is performed and for revocation of the registration of any person or establishment deemed in violation of the rules and regulations promulgated under this article. An annual, nontransferable registration fee, set by the Chelmsford Board of Health, shall be paid by any person or establishment registered under this article.

**§ 201-106. Definitions.**

The following words, as used in these rules and regulations, unless the context otherwise requires, shall have the following meanings:

**ANTIBACTERIAL SOLUTION** — Any solution used to retard the growth of bacteria for application to human skin and which is so labeled.

**BOARD OF HEALTH** — The Director of the Chelmsford Board of Health and his or her clerk, officers, agents, assistants and/or inspectors.

**BODY PIERCER** — Any person who performs piercing of any part of the body other than the earlobe which is pierced by use of an appropriate piercing gun.

**BODY PIERCER PERMIT** — A written instrument, issued by the Board of Health, authorizing the person named therein to engage in the work of body piercing.

**BODY PIERCING** — Any method of inserting a needle into the body to place jewelry in the perforation produced by the needle. Establishments and/or individuals involved in the piercing of earlobes only and using approved ear piercing guns are subject only to the general rules and regulations.

**GERMICIDAL SOLUTION** — Any solution which destroys germs and is so labeled.

**MINOR** — Any person under the age of 18.

**OPERATOR** — Any person who owns, controls, operates, conducts or manages any piercing establishment, whether actually performing the work of piercing or not.

**PIERCING STUDIO** — Any room or space where piercing is practiced or where the business of piercing is conducted or any part thereof.

**SANITARY** — Clean and free of agents of infection or disease.

**SANITIZED** — Effective bacterial treatment by a process that provides sufficient concentration of

chemicals for enough time to reduce the bacteria count, including pathogens, to a safe level on equipment.

STERILIZATION — Holding in an autoclave for 30 minutes, at 20 pounds' pressure, at a temperature of 275° F.

**§ 201-107. General rules and regulations.**

- A. No minor shall receive body piercing unless accompanied by a parent or legal guardian who has signed a consent form. No piercing of the genitalia of minors shall be allowed.
- B. No piercing of animals shall be allowed in piercing studios.
- C. Preprocedural consultation to discuss body piercing, its risks and potential complications shall be required with each client not less than 72 hours prior to the procedure. An informed consent form shall be signed by all clients. Clients shall be supplied a copy of the consent form and the consent form shall be kept on file by the body piercer. Clients should be told to consult with their physician regarding any medical condition which could be exacerbated by the piercing procedure (i.e., hemophilia, open sores, etc.).
- D. Patrons who admit to or are obviously under the influence of alcohol or other judgment-altering drugs shall not receive a body piercing.
- E. Body piercers shall not be under the influence of any substance, legal or illegal, which might impair their judgment or ability to properly perform body piercing.
- F. Patrons should receive verbal and written instructions on the cleaning, use of antiseptics and other specific instructions for each piercing after the piercing, including the signs and symptoms of complications.
- G. Appropriate disinfectants must be used to disinfect the surface of the skin in the area to be pierced prior to piercing.
- H. Infections and adverse reactions of any kind suspected from the application of piercing which become known to the body piercer shall be reported to the Board of Health within 24 hours and the patron referred to a physician for examination.
- I. Body piercers who receive needle stick injuries and/or any potential exposure to blood-borne pathogens on the job shall follow the Occupational Safety and Health Administration (OSHA) guidelines on the reporting and follow-up on needle stick injuries. OSHA guidelines for needle stick follow-up shall be posted in the employee area [Code of Federal Regulations 29 CFR 1910.1030(f)].
- J. It is mandated that body piercers receive the series of Hepatitis B vaccinations and tetanus doses or booster shot.
- K. The gun used for the piercing of ear lobes only must be disinfected with an Environmental Protection Agency (EPA) approved disinfectant, such as madicide or a similar product.
- L. Failure to comply with any of the above regulations may result in immediate revocation of registration.

**§ 201-108. Registration required; fees; violations and penalties.**

- A. No person or body piercer shall perform body piercing, display a sign or in any other way advertise or purport to be a body piercer unless that person holds a valid certificate of registration from the

Board of Health.

- B. An applicant for registration shall pay a fee of \$100 with an annual renewal fee of \$100 and shall show to the satisfaction of the Board of Health that the applicant:
- (1) Has complied with the applicable rules and regulations of the Board of Health.
  - (2) Upon application, has provided evidence in the form of a driver's license/state identification card or federal identification card that the applicant is not less than 18 years of age.
  - (3) Upon application, has signed a form consenting to abide by the rules and regulations and recommended procedures on the prevention of disease transmission in body piercing, sanitation, sterilization, handling of infections, universal body fluid precautions, sharp and biologic waste disposal and wound care as stated in the federal register of EPA rules and regulations on blood-borne pathogens.
  - (4) Upon application, shall notify the Board of Health, in writing, of the regular address of the place where the person performs or intends to perform body piercing and shall keep the registration certificate conspicuously posted in the place of business at all times. Body piercers shall operate only out of facilities approved by the Board of Health to perform body piercing. Body piercers shall be required to demonstrate proper sanitary procedures and to develop and submit their policy on infection control to the Board of Health.
- C. Minimal requirements. Whoever, not being registered as a qualified nurse under MGL c. 112, § 74 or as a qualified physician under MGL c. 112, § 2, or corresponding earlier laws, punctures a body part (excluding the ear) of any person by means of body piercing shall be punished by a fine of not more than \$1,000.

**§ 201-109. Facilities and equipment.**

A. Facilities.

- (1) Facilities must be located in an area zoned for business.
- (2) Studio design, furniture, lighting, plumbing, water and sewage must be in accordance with local bylaws.
- (3) With the exception of service animals (e.g., guide dogs), no animals should be allowed on the premises.
- (4) The floor and all other surfaces shall be maintained in a clean condition at all times. The walls and ceilings shall be kept clean and in good repair at all times. Light fixtures, decorative materials and similar equipment attached to the walls or ceilings shall be kept clean.
- (5) Adequate ventilation (such as air conditioning, etc.) to keep the area dry and air circulating should be used. ("Adequate ventilation" shall mean a free and unrestricted circulation of fresh air throughout the body piercing studio and the expulsion of foul or stagnant air.) The use of a HEPA ventilation system is required.
- (6) Convenient, clean and sanitary toilet and hand washing facilities shall be made accessible to customers. A sign shall be posted in the bathroom which forbids insertion or handling of piercing/jewelry. The plumbing fixtures and toilet room shall be maintained in a sanitary manner and in good repair. Single-service hand towels or mechanical means for hand drying

shall be provided.

- (7) Proper biologic waste and sharps disposal of single-use items and needles exposed to body fluids shall be required in accordance with state and local regulations. Only medical-grade sharps containers that are puncture-resistant with tight-fitting lids are acceptable.
- (8) Body piercers shall be equipped with appropriate sterilizing equipment (i.e., a working steam autoclave). Autoclaves must be spore tested monthly by independent laboratories to ensure that they are working adequately, and a record shall be kept available for review by the Board of Health.
- (9) Body piercers shall be equipped with appropriate cleansing equipment (i.e., a working ultrasonic cleaner).

**B. Work area.**

- (1) Each body piercing studio shall have a separate work area not used for any other purpose.
- (2) No one shall be pierced at any other location in the studio other than the work area.
- (3) No customer should be allowed to perform their own piercing/insertions anywhere on the premises.
- (4) Work areas shall not be used as a corridor for access to other rooms.
- (5) Body piercing must be performed in a room approved by the Board of Health.
- (6) The floors, chairs and table tops where body piercing equipment and body piercing work is done should be nonporous. Carpet is not permitted as a floor covering in the work area where the body piercing is applied.
- (7) The work area should be well lighted. The work area shall have at least 50 footcandles of light measured at the height of the work table.
- (8) Facilities shall be equipped with sinks and basins with hot and cold running water for the exclusive use of the piercers for washing their hands and preparing their clients for body piercing.
- (9) A covered waste receptacle with disposable liner bags shall be located in the work area.
- (10) No person shall smoke, consume any food or drink in the work area.
- (11) No other activities (such as hair styling, etc.) shall be performed in any room designated for body piercing.

**§ 201-110. Operation procedures.**

**A. Business procedure and jewelry.**

- (1) Body piercers shall, prior to body piercing, complete all business transactions and complete the client consent form and provide a copy to the client.
- (2) Client and piercer must have appropriate size and quality jewelry chosen before the procedure begins.

- (3) Only appropriate jewelry should be used in piercing. Appropriate jewelry is made of implant-grade, high-quality surgical steel (316E Series), solid 14K or 18K gold, niobium, titanium or platinum. Appropriate jewelry has no nicks, scratches or irregular surfaces which might endanger the tissues.
  - (4) Ear studs or other jewelry designed for earlobe piercing is not appropriate jewelry for other body parts and must not be used by piercers.
- B. Hand washing and general health of body piercer. Before working on each patron, the body piercer shall:
- (1) Inspect hands for small cuts and abrasions.
  - (2) Refrain from body piercing or handling equipment if he or she has open sores, weeping dermatitis or lesions on hands or arms until the condition has cleared.
  - (3) Refrain from body piercing until the condition has cleared if he or she has a cold, flu or other communicable disease.
  - (4) Wash hands, wrists and up to elbows with antibacterial solution.
  - (5) Dry hands thoroughly with single-use disposable towel, such as a paper towel, or air dry under a heat dryer.
- C. Body piercing procedures.
- (1) Body piercers shall set up equipment in front of client.
  - (2) Sealed autoclave bags containing any equipment required to be sterile shall be opened in front of the client and the autoclave bag discarded.
  - (3) All jewelry contaminated with only airborne pathogens (not previously worn or contaminated) should be disinfected with a nonhazardous hard surface disinfectant and must comply with OSHA regulations. All jewelry contaminated or potentially contaminated with blood-borne pathogens (previously worn by another person) should be autoclaved, stored in sterile indicator bags, sealed and dated.
  - (4) All needles used in piercing must be presterilized, used on one person, in one sitting, for single piercing and immediately disposed of in a medical sharps container.
  - (5) All forceps, tubes, etc., must be presterilized, stored in sterile indicator bags, sealed and dated and used on one person and in one sitting. After one such use, they must be autoclaved and stored in sterile indicator bags, sealed and dated.
- D. Disinfection routine.
- (1) Body piercers shall:
    - (a) Put on fresh gloves for disinfection routine.
    - (b) Move in such a manner to avoid recontamination of surfaces.
    - (c) Discard disposable items and remove from areas.
    - (d) Remove plastic barrier film (if used) and disinfect surface areas, drawer pulls, cabinetry,

telephones, lamps, chairs, sinks, ultrasonic tanks, tables, chairs, floor area and any other surfaces that might have become contaminated.

- (e) Dispose of single-use (disposable) lap cloths.
  - (f) Remove gloves, discard gloves and wash hands.
  - (g) Double bag or use biohazard bags and discard materials after each client.
  - (h) Discard materials in a medically appropriate manner.
- (2) All reusable, nonsterilizable implements, such as marking pen, should be nonporous and disinfected after each use with EPA approved hard surface disinfection liquid. Nonspray wipes for surfaces and liquids for soaking jewelry are preferred over spray disinfectants which may disperse pathogens into the air.
  - (3) Cleansing with ultrasonic cleaners should be the rule for removal of bacitracin or other triple antibiotic solutions, blood and other particles from a used contaminated implement (i.e., jewelry, forceps, insertion tapers and pliers), followed by steam autoclave.
  - (4) Steam autoclave must be used on all equipment that may come in contact with the client or the jewelry (i.e., receiving tubes, rubber bands, insertion tapers, forceps, files, gauge wheels, pliers, etc.). Equipment shall be bagged, dated and sealed and stored in a nonporous dark, dry cool place, such as a medical credenza, etc. Spore indicators shall be used with each load to ensure spore eradication. Instruments shall be autoclaved at a temperature of 275° F. under pressure of 20 pounds per square inch for 30 minutes from start. Autoclaves shall be spore tested by independent laboratories at least once each month to induce efficacy. Immersion in cold germicidal solutions provides incomplete sterilization and is inappropriate.
  - (5) Appropriate ear piercing guns should only be used for piercing ear lobes and shall not be used for piercing any other body part.
  - (6) Iodine, antiseptics and other ointments used shall be applied with single-use applicators. Applicators that have touched a client once may not be used to retrieve antiseptics, iodine, etc., from containers and shall be disposed of after single use.

#### **§ 201-111. Disposal of waste.**

- A. Bar setups, piercing needles, razor blades or other sharp instruments which are not to be sterilized shall be disposed of in medically approved sharps containers that are puncture-resistant and have tight-fitting lids.
- B. Containers of sharps wastes shall be sent to a facility where they are either incinerated or otherwise rendered nonhazardous.
- C. Disposable waste shall be placed in easily cleanable, closed containers with tight-fitting lids to prevent leakage or spoilage.
- D. Waste containers shall be kept closed when not in use.
- E. Disposable waste shall be handled, stored and disposed of to minimize direct exposure of personnel to waste material.
- F. The Board of Health medical/waste generator form must be completed and returned to the Board of



Health prior to issuance of a certificate of registration.

**§ 201-112. Mobile establishments.**

Mobile piercing studios shall not be allowed to operate in Chelmsford.

**§ 201-113. Suspension of registration.**

- A. The piercer's registration shall be suspended immediately upon notice to the holder (without a hearing) when the Board of Health has reason to believe that an imminent health hazard exists. In all other instances of violation of the provisions of this regulation the Board of Health shall serve the registrant a written notice specifying the violations and afford the registrant or certificate holder a reasonable opportunity to correct the same.
- B. Whenever a registrant has failed to comply with any written notice issued under the provisions of this section, the Board of Health may suspend the body piercer's registration on the 10th day following receipt of written notice of such suspension.

**§ 201-114. Severability.**

If any provision of these regulations is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

**§ 201-115. Effective date.**

These regulations were adopted by the Board of Health, Chelmsford, Massachusetts, in accordance with MGL c. 111, § 31, September 8, 1997, and revised September 14, 1998.

## ARTICLE XVI

**Rules and Regulations for Body Art Establishments and Practitioners****[Added 1-29-2001; amended 9-13-2021; 3-7-2022]****§ 201-116. Purpose.**

Whereas body art is becoming prevalent and popular throughout the Commonwealth: and whereas knowledge and practice of universal precautions, sanitation, personal hygiene, sterilization and aftercare requirements on the part of the practitioner should be demonstrated to prevent the transmission of disease or injury to the client and/or practitioner: now, therefore, the Board of Health of the Town of Chelmsford passes these rules and regulations for the practice of body art in the Town of Chelmsford as part of our mission to protect the health, safety and welfare of the public.

**§ 201-117. Authority.**

These regulations are promulgated under the authority granted to the Board of Health under Massachusetts General Law III, § 31.

**§ 201-118. Definitions.**

**AFTERCARE** — Written instructions given to the client, specific to the body art procedure(s) rendered, about caring for the body art and surrounding area, including information about when to seek medical treatment, if necessary.

**APPLICANT** — Any person who applies to the Board of Health for either a body art establishment permit or practitioner permit.

**AUTOCLAVE** — An apparatus for sterilization utilizing steam pressure at a specific temperature over a period of time.

**AUTOCLAVING** — A process which results in the destruction of all forms of microbial life, including highly resistant spores, by the use of an autoclave for a minimum of 30 minutes at 20 pounds of pressure (PSI) at a temperature of 270° F.

**BLOODBORNE PATHOGENS STANDARD** — OSHA Guidelines contained in 29 CFR 1910.1030, entitled "Occupational Exposure to Bloodborne Pathogens."

**BOARD OF HEALTH or BOARD** — The Board of Health that has jurisdiction in the community in which a body art establishment is located including the board, officer, or agent having like powers and duties in towns where there is no Board of Health.

**BODY ART** — The practice of physical body adornment by permitted establishments and practitioners using, but not limited to, the following techniques: body piercing, tattooing, cosmetic tattooing, branding, and scarification. This definition does not include practices that are considered medical procedures by the Board of Registration in Medicine, such as implants under the skin, which procedures are prohibited.

**BODY ART ESTABLISHMENTS or ESTABLISHMENT** — A location, place, or business that has been granted a permit by the Board of Health, whether public or private, where the practices of body art are performed, whether or not for profit.

**BODY ART PRACTITIONER or PRACTITIONER** — A specifically identified individual who has been granted a permit by the Board of Health to perform body art in an establishment that has been granted a permit by the Board of Health.

**BODY PIERCING\*** — Puncturing or penetrating the skin of a client with presterilized single-use needles

and the insertion of presterilized jewelry or other adornment into the opening. This definition excludes piercing of the earlobe with a presterilized single-use stud-and-clasp system manufactured exclusively for ear-piercing.

NOTE: \*Separate regulation for body piercing; see Article XV, § 201-105 et seq.

**BRAIDING** — The cutting of strips of skin of a person, which strips are then to be intertwined with one another and placed onto such person so as to cause or allow the incised and interwoven strips of skin to heal in such intertwined condition.

**BRANDING** — Inducing a pattern of scar tissue by use of a heated material (usually metal) to the skin, making a serious burn, which eventually becomes a scar.

**CLEANING AREA** — The area in a body art establishment used in the sterilization, sanitation or other cleaning of instruments or other equipment used for the practice of body art.

**CLIENT** — A member of the public who requests a body art procedure at a body art establishment.

**CONTAMINATED WASTE** — Waste as defined in 105 CMR 480.000: Storage and Disposal of Infectious or Physically Dangerous Medical or Biological Waste, State Sanitary Code, Chapter VIII and/or 29 Code of Federal Regulation Part 1910.1030. This includes any liquid or semi-liquid blood or other potentially infectious material; contaminated items that would release blood or other potentially infectious material in a liquid or semi-liquid state if compressed; items on which there is dried blood or other potential infectious material and which are capable of releasing these materials during handling, sharps and any wastes containing blood or other potentially infectious materials.

**COSMETIC TATTOOING** — Also known as permanent cosmetics, micro pigment implantation or dermal pigmentation, means the implantation of permanent pigment around the eyes, lips and cheeks of the face and hair imitation.

**DISINFECTANT** — A product registered as a disinfectant by the U.S. Environmental Protection Agency (EPA).

**DISINFECTION** — The destruction of disease-causing microorganisms on inanimate objects or surfaces, thereby rendering these objects safe for use or handling.

**EAR PIERCING** — The puncturing of the lobe of the ear with a presterilized single-use stud-and-clasp ear-piercing system following the manufacturer's instructions.

**EQUIPMENT** — All machinery, including fixtures, containers, vessels, tools, devices implement, furniture, display and storage areas, sinks, and all other apparatus and appurtenances used in connection with the operation of a body art establishment.

**EXPOSURE** — An event whereby there is an eye, mouth or other mucus membrane, non-intact skin or parental contact with the blood or bodily fluids of another person or contact of an eye, mouth or other mucous membrane, non-intact skin or parental contact with other potentially infectious matter.

**HAND SINK** — A lavatory equipped with hot and cold running water under pressure used solely for washing hands, arms, or other portions of the body.

**HOT WATER** — Water that attains and maintains a temperature of 110° to 130°F.

**INSTRUMENTS USED FOR BODY ART** — Hand pieces, needles, needle bars, and other instruments that may come in contact with a client's body or may be exposed to bodily fluids during any body art procedure.

**INVASIVE** — Entry into the client's body either by incision or insertion of any instruments into or through the skin or mucosa, or by any other means intended to puncture, break, or otherwise compromise the skin

or mucosa.

**JEWELRY** — Any ornament inserted into a newly pierced area, which must be made of surgical implant-grade stainless steel; solid 14k or 18k white or yellow gold, niobium, titanium, or platinum; or a dense, low-porosity plastic, which is free of nicks, scratches, or irregular surfaces and has been properly sterilized prior to use.

**LIGHT COLORED** — A light reflectance value of 70% or greater.

**MINOR** — Any person under the age of 18 years.

**MOBILE BODY ART ESTABLISHMENT** — Any trailer, truck, car, van, camper or other motorized or nonmotorized vehicle, a shed, tent, movable structure, bar, home, or other facility wherein, or concert, fair, party, or other event whereas one desires to or actually does conduct body art procedures.

**OPERATOR** — Any person who individually, or jointly or severally with others, owns, or controls an establishment but is not a body art practitioner.

**PERMIT** — Board of Health approval in writing to either (1) a body art establishment or (2) operate as a body art practitioner within a body art establishment. Board of Health approval shall be granted solely for the practice of body art pursuant to these regulations. Said permit is exclusive of the establishment's compliance with other licensing or permitting requirements that may exist within the Board's jurisdiction.

**PERSON** — An individual, any form of business or social organization or any other non-governmental legal entity, including but not limited to corporations, partnerships, limited-liability companies, associations, trusts or unincorporated organizations.

**PHYSICIAN** — An individual licensed as a qualified physician by the Board of Registration in Medicine pursuant to MGL c. 112 § 2.

**PROCEDURE SURFACE** — Any surface of an inanimate object that contacts the client's unclothed body during a body art procedure, skin preparation of the area adjacent to and including the body art procedure, or an associated work area which may require sanitizing.

**SANITARY** — Clean and free of agents of infection or disease.

**SANITIZE** — The application of a U.S. EPA registered sanitizer on a cleaned surface in accordance with the label instructions.

**SCARIFICATION** — Altering skin texture by cutting the skin and controlling the body's healing process in order to produce wounds, which result in permanently raised wheals or bumps known as keloids.

**SHARPS** — Any object, sterile or contaminated, that may intentionally or accidentally cut or penetrate the skin or mucosa, including, but not limited to, needle devices, lancets, scalpel blades, razor blades, and broken glass.

**SHARPS CONTAINERS** — A puncture-resistant, leak-proof container that can be closed for handling, storage, transportation, and disposal and that is labeled with the International Biohazard Symbol.

**SINGLE-USE ITEMS** — Products or items that are intended for one-time, one-person use and are disposed of after use on each client, including, but not limited to, cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary covering, razors, piercing needles, scalpel blades, stencils, ink cups, and protective gloves.

**STERILIZE** — The use of a physical or chemical procedure to destroy all microbial life including highly resistant bacterial endospores.

**TATTOO** — The indelible mark, figure or decorative design introduced by insertion of dyes or pigments into or under the subcutaneous portion of the skin.

**TATTOOING** — Any method of placing ink or other pigment into or under the skin mucosa by the aid of needles or any other instrument used to puncture the skin, resulting in permanent coloration or the skin or mucosa. This term includes all forms of cosmetic tattooing.

**TEMPORARY BODY ART ESTABLISHMENTS** — The same as "mobile body art establishment."

**THREE-DIMENSIONAL "3D" BODY ART or BEADING or IMPLANTATION** — The form of body art consisting of or requiring the placement, injection or insertion of an object, device or other thing made of matters such as steel, titanium, rubber, latex, plastic, glass or other inert materials, beneath the surface of the skin of a person. This term does not include body piercing.

**ULTRASONIC CLEANING UNIT** — A unit approved by the Board of Health, physically large enough to fully submerge instruments in liquid, which removes all foreign matter from the instruments by means of high frequency oscillations transmitted through the container liquid.

**UNIVERSAL PRECAUTIONS** — A set of guidelines and controls, published by the Centers for Disease Control and Prevention (CDC), as "Guidelines for Prevention of Transmission of Human Immunodeficiency Virus (HIV) and Hepatitis B Virus (HBV) to Health-Care and Public-Safety Workers" in Morbidity and Mortality Weekly Report (MMWR) June 23, 1989, Vol.38 No. S-6, and as "Recommendations for Preventing Transmission of Human immunodeficiency Virus and Hepatitis B Virus to Patients During Exposure-Prone Invasive Procedures" in MMWR, July 12, 1991, Vol.40, No. RR-8. This method of infection control requires the employer and employee to assume that all human blood and specified human body fluids are infectious for HIV, HBV, and other blood pathogens. Precautions include hand washing; gloving; personal protective equipment; injury prevention; and proper handling and disposal of needles, other sharp instruments, and blood and body fluid-contaminated products.

#### **§ 201-119. Exemptions.**

- A. Physicians licensed in accordance with MGL c. 112, § 2, who perform body art procedures as part of patient treatment are exempt from these regulations.
- B. Individuals who pierce only the lobe of the ear with a presterilized single use stud-and-clasp ear-piercing system are exempt from these regulations.

#### **§ 201-120. Restrictions.**

- A. No tattooing, piercing of genitalia, branding or scarification shall be performed on a person under the age of 18.
- B. Body piercing, other than piercing the genitalia, may be performed on a person under the age of 18 provided that the person is accompanied by a properly identified parent, legal custodial parent or legal guardian who has signed a form consenting to such procedure. "Properly identified" shall mean a valid photo identification of the adult and a birth certificate of the minor.
- C. No body art shall be performed upon an animal.
- D. The following body piercings are hereby prohibited: piercing of the uvula; piercing of the tracheal area; piercing of the neck; piercing of the ankle; piercing between the ribs or vertebrae; piercing of the web area of the hand or foot; piercing of the lingual frenulum (tongue web); piercing of the clitoris; any form of chest or deep muscle piercings, excluding the nipple; piercing of the anus; piercing of an eyelid, whether top or bottom; piercing of the gums; piercing or skewering of a testicle; so called "deep" piercing of the penis, meaning piercing through the shaft of the penis, or "trans-penis" piercing in any area from the corona gland is to the pubic bone; so called "deep" piercing of

the scrotum, meaning piercing through the scrotum, or "transscrotal" piercing; so called "deep" piercing of the vagina.

- E. The following practices hereby prohibited unless performed by a medical doctor licensed by the Commonwealth of Massachusetts; tongue splitting, braiding; three dimensional/beading/implementation; tooth filing/fracturing/removal/tattooing; cartilage modification; amputation; genital modification; introduction of saline or other liquids.

**§ 201-121. Operation of body art establishments.**

Unless otherwise ordered or approved by the Board of Health, each body art establishment shall be constructed, operated, and maintained to meet the following minimum requirements:

**A. Physical plant.**

- (1) Walls, floors, ceilings, and procedure surfaces shall be smooth, durable, free of open holes or cracks, light-colored, washable, and in good repair. Walls, floors, and ceilings shall be maintained in a clean condition. All procedure surfaces, including client chairs/benches, shall be of such construction as to be easily cleaned and sanitized after each client.
- (2) Solid partitions or walls extending from floor to ceiling shall separate the establishment's space from any other room used for human habitation, any food establishment or room where food is prepared, any hair salon, any retail sales, or any other such activity that may cause potential contamination of work surfaces.
- (3) The establishment shall take all measures necessary to ensure against the presence or breeding of insects, vermin, and rodents within the establishment.
- (4) Each operator area shall have a minimum of 45 square feet of floor space for each practitioner. Each establishment shall have an area that may be screened from public view for clients requesting privacy. Multiple body art stations shall be separated by a dividers or partition at a minimum.
- (5) The establishment shall be well ventilated and provided with an artificial light source equivalent to at least 20 footcandles three feet off the floor, except that at least 100 footcandles shall be provided at the level where the body art procedure is being performed, where instruments and sharps are assembled and all cleaning areas.
- (6) All electrical outlets in operator areas and cleaning areas shall be equipped with approved ground fault (GFCI) protected receptacles.
- (7) A separate, readily accessible hand sink with hot and cold running water under pressure, preferably equipped with wrist- or foot-operated controls and supplied with liquid soap, and disposable paper towels stored in fixed dispensers shall be readily accessible within the establishment. Each operator area shall have a hand sink.
- (8) There shall be a sharps container in each operator area and each cleaning area.
- (9) There shall be a minimum of one toilet room containing a toilet and sink. The toilet room shall be provided with toilet paper, liquid hand soap and paper towels stored in a fixed dispenser. A body art establishment permanently located within a retail shopping center, or similar setting housing multiple operations within one enclosed structure having shared entrance and exit points, shall not be required to provide a separate toilet room within such body art establishment

if Board of Health-approved toilet facilities are located in the retail shopping center within 300 feet of the body art establishment so as to be readily accessible to any client or practitioner.

- (10) The public water supply entering a body art establishment shall be protected by a testable, reduced pressure backflow preventor installed in accordance with 142 Code of Massachusetts Regulation 248, as amended from time to time.
- (11) At least one covered, foot-operated waste receptacle shall be provided in each operator area and each toilet room. Receptacles in the operator area shall be emptied daily. Solid waste shall be stored in covered, leakproof, rodent-resistant containers and shall be removed from the premises at least weekly.
- (12) At least one janitorial sink shall be provided in each body art establishment for use in cleaning the establishment and proper disposal of noncontaminated liquid wastes in accordance with all applicable federal, state and local laws. Said sink shall be of adequate size equipped with hot and cold running water under pressure and permit the cleaning of the establishment and any equipment used for cleaning.
- (13) All instruments and supplies shall be stored in clean, dry, and covered containers. Containers shall be kept in a secure area specifically dedicated to the storage of all instruments and supplies.
- (14) The establishment shall have a cleaning area. Every cleaning area shall have an area for the placement of an autoclave or other sterilization unit located or positioned a minimum of 36 inches from the required ultrasonic cleaning unit.
- (15) The establishment shall have a customer waiting area, exclusive and separate from any workstation, instrument storage area, cleaning area or any other area in the body art establishment used for body art activity.
- (16) No animals of any kind shall be allowed in a body art establishment except service animals used by persons with disabilities (i.e., seeing eye dogs). Fish aquariums shall be allowed in waiting rooms and nonprocedural areas.
- (17) Smoking, eating, or drinking is prohibited in the area where body art is performed, with the exception of nonalcoholic fluids being offered to a client during or after a body art procedure.

B. Requirements for single-use items including inks, dyes and pigments.

- (1) Single-use items shall not be used on more than one client for any reason. After use, all single-use sharps shall be immediately disposed of in approved sharps containers pursuant to 105 CMR 480.000.
- (2) All products applied to the skin, such as but not limited to body art stencils, applicators, gauze, and razors, shall be single use and disposable.
- (3) Hollow bore needles or needles with cannula shall not be used.
- (4) All inks, dyes, pigments, solid core needles, and equipment shall be specifically manufactured for performing body art procedures and shall be used according to manufacturer's instructions.
- (5) Inks, dyes, or pigments may be mixed and may only be diluted with water from an approved portable source. Immediately before a tattoo is applied, the quantity of the dye to be used shall be transferred from the dye bottle and placed into single-use paper cups or plastic cups. Upon completion of the tattoo, these single-use cups or caps and their contents shall be discarded.

C. Sanitation and sterilization measures and procedures.

- (1) All nondisposable instruments used for body art, including all reusable solid core needles, pins, and stylets, shall be cleaned thoroughly after each use by scrubbing with an appropriate soap or disinfectant solution and hot water (to remove blood and tissue residue), and shall be placed in an ultrasonic unit sold for cleaning purposes under approval of the U.S. Food and Drug Administration and operated in accordance with manufacturer's instructions.
- (2) After being cleaned, all nondisposable instruments used for body art shall be packed individually in sterilizer packs and subsequently sterilized in a steam autoclave sold for medical sterilization purposes under approval of the U.S. Food and Drug Administration. All sterilizer packs shall contain either a sterilizer indicator or internal temperature indicator. Sterilizer packs must be dated with an expiration date not to exceed six months.
- (3) The autoclave shall be used, cleaned, and maintained according to manufacturer's instruction. A copy of the manufacturer's recommended procedures for the operation of the autoclave must be available for inspection by the Board of Health. Autoclaves shall be located away from workstations or areas frequented by the public.
- (4) Each holder of a permit to operate a body art establishment shall demonstrate that the autoclave used is capable of attaining sterilization by monthly spore destruction tests. These tests shall be verified through an independent laboratory. The permit shall not be issued renewed until documentation of the autoclave's ability to destroy spores is received by the Board of Health. These test records shall be retained by the operator for a period of three years and made available to the Board of Health upon request.
- (5) All instruments used for body art procedures shall remain stored in sterile packages until just prior to the performance of a body art procedure. After sterilization, the instruments used in body art procedures shall be stored in dry, clean cabinet or other tightly covered container reserved for the storage of such instruments.
- (6) Sterile instruments may not be used if the package has been breached or after the expiration date without first repackaging and resterilizing.
- (7) If the body art establishment uses only single-use, disposable instruments, and products, and uses sterile supplies, an autoclave shall not be required.
- (8) When assembling instruments used for body art procedures, the operator shall wear disposable medical gloves and use medically recognized sterile techniques to ensure that the instruments and gloves are not contaminated.
- (9) Reusable cloth items shall be mechanically washed with detergent and mechanically dried after each use. The cloth items shall be stored in a dry, clean environment until used. Should such items become contaminated directly or indirectly with bodily fluids, the items shall be washed in accordance with standards applicable to hospitals and medical care facilities, at a temperature of 160° F. or a temperature of 120° F. with the use of chlorine disinfectant.

D. Posting requirements. The following shall be prominently displayed.

- (1) A disclosure statement, a model of which shall be available from the Board of Health. A disclosure statement shall also be given to each client, advising him/her of the risks and possible consequences of body art procedures.



- (2) The name, address, and phone number of the Chelmsford Board of Health.
  - (3) An emergency plan, including:
    - (a) A plan for the purpose of contacting police, fire, or emergency medical services in the event of an emergency;
    - (b) A telephone in good working order shall be easily available and accessible to all employees and clients during all hours of operation; and
    - (c) A sign at or adjacent to the telephone indicating the correct emergency telephone numbers.
  - (4) An occupancy and use permit as issued by the local building official.
  - (5) A current establishment permit.
  - (6) Each practitioner's permit.
- E. Establishment recordkeeping. The establishment shall maintain the following records in a secure place for a minimum of three years, and such records shall be made available to the Board of Health upon request:
- (1) Establishment information, which shall include:
    - (a) Establishment name.
    - (b) Hour of operation.
    - (c) Owner's name and address.
    - (d) A complete description of all body art procedures performed.
    - (e) An inventory of all instruments and body jewelry, all sharps, and all inks used for any and all body art procedures, including names of manufacturers and serial or lot numbers, if applicable. Invoices or packing slips shall satisfy this requirement.
    - (f) A material safety data sheet, when available, for each ink and dye used by the establishment.
    - (g) Copies of waste hauler manifests.
    - (h) Copies of commercial biological monitoring tests.
    - (i) Exposure incident report (kept permanently).
    - (j) A copy of these regulations.
  - (2) Employee information, which shall include:
    - (a) Full legal names and exact duties;
    - (b) Date of birth;
    - (c) Home address;
    - (d) Home/work phone numbers;

- (e) Identification photograph;
  - (f) Dates of employment;
  - (g) Hepatitis B vaccination status or declination notification; and
  - (h) Training records.
- (3) Client information, which shall include:
- (a) Name;
  - (b) Age and valid photo identification;
  - (c) Address of the client;
  - (d) Date of the procedure;
  - (e) Name of the practitioner who performed the procedure(s);
  - (f) Description of procedure(s) performed and the location on the body;
  - (g) A signed consent form as specified by § 201-122D(2); and
  - (h) If the client is a person under the age of 18, proof of parental or guardian identification, presence and consent including a copy of the photographic identification of the parent or guardian.
- Client information shall be kept confidential at all times.
- (4) Exposure control plan. Each establishment shall create, update, and comply with an exposure control plan. The plan shall be submitted to the Board of Health for review so as to meet all of the requirements of OSHA regulations, to include, but not limited to, 29 Code of Federal Regulation 1910.1030, OSHA Bloodborne Pathogens Standards et seq., as amended from time to time. A copy of the Plan shall be always maintained at the body art establishment and shall be made available to the Board upon request.

F. No person shall establish or operate a mobile or temporary body art establishment.

### **§ 201-122. Standards of practice.**

Practitioners are required to comply with the following minimum health standards:

- A. A practitioner shall perform all body art procedures in accordance with universal precautions set forth by the U.S. Centers for Disease Control and Prevention.
- B. A practitioner shall refuse service to any person who may be under the influence of alcohol or drugs.
- C. Practitioners who use ear-piercing systems must conform to the manufacturer's directions for use, and to applicable U.S. Food and Drug Administration requirements. No practitioner shall use an ear-piercing system on any part of the client's body other than the lobe of the ear.
- D. Health history and client informed consent. Prior to performing a body art procedure on a client, the practitioner shall:
  - (1) Inform the client, verbally and in writing that the following health conditions may increase

health risks associated with receiving a body art procedure.

- (a) History of diabetes;
    - (b) History of hemophilia (bleeding);
    - (c) History of skin diseases, skin lesions, or skin sensitivities to soaps, disinfectants, etc.;
    - (d) History of allergies or adverse reactions to pigments, dyes, or other sensitivities;
    - (e) History of epilepsy, seizures, fainting, or narcolepsy;
    - (f) Use of medications such as anticoagulants, which thin the blood and/or interfere with blood clotting; and
    - (g) Any other conditions such as hepatitis or HIV.
  - (2) Require that the client sign a form confirming that the above information was provided, that the client does not have a condition that prevents them from receiving body art, that the client consents to the performance of the body art procedure and that the client has been given the aftercare instructions as required by Subsection K.
- E. A practitioner shall maintain the highest degree of personal cleanliness, conform to the best standard hygienic practices, and wear clean clothes while performing body art procedures. Before performing body art procedures, the practitioner must thoroughly wash their hands in hot running water with liquid soap, then rinse hands and dry with disposable paper towels. This shall be done as often as necessary to remove contaminants.
- F. In performing body art procedures, a practitioner shall wear disposable single-use gloves. Gloves shall be changed if they become pierced, torn, or otherwise contaminated by contact with any unclean surfaces or objects or by contact with a third person. The gloves shall be discarded, at a minimum, after the completion of each procedure on an individual client, and hands shall be washed in accordance with Subsection E before the next set of gloves is put on. Under no circumstances shall a single pair of gloves be used on more than one person. The use of disposable single-use gloves does not preclude or substitute for handwashing procedures as part of a good personal hygiene program.
- G. The skin of the practitioner shall be free of rash or infection. No practitioner affected with boils, infected wounds, open sores, abrasions, weeping dermatological lesions or acute respiratory infection shall work in any area of a body art establishment in any capacity in which there is a likelihood that that person could contaminate body art equipment, supplies, or working surfaces with body substances or pathogenic organisms.
- H. Any item or instrument used for body art that is contaminated during the procedure shall be discarded and replaced immediately with a new disposable item or a new sterilized instrument or item before the procedure resumes.
- I. Preparation and care of a client's skin area must comply with the following:
- (1) Any skin or mucosa surface to receive a body art procedure shall be free of rash or any visible infection.
  - (2) Before a body art procedure is performed, the immediate skin is and the areas of skin surrounding where body art procedure is to be placed shall be washed with soap and water or an approved surgical skin preparation. If shaving is necessary, single-use disposable razors or

safety razors with single-service blades shall be used. Blades shall be discarded after each use, and reusable holders shall be cleaned and autoclaved after use. Following shaving, the skin and surrounding area shall be washed with soap and water. The washing pad shall be discarded after a single use.

- (3) In the event of bleeding, all products used to stop the bleeding or to absorb blood shall be single use and discarded immediately after use in appropriate covered containers, and disposed of in accordance with 105 CMR 480.000.
- J. Petroleum jellies, soaps, and other products used in the application of stencils shall be dispensed and applied on the area to receive a body art procedure with sterile gauze or other sterile applicator to prevent contamination of the original and its contents. The applicator or gauze shall be used once and then discarded.
- K. The practitioner shall provide each client with verbal and written instructions on the aftercare of the body art site.
  - (1) The written instructions shall advise the client:
    - (a) On the proper cleansing of the area which received the body art;
    - (b) To consult a health care provider for:
      - [1] Unexpected redness, tenderness or swelling at the site of the body art procedure;
      - [2] Any rash;
      - [3] Unexpected drainage at or from the site of the body art procedure; or
      - [4] A fever within 24 hours of the body art procedure; and
    - (c) Of the address, and phone number of the establishment.
  - (2) A copy shall be provided to the client. A model set of aftercare instructions shall be made available by the Board of Health.
- L. Contaminated waste shall be stored, treated, and disposed in accordance with 105 CMR 480.000: Storage and Disposal of Infectious or Physically Dangerous Medical or Biological Waste, State Sanitary Code, Chapter VIII.

**§ 201-123. Exposure incident report.**

- A. An exposure incident report shall be completed by the close of the business day during which an exposure has or might have taken place by the involved or knowledgeable body art practitioner for every exposure incident occurring in the conduct of any body art activity.
- B. Each exposure incident report shall contain:
  - (1) A copy of the application and consent form for body art activity completed by any client or minor client involved in the exposure incident;
  - (2) A full description of the exposure incident, including the portion of the body involved therein;
  - (3) Instrument(s) or other equipment implicated;

- (4) A copy of body art practitioner license of the involved body art practitioner;
- (5) Date and time of exposure;
- (6) A copy of any medical history released to the body art establishment or body art practitioner; and
- (7) Information regarding any recommendation to refer to a physician or waiver to consult a physician by persons involved.

**§ 201-124. Injury and/or complication reports.**

A written report of any injury, infection complication or disease as a result of a body art procedure, or complaint of injury, infection complication or disease, shall be forwarded by the operator to the Board of Health which issued the permit, with a copy to the injured client within five working days of its occurrence or knowledge thereof the report shall include:

- A. The name of the affected client;
- B. The name and location of the body art establishment involved;
- C. The nature of the injury, infection complication or disease;
- D. The name and address of the affected client's health care provider, if any;
- E. Any other information considered relevant to the situation.

**§ 201-125. Complaints.**

- A. The Board of Health shall investigate complaints received about an establishment or practitioner's practices or acts which may violate any provision of the Board of Health regulations.
- B. If the Board of Health finds that an investigation is not required because the alleged act or practice is not in violation of the Board of Health's regulations, then the Board of Health shall notify the complainant of this finding and the reasons on which it is based.
- C. If the Board of Health finds that an investigation is required because the alleged act or practice may be in violation of the Board of Health's regulations, the Board of Health shall investigate and if a finding is made that the act or practice is in violation of the Board of Health's regulations, then the Board of Health shall apply whatever enforcement action is appropriate to remedy the situation and shall notify the complainant of its action in this manner.

**§ 201-126. Application for body art establishment permit.**

- A. No person may operate a body art establishment except with a valid permit from the Board of Health.
- B. Applications for a permit shall be made on forms prescribed by and available from the Board of Health. An applicant shall submit all information required by the form and accompanying instructions. The term "application" as used herein shall include the original and renewal applications.
- C. An establishment permit shall be valid from the date of issuance and for no longer than one year unless revoked sooner by the Board of Health.
- D. The Board of Health shall require that the applicant provide, at a minimum, the following information

in order to be issued an establishment permit it:

- (1) Name, address, and telephone number of:
  - (a) The body art establishment;
  - (b) The operator of the establishment; and
  - (c) The body art practitioner(s) working at the establishment.
- (2) The manufacturer, model number, model year, and serial number, where applicable, of the autoclave used in the establishment;
- (3) A signed and dated acknowledgement that the applicant has received, read, and understood the requirements of the Board of Health's body art regulations;
- (4) A drawing of the floor plan of the proposed establishment to scale for a plan review by the Board of Health, as part of the permit application process;
- (5) Exposure report plan; and
- (6) Such additional information as the Board of Health may reasonably require.

E. The annual fee for the body art establishment permit shall be \$1,000.

F. A permit for a body art establishment shall not be transferable from one place or person to another.

**§ 201-127. Application for body art practitioner permit.**

- A. No person shall practice body art or perform any body art procedure without first obtaining a practitioner permit from the Board of Health. The fee for the permit shall be \$750.
- B. A practitioner shall be a minimum of 18 years of age.
- C. A practitioner permit shall be valid from the date of issuance and shall expire no later than one year from the date of issuance unless revoked sooner by the Board of Health.
- D. Application for a practitioner permit shall include:
  - (1) Name.
  - (2) Date of birth.
  - (3) Residence address;
  - (4) Mailing address;
  - (5) Phone number;
  - (6) Place(s) of employment as a practitioner; and
  - (7) Training and/or experience as set out in Subsection E below.
- E. Practitioner training and experience.
  - (1) In reviewing an application for a practitioner permit, the Board of Health may consider experience, training and/or certification acquired in other states that regulate body art.

- (2) Training for all practitioners shall be approved by the Board of Health and, at a minimum, shall include the following:
  - (a) Bloodborne pathogen training program (or equivalent) which includes infectious disease control; waste disposal; handwashing techniques; sterilization equipment operation and methods; and sanitization, disinfection and sterilization methods and techniques; and
  - (b) Current certification in first aid and cardiopulmonary resuscitation (CPR).

Examples of courses approved by the Board of Health include "Preventing Disease Transmission" (American Red Cross) and "Bloodborne Pathogen Training" (U.S. OSHA). Training/courses provided by professional body art organizations or associations or by equipment manufacturers may also be submitted to the Board of Health for approval.

- (3) The applicant for a body piercing practitioner permit shall provide documentation, acceptable to the Board of Health, that s/he completed a course on anatomy and physiology with a grade of C or better at a college accredited by the New England Association of Schools and Colleges, or comparable accrediting entity. This course must include instruction on the system of the integumentary system (skin).
  - (4) The applicant for a tattoo, branding or scarification practitioner permit shall provide documentation, acceptable to the Board of Health, that the applicant completed a course on anatomy and physiology with a grade of C or better at a college accredited by the New England Association of Schools and Colleges, or comparable accrediting entity. This course must include instruction on the system of the integumentary system (skin). Such other course or program as the Board of Health shall deem appropriate and acceptable may be substituted for the anatomy course.
  - (5) The applicant for all practitioners shall submit evidence satisfactory to the Board of Health of at least two years actual experience in the practice of performing body art activities of the kind for which the applicant seeks a body art practitioner permit to perform, whether such experience was obtained within or outside of the commonwealth.
- F. A practitioner's permit shall be conditioned upon continued compliance with all applicable provisions of these rules and regulations.

**§ 201-128. Grounds for suspension, denial, revocation, or refusal to renew permit.**

- A. The Board of Health may suspend a permit, deny a permit, revoke a permit, or refuse to renew a permit on the following grounds, each of which, in and of itself, shall constitute full and adequate grounds for suspension, denial, revocation or refusal to renew:
- (1) Any actions which would indicate that the health or safety of the public would be at risk;
  - (2) Fraud, deceit, or misrepresentation in obtaining a permit, or its renewal;
  - (3) Criminal conduct which the Board of Health determines to be of such nature as to render the establishment, practitioner or applicant unfit to practice body arts evidenced by criminal proceedings resulting in a conviction, guilty plea, or plea of nolo contendere or an admission of sufficient facts;
  - (4) Any present or past violation of the Board of Health's regulations governing the practice of body art;

- (5) Practicing body art while the ability to practice is impaired by alcohol, drugs, physical disability, or mental instability;
  - (6) Being habitually drunk or being dependent on, or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects;
  - (7) Knowingly permitting, aiding, or abetting an unauthorized person to perform activities requiring a permit;
  - (8) Continuing to practice while his/her permit is lapsed, suspended, or revoked;
  - (9) Having been disciplined in another jurisdiction in any way by the proper permitting authority for reasons substantially the same as those set forth in the Board of Health's regulations; and
  - (10) Other just and sufficient cause which the Board of Health may determine would render the establishment, practitioner or applicant unfit to practice body art.
- B. The Board of Health shall notify an applicant, establishment, or practitioner in writing of any violation of the Board's regulations, for which the Board of Health intends to deny, revoke, or refuse to renew a permit. The applicant, establishment or practitioner shall have seven days after receipt of such written notice in which to comply with the Board of Health's regulations. The Board of Health may deny, revoke, or refuse to renew a permit if the applicant, establishment, or practitioner fails to comply after said seven days subject to the procedure outlined in § 201-130.
- C. Applicants denied a permit may reapply at any time after denial.

#### **§ 201-129. Grounds for suspension of permit.**

The Board of Health may summarily suspend a permit pending a final hearing on the merits on the question of revocation if, based on the evidence before it, the Board of Health determines that an establishment and/or a practitioner is an immediate and serious threat to the public health, safety, or welfare. The suspension of a permit shall take effect immediately upon written notice of such suspension by the Board of Health.

#### **§ 201-130. Procedure for hearings.**

- A. The owner of the establishment or practitioner shall be given written notice of the board's intent to hold a hearing for the purpose of suspension, revocation, denial, or refusal to renew a permit. This written notice shall be served through a certified letter sent return receipt requested or by constable. The notice shall include the date, time and place of the hearing and the owner of the establishment or practitioner's right to be heard. The Board of Health shall hold the hearing no later than 21 days from the date the written notice is received.
- B. In the case of a suspension of a permit as noted in § 201-128, a hearing shall be scheduled no later than 21 days from the date of suspension.

#### **§ 201-131. Severability.**

If any provision contained in the model regulations is deemed invalid for any reason, it shall be severed and shall not affect the validity of the remaining provisions.

#### **§ 201-132. Fine for violation.**

The fine for a violation of any provision of these rules and regulations shall be \$300 per offense. Each day



that a violation continues shall be deemed to be a separate offense.

**§ 201-133. Noncriminal disposition.**

In accordance with MGL Chapter 40, § 21D, and Town of Chelmsford Article 32, 1979 Annual Town Meeting, and Article 6 Special Town Meeting, 1992; whoever violates any provision of these rules and regulations may be penalized by noncriminal disposition.

**§ 201-134. Effective date.**

- A. These rules and regulations shall be effective as of January 29, 2001. These regulations have been amended, voted on, and unanimously approved at a regularly scheduled Board of Health meeting on September 13, 2021, and will go into effect on September 13, 2021. The changes approved at the Board of Health's September 13, 2021, meeting consisted of administrative renumbering; no substantive changes to the regulation were made at this time.
- B. This regulation has been amended, voted on, and unanimously approved at a regularly scheduled Board of Health meeting on March 7, 2022, and will go into effect on March 7, 2022. The changes approved at the Board of Health's March 7, 2022, meeting consisted of administrative corrections.

## ARTICLE XVII

**Control and Permitting of Outdoor Wood-Burning Boilers, Hydronic Heaters**  
**[Added 9-11-2007; amended 1-2012; 10-4-2021 by Board of Health]****§ 201-135. Authority.**

This article shall be effective on and after October 15, 2007, and so remain in effect until modified or amended by the Chelmsford Board of Health. It is enacted under authority granted by, but not limited to, Massachusetts General Laws, Chapter 111, §§ 31, 31C, 122, 142A through 142M. Board of Health regulations are an exercise of the police power under which the various levels of government hold responsibility for protection of the public health, safety and welfare.

**§ 201-136. Purpose.**

This article has been enacted by the Board of Health for the purpose of minimizing the human health hazards resulting from the smoke, particulate matter and noxious fumes emitted by outdoor wood-burning boilers, to encourage proper techniques in the use and location of these boilers, and to promote the public comfort and convenience.

**§ 201-137. Findings.**

- A. An outdoor wood-burning boiler (OWB), hydronic heater, is essentially a wood-fired boiler in a small, insulated, stand alone shed with a smokestack. OWBs heat water that is carried through piping to heat a home or building, domestic hot water, a swimming pool, a Jacuzzi, hot tub, or any other use for this heated water.
- B. Certain types of OWBs have been shown, because of their design, to emit significantly high quantities of smoke, particulate matter, and other noxious fumes. Exposure to particulate matter in smoke from an OWB can increase adverse respiratory and cardiovascular symptoms and exacerbate other harmful health conditions, such as asthmatic sensitivity, lung illnesses and cancer (Connecticut Department of Environmental Protection, Fact Sheet, July 2004).
- C. Poor installation, placement, and management of these facilities, plus the use of inappropriate fuel, can increase the harmful effects of the smoke created by the firing of these units.

**§ 201-138. Definitions.**

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

**EMISSION POINT** — Any place (including but not limited to a stack or vent) at or from which any air contaminant is emitted to the ambient air space.

**ODOR** — Property of gaseous, liquid, or solid materials that elicits a physiologic response by human sense of smell.

**OUTDOOR WOOD-BURNING BOILER (OWB)** — Hydronic heater, a wood-fired boiler surrounded by a water jacket and a smoke vent, in an insulated freestanding shed with a smokestack and used to heat water that is carried by pipes to provide heat to a building or any other destinations. Outdoor wood-burning boilers do not include fire pits, chimneys, wood-fired barbeques or equipment intended exclusively for producing maple syrup, melting, reclaiming, or refining metals.

**SEASONED WOOD** — Wood that has been cut, stacked, and dried for at least six months.

WOOD FUEL — All wood intended to be used as fuel, including but not limited to seasoned cordwood and wood pellets. (All other products need Board approval.) This definition does not include materials chemically treated with any preservative, adhesive, paint, varnish, or oil.

**§ 201-139. Requirements.**

- A. Must meet all minimum standard set by DEP; 310 CMR 7.26(50), outdoor hydronic heater and the following:
  - (1) A permit is required from the Chelmsford Board of Health to install and operate an outdoor wood-burning boiler. The permit process shall include submission of a written application form and payment of the permit fee established by the Board of Health, from time to time.
  - (2) Permit applicants must demonstrate to the satisfaction of the Board of Health that they understand the requirements for proper installation and operation of an OWB. This includes appropriate permits and sign-offs for work done by licensed contractors and inspections required by building, plumbing and electrical inspectors.
  - (3) The application must be accompanied by a written site plan indicating the proposed boiler location in relation to all existing structures and separating distances from the boiler to all building and outbuildings on site and all neighboring structures within 400 feet. The plan must also indicate distances to all roads adjacent to the site and distances from the boiler to woods, brush and flammable structures.
- C. No residential boiler shall be installed within 50 feet of the house it is serving, 50 feet from any property line, or within 300 feet of any other habitable/occupied structure. A clear radius of 20 feet must be maintained between any OWB and any trees or vegetation of height greater than the height of the top of the fuel feed door.
  - (1) Residential variance procedure: An application for a variance from offset to any habitable occupied structure shall be submitted to this Department but shall be no less than 150 feet will not be considered. The Department will not grant any variance to property lines or home to be serviced offsets.
  - (2) All abutters within 300 feet must be notified by applicants' expense by certified mail.
  - (3) Submit detail plans that show that it is not feasible (not including cost to install).
  - (4) Include copy of notice and certified mail receipts.
- D. Boilers must have a minimum smokestack height of 20 feet and at least two feet higher than the height of the highest abutting residence (actual roof peak) within a radius of 400 feet at the time of installation.
- E. OWBs may only be operated during the heating season, which for the purpose of this article is September 30 to May 16 generally.
- F. Only dry, seasoned, untreated wood fuel may be burned in the OWB.
- G. The manufacturer's recommendations for the installation and use of the unit must be followed.
- H. Boilers installed before the effective date of this article may request a waiver from sections of the

regulation that they do not meet upon application for a permit. In such cases, a construction permit application must be filed with the Board of Health and such installation must be in compliance with all local zoning regulations and state plumbing, and electrical codes. The Board of Health will determine whether to grant the waiver based on the public health, safety, and welfare.

- I. The Board of Health shall have the right to take appropriate enforcement or other action, in accordance with Chapter 111 of the Massachusetts General Laws, with respect to any such boiler that it determines constitutes a nuisance or public health risk.

#### **§ 201-140. Enforcement and remedies.**

- A. If an inspection or examination reveals an OWB is installed or operated in a manner that is not compliant with the above regulations, the Board of Health is authorized to issue notices of violation, cease-and-desist orders, and other administrative enforcement orders to compel compliance with this article.
- B. If an inspection or examination determines that an OWB is operated in a manner that constitutes a threat to public health, safety, welfare, a nuisance or cause of odor, filth or sickness, in accordance with Massachusetts General Laws, Ch. 111, the Board of Health or its agent shall issue an order to cease operation of the OWB.
- C. The Board of Health may take enforcement action deemed appropriate and lawful, including but not limited to criminal prosecution, civil action for injunctive relief or money damages, or both. The Board of Health may levy fines of \$50 for the first offense. Each day of violation shall constitute a separate offense. Any succeeding day of violation may be punished by a penalty of \$250 per day of offense.

#### **§ 201-141. Severability.**

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

#### **§ 201-142. Effective date.**

This article has been amended, voted on, and unanimously approved at a regularly scheduled Board of Health meeting on October 4, 2021, and will go into effect on October 4, 2021. The changes approved at the Board of Health's October 4, 2021, meeting consisted of administrative renumbering; no substantive changes to the regulation were made at this time.



CHELMSFORD CODE

**Chapter 202**

**SUBDIVISION OF LAND**

**[HISTORY: Adopted by the Planning Board of the Town of Chelmsford 12-28-1977. Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Conservation Commission — See Ch. 20.**

**Trees — See Ch. 161.**

**Historic district — See Ch. 68.**

**Wetlands — See Ch. 187.**

**Streets and sidewalks — See Ch. 142.**

**Zoning — See Ch. 195.**

**Trailers and trailer camps — See Ch. 158.**

ARTICLE I  
**General Provisions**

**§ 202-1. Purpose.**

The purpose of the establishment of subdivision control in Chelmsford is to secure for the town all of the benefits and protection authorized by the Subdivision Control Law, MGL c. 41, §§ 81K through 81GG, inclusive. The purpose of these rules and regulations is to specify and make clear the requirements and procedures to be followed and the responsibilities to be discharged in operations under the Subdivision Control Law.

**§ 202-2. Approval of definitive plan required.**

No person shall make a subdivision (as defined in the Subdivision Control Law) of any land within the town or proceed with the improvement or sale of lots in a subdivision or the construction of ways or the installation of municipal services therein unless and until a definitive plan of such subdivision has been submitted to and approved by the Planning Board as hereinafter provided.

**§ 202-3. Number of dwellings per lot.**

Not more than one dwelling designed or suitable for use for dwelling purposes shall be erected or placed or converted to use as a dwelling on any lot in a subdivision, or elsewhere in the town, without the consent of the Board. Such consent may be conditioned upon the providing of adequate ways furnishing access to each site for such building, in the same manner as otherwise required for lots in a subdivision.

**§ 202-4. Definitions.**

Unless the content clearly requires some other meaning, the following words and phrases shall have these meanings:

BOARD — The Chelmsford Planning Board.

BUSINESS STREET — A street serving abutting property which is chiefly used or zoned for industry or commerce.

COLLECTOR STREET — A street with anticipated traffic equivalent to that generated by 50 homes or more.

LANE — A street which, by its location and design, may not reasonably be expected to service nonresidential property or serve as a means of access to more than 10 homes.

MINOR STREET — A street which cannot qualify as a lane but which serves residential property and can be expected to handle less traffic than a collector street.

MUNICIPAL SERVICES — Public utilities furnished by the town.

OFF-STREET PATH — A way for pedestrians, equestrians or bicycles not within a street right-of-way.

PRIVATE WAY — A way which has not been accepted by the town as a public way or one which has not been dedicated to public use or one in which the public has not acquired rights of usage by prescription.

SUBDIVISION — A division of land into two or more lots in such a manner as to constitute a subdivision as defined in MGL c. 41.

SUBDIVISION CONTROL LAW — Sections 81K to 81GG of Chapter 41 of the Massachusetts General Laws, as amended from time to time.

ARTICLE II  
**Plan Procedures**

**§ 202-5. Submission of plans.**

Plans intended for review at a regular meeting of the Planning Board shall be forwarded to the Planning Board Clerk not later than 4:00 p.m. two working days prior to the Planning Board meeting. The day of the next regular Board meeting shall be considered to be the date of submission for all plans, except that the date of mailing shall be the date of submission for definitive plans sent by registered mail to the Planning Board in care of the Town Clerk. For plans transmitted to the Planning Board other than at a regular Board meeting or other than through the Town Clerk, the date of submission shall be considered to be the day of the next regular Planning Board meeting after such transmittal. Plans shall not be considered submitted until all required documentation has been received.

**§ 202-6. Plans not requiring approval.**

- A. Submission. Any person applying for endorsement of a plan that he or she believes does not require approval under the Subdivision Control Law shall submit the original and six prints of the plan and Application Form A to the Planning Board.<sup>98</sup> The applicant shall also file with the Town Clerk, by delivery or by registered or certified mail, postage prepaid, a notice stating the date of submission for such determination along with a copy of Application Form A.
- B. Fees. All plans not requiring approval under the Subdivision Control Law submitted to the Planning Board for review must be accompanied by a check for the fee in the amount of \$25 for each lot on the plan that will have any change, however slight. **[Added 8-23-1995]**
- C. Required information. Such plans shall show all of the following:
- (1) Any existing structures on the land shown on the plan and dimensions of yards.
  - (2) Any existing structures on any remaining adjoining land owned by the applicant and dimensions of yards.
  - (3) Remaining frontage and area of any adjoining land in the same ownership. **[Amended 9-28-1994]**
  - (4) Present owner of the land shown on the plan and all abutting owners.
  - (5) Location of any easement or way, public or private, across the land, with a designation as to the use of the same.
- D. Criteria. If all lots meet one of the following criteria, the plan is not a subdivision and approval under the Subdivision Control Law is not required. The Planning Board will so endorse the plan, provided that a registered land surveyor certifies that Subsection D(1), (2) or (3) is true. **[Amended 9-28-1994]**
- (1) Each lot on the plan or altered by it meets one of these criteria:
    - (a) It has all the frontage required under zoning on:
      - [1] A public way;
      - [2] A way which the Town Clerk certifies is maintained and used as a public way;

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**98. Editor's Note: Application Form A is available from the office of the Planning Board.**



- [3] A way shown on a plan approved and endorsed earlier by the Planning Board under this chapter;
  - [4] A way in existence on March 8, 1937, having in the opinion of the Planning Board sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon; or
  - [5] A way shown on a plan of a subdivision registered in the Land Court prior to February 1, 1952.
- (2) Each lot on the plan contains a building which existed prior to March 8, 1937.
  - (3) The plan simply describes already existing parcels with no new lot divisions.
- E. Ways in existence. In determining whether an existing way provides adequate access to qualify a plan as not constituting a subdivision, the Board shall consider the following conditions, among others:
- (1) Is the right-of-way at least 30 feet wide and of reasonable horizontal alignment?
  - (2) Does the existing horizontal and vertical alignment of the roadway provide safe visibility?
  - (3) Is the roadway constructed at least 18 feet wide, with at least eight inches of gravel and with adequate provisions for drainage?
  - (4) If the road could ever service more than six dwelling units, is it bituminous surfaced or have provisions been made for such surfacing without cost to the town?
  - (5) Have provisions been made for public utilities without cost to the town?

**§ 202-7. Preliminary plan.**

- A. Presubmission review. Prior to investing in extensive professional design efforts for subdivision plans, it will often prove useful to review the proposed development of a parcel of land with the Planning Board, in order that general approaches and potential problems can be freely explored. Pencil sketches, which need not be professionally prepared, will assist the discussion and might show some but not all of the information shown on a preliminary plan. In some cases, this presubmission review may eliminate the need for such a preliminary plan.
- B. Preliminary plan conferences. Ordinarily three preliminary conferences with the Board and the preparation of one or more preliminary subdivision plans are involved before notice is given by the Board of a public hearing on a subdivision plan. This enables the applicant, the Board, other town officers and owners of property abutting the subdivision to discuss and clarify any problems before a definitive plan is prepared.
- C. Submittals.
  - (1) Preliminary subdivision plans. A preliminary subdivision plan may be a drawing in pencil or a print thereof. Six copies thereof shall be presented to the Board. Such plan shall contain, in addition to other specific information deemed necessary by the Board in any particular instance, the following information. Existing features are to be shown at the level of detail shown on Town of Chelmsford topographic maps; proposals are to be located and dimensioned to the nearest foot.

- (a) The subdivision name (if any), boundaries, North point, latest revision date, scale, legend, the title "Preliminary Plan" and a Planning Board file number (to be assigned by the Planning Board engineer and to appear in the lower right-hand corner of each sheet submitted).
  - (b) The names of the record owner and the applicant and the name, seal and signature of the designer, engineer or surveyor.
  - (c) The names of all abutters, as determined from the most recent local tax list.
  - (d) The existing and proposed lines of streets, ways, easements and any public areas within the subdivision in a general manner.
  - (e) The proposed system of drainage, including adjacent existing natural waterways, in a general manner.
  - (f) The approximate boundary lines of proposed lots, with approximate areas and dimensions.
  - (g) The names, approximate location and widths of adjacent streets.
  - (h) The topography of the land in a general manner, including:
    - [1] Contour lines at two-foot contour intervals, referenced to the town benchmark datum.
    - [2] Existing buildings, if any.
    - [3] Major site features, such as rock ridges, ledge outcroppings, swamps and bodies of water.
    - [4] Location of existing facilities for municipal services.
    - [5] The edge of tree cover and the approximate location of isolated trees over six inches in trunk diameter or other critical trees identified by the Board.
- (2) Locus plans. Preliminary plans shall include or be accompanied by a locus plan at one inch equals 800 feet indicating the relationship of the proposed subdivision and its streets to nearby development. In the case of a preliminary plan covering less than all of the land owned by the subdivider in the area of the subdivision, the preliminary plan shall be accompanied by a plan showing in a general manner the overall proposed development of all the land owned by the subdivider in the area of the subdivision and indicating the section for which approval is desired.
- D. Filing of preliminary plans and first preliminary conference. Initial preliminary plans shall be filed with the Board for the purpose of a first preliminary conference. Said conference shall be held to acquaint the Board with the general character of the development proposed and the intention of the developer and to acquaint the developer with the overall requirements of the Board and the town's subdivision regulations.
- E. Staking and second preliminary conference. After the first preliminary conference with the Board, the approximate center line of proposed streets shall be staked out to permit inspection by the Board and other town officers. The applicant will be informed by the Board when such inspection has been completed, and arrangements will be made for a second preliminary conference with the Board. At such second conference or thereafter, the Board usually grants its approval of the preliminary subdivision plan with or without modifications suggested by it or agreed upon by the applicant. However, no such approval constitutes a waiver of the Board's right to require further changes in the

plan.

- F. Third preliminary conference. At the third conference the applicant submits the proposed definitive subdivision plan and plans and profiles of ways, together with other materials required under § 202-8A.

**§ 202-8. Definitive plan.**

- A. Application procedure. Any person who desires approval of a definitive plan of a subdivision shall:

- (1) Submit to the Planning Board the following, with the drawings consolidated onto a single sheet or on separate sheets:
  - (a) Ten contact prints of the definitive plan, dark line on white background. (See Subsection B for contents.) The original drawing of the definitive plan will only be needed if and when signing of the plan takes place.
  - (b) Ten copies of a locus plan of the subdivision at one inch equals 800 feet, showing proposed roads and their relation to the surrounding area and the location of the zoning district or districts applicable to the site.
  - (c) Ten prints of street plans and profiles of every proposed street. (See Subsection C for contents.)
  - (d) Ten prints of street cross sections for each class of street within the subdivision, drawn at one inch equals four feet, showing the location of all utilities and other elements within the street right-of-way and typical cross sections of any altered drainage courses or off-street paths.
  - (e) A properly executed Application Form C.<sup>99</sup>
  - (f) A submittal fee of \$50 per lot (minimum of \$250) created within the subdivision.
  - (g) Drainage calculations, certified by the engineer who prepared them.
  - (h) Evidence of ownership and, if requested by the Board, traverse notes, language of any easements, covenants or deed restrictions applying or proposed to apply to the area being subdivided, rights and easements obtained for utilities or drainage outside of the subdivision, description of erosion control methods to be employed and cross sections of proposed streets at critical locations showing existing and proposed grade for the width of the right-of-way plus 25 feet on each side.
  - (i) If necessary in order to determine compliance with the requirements or intent of this regulation, the Board may require specialized engineering or environmental analyses to be prepared at the expense of the applicant.
  - (j) One copy of the environmental information report, if required. (See Subsection D.)
  - (k) A list of names and mailing addresses for all abutters as they appear on the most recent local tax list, including property owners on the opposite side of any streets abutting the subdivision.

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**99. Editor's Note: Application Form C is available from the office of the Planning Board.**

- (1) A construction plan. (See Subsection E for contents.)
  - (2) Submit to the Town Clerk by delivery or registered or certified mail:
    - (a) A notice stating the date of definitive plan submission to the Planning Board.
    - (b) A copy of the completed Application Form C.
  - (3) Submit to the Board of Health:
    - (a) Two copies of the definitive plan.
    - (b) Two copies of the street plans and profiles.
    - (c) A copy of the completed Application Form C.
    - (d) Two copies of the separate sheet showing topography [Subsection A(1)(l) above].
- B. Definitive plan contents. The definitive plan shall be prepared by a registered land surveyor in a form acceptable to the Middlesex County Registry of Deeds. It shall contain the following: **[Amended 9-28-1994]**
  - (1) Subdivision name, North point, legend, date, annotation of revision dates and contents, scale and Planning Board file number (to be assigned by the Planning Board engineer and to appear in the lower right-hand corner of each sheet submitted).
  - (2) Name and address of the record owner and of the subdivider and stamp and signature of the registered land surveyor and any other professionals engaged in the design, in each case certifying that elements of the plan for which they are responsible have been prepared in accordance with these regulations.
  - (3) Location and names of all abutters as they appear on the most recent tax list, including property owners on the opposite side of any streets abutting the subdivision.
  - (4) Sufficient data to readily determine the location, direction and length of every existing and proposed street, way, easement, lot and boundary line and to establish those lines on the ground.
  - (5) The area of each lot and the zoning lot area calculated as defined in the Chelmsford Zoning Bylaw,<sup>100</sup> if different.
  - (6) Lot numbers shown enclosed in a circle and street numbers enclosed in a square.
  - (7) Location of all permanent monuments, properly identified as to whether existing or proposed.
  - (8) Location, names and present widths of streets bounding, approaching or within reasonable proximity of the subdivision and designation as to whether public or private.
  - (9) Existing and proposed watercourses and ponds.
  - (10) Reference identifying applicable street plans and profiles, covenants or other relevant documents, whether recorded or not.
  - (11) Suitable space for endorsement by the Town Clerk and by the Planning Board, with spaces for annotating date of approval and date of endorsement.

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100. Editor's Note: See Ch. 195, Zoning.

- C. Street plans and profiles. For each street there shall be a separate plan at one inch equals 40 feet and profile at one inch equals 40 feet horizontal and one inch equals four feet vertical, with elevations referenced to the town datum, drawn in India ink on tracing cloth or in pencil on polyester film, showing the following data:
- (1) Subdivision name, owner's name and address, boundary lines of ways, North point, scale, date, annotation of revision dates and content and Planning Board file number, as on the definitive plan.
  - (2) Stamp and signature of the professional engineer preparing the plan. **[Amended 9-28-1994]**
  - (3) The plan shall show bearings and distances, radii and arcs, central angle and tangent distances on all curves with stationing on the center line.
  - (4) The profile shall show the existing ground on the center line in a solid black line, the existing right side in a short dash line and the existing left side in a long dash line. The proposed grade shall be shown in a heavy black line with the elevation shown at each fifty-foot station, with the rate of grade indicated.
  - (5) The grade of all streets intersecting the proposed streets shall be shown for at least 100 feet each side of the intersection of street center line.
  - (6) The proposed drainage, catch basins, manholes, pipes and any other drainage facilities shall be shown on both plan and profile.
  - (7) All plans and profiles shall include a notation on each drawing that the same is one of an indicated total number of sheets.
  - (8) Such additional information as the Board may deem necessary, including the plan of the fire alarm installation.
- D. Environmental information. An environmental information report shall be submitted for any subdivision creating frontage potentially allowing 20 or more dwelling units. For subdivisions potentially allowing fewer than 20 dwelling units, the Board may require that certain of the following be submitted where necessary to evaluate the plan because of special circumstances of the location or proposal. An environmental information report for a subdivision shall include the following documentation. Drawings shall be at uniform scale on sheets not larger than 42 inches by 60 inches.
- (1) Drawings showing all information not otherwise submitted which is listed under Section 4.2 of the regulations of the Massachusetts Department of Environmental Quality Engineering adopted under MGL c. 131, § 40, unless certain items are waived by the Board as not being relevant or feasible. (See Appendix A for detailed list.<sup>101</sup>)
  - (2) A narrative statement shall also be submitted, documenting the following with reference to the environmental information maps, where relevant:
    - (a) Impact upon surface water quality and level.
    - (b) Impact upon groundwater quality and level.
    - (c) Material effects upon important wildlife habitats, outstanding botanical features and scenic or historic environs.

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101. Editor's Note: Appendix A is included at the end of this chapter.

- (d) Capability of soils, vegetative cover and proposed erosion control efforts to support proposed development without danger of erosion silting or other instability.
  - (e) Relationship to the requirements of MGL c. 131, §§ 40 and 40A (the Wetlands Protection Act).
- E. Construction plan contents. The construction plan shall be drawn at a scale of one inch equals 40 feet and shall contain the following: **[Amended 9-28-1994]**
  - (1) Subdivision name, North point, legend, date, annotation of revision dates and contents, scale and Planning Board file number in the lower right-hand corner.
  - (2) At two-foot contour intervals, existing topography and topography resulting from development of streets, drainage and other required improvements, referenced to the town datum.
  - (3) Location of tree cover and selected individual trees {see § 202-7C(1)(h)[5]}, existing structures, including fences and walls, existing water supplies and on-site disposal systems, wetlands and, if encountered, the boundary of the Floodplain District established in the Zoning Bylaws.<sup>102</sup>
  - (4) Existing and proposed streets, ways and easements.
  - (5) Road center line stationing, referenced to the street plans and profiles.
  - (6) Drainage system schematic layout, with elevations and sizes for any facilities not shown on the plans and profiles of streets.

#### **§ 202-9. Review procedures.**

- A. Board of Health. The Board of Health shall report to the Planning Board, in writing, with signatures of a majority of its members, its approval or disapproval of the plan, as required by MGL c. 41, § 81U. If the Board of Health disapproves said plan, 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 reason therefor in such report and, where possible, shall make recommendations for the adjustment thereof. Approval of the plan by the Planning Board shall then only be given provided that the developer documents having reviewed the plan with the Board of Health and only on condition that the lots or land as to which specific findings were made shall not be built upon without prior consent of the Board of Health. The Board shall endorse on the plan the lots or land to which said conditions apply.
- B. Conservation Commission review. The developer shall document prior to Planning Board approval of the definitive plan either that the Conservation Commission has determined that the Wetlands Protection Act is not applicable to the proposed development or that the developer has filed a notice of intent with the Commission. Concurrent review by the Conservation Commission and Planning Board is recommended, to be exercised at the developer's option.
- C. Review by other town officials. Previous to approval of any definitive plan and profile, the Planning Board will require a letter of recommendation from the Director of Public Works, the Chief of the Fire Department and the appropriate Water District.<sup>103</sup>
- D. Public hearing. The Board will not approve a definitive subdivision plan submitted to it until it shall

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<sup>102</sup>.Editor's Note: See Ch. 195, Zoning, Art. XI, Floodplain District.

<sup>103</sup>.Editor's Note: Amended at time of adoption of Code (see Ch. 200, General Provisions, Art. II).

have held a public hearing with respect to such plan. Notice of each such public hearing shall be given by the Board in accordance with the laws of the commonwealth.

**§ 202-10. Action by Planning Board.**

- A. Decision. After the public hearing the Board in due course will approve, modify and approve or disapprove the definitive subdivision plan submitted. Criteria for action by the Board shall be the following:
- (1) Completeness and technical adequacy of all submissions.
  - (2) Determination that development at this location does not entail unwarranted hazard to safety, health and convenience of future residents of the development or of others because of possible natural disasters, traffic hazard or other environmental degradation.
  - (3) Conformity with the requirements of Article III.
  - (4) Determination, based upon the environmental information report (where submitted), that the subdivision as designed will not cause substantial and irreversible damage to the environment, which damage could be avoided or ameliorated through an alternative development plan.
  - (5) Conformity with all applicable zoning requirements.
  - (6) Consistency with the purposes of the Subdivision Control Law.
- B. Following such action, the Board will file a certificate of its action with the Town Clerk (Forms D-1 and D-2)<sup>104</sup> and will send notice of its action by registered or certified mail to the applicant at his or her address stated in the application. The Board will send a brief summary of its action to any person interested upon written request therefor stating the name and address of the person to whom the summary shall be sent. A copy of the covenant shall be transmitted by the Board to the Inspector of Buildings.
- C. The Board's approval of a subdivision plan, if granted, shall be endorsed on the definitive plan only after the expiration of any applicable statutory appeal period.
- D. Performance guaranty.
- (1) Before the Board endorses its approval on the plan, the owner shall execute an appropriate covenant (a sample of which is attached to these rules and regulations as Form E<sup>105</sup>) which shall be recorded with the subdivision plan stipulating that no lot of the land shown on the plan shall be sold or buildings or other structures erected or placed thereon or application for a building permit made with respect to any such lot until:
    - (a) The streets shown on the subdivision plan and the streets and any footpaths required by the Board shown on the plans and profiles have been brought to subgrade throughout in accordance with the requirements of these rules and regulations, including the installation of required catch basins, drains, culverts and other drainage facilities.
    - (b) Facilities for water in accordance with § 202-15 and in accordance with the requirements of the appropriate Board of Water Commissioners have been installed throughout the

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104.Editor's Note: Forms D-1 and D-2 are available from the office of the Planning Board.

105.Editor's Note: Form E is available from the office of the Planning Board.

streets shown on the plan.

- (c) The subdivision plan, bearing the Board's signed endorsement thereon, and a signed copy of such agreement have been recorded in the Registry of Deeds or with the Recorder of the Land Court.
  - (d) The owner has executed a contract with the Board on behalf of the town (samples of which are attached to these rules and regulations as Forms F-1 and F-2<sup>106</sup>), accompanied by appropriate security to secure performance of the terms and conditions thereof, to complete construction of all required improvements not later than a specified date.
  - (e) The owner has recorded in the Registry of Deeds or with the Recorder of the Land Court a certificate of release from the Board indicating that the conditions set forth in Subsection D(1)(a) to (d) of this section have been met. In addition, the owner shall covenant that no building certificates of use and occupancy shall be applied for until streets serving such building have been surfaced with at least a two-inch binder course of bituminous concrete.  
**[Amended 9-28-1994]**
- (2) However, nothing in this Subsection D shall be construed as a limitation on the authority of the Board to condition its approval of any plan upon the satisfaction of conditions in addition to those referred to in this subsection.
- E. Copies of documents. Following plan approval, endorsement and recording, the applicant shall provide the Board with one polyester film reproducible and five prints of the definitive plan and one copy of final covenants and restrictions, noting book, page number and date of recording for each, and one polyester film reproducible and five prints of the street plan and profiles. One copy of the definitive plan shall be transmitted to the Inspector of Buildings by the Planning Board.
- F. Release of performance guaranty.
- (1) General. Upon completion of improvements required by this regulation, the subdivider may request either partial or full release of the performance guaranty by sending a statement of completion and request for release by registered mail to the Planning Board and to the Town Clerk. Release will be granted only following written approval by the Planning Board engineer and any other town officials concerned with the work performed. Copies of release from covenants or agreements regarding building or use and occupancy permits shall be sent by the Planning Board to the Inspector of Buildings.
  - (2) Partial release. The Board may grant partial release from such security for partial completion of improvements, provided that the completed portion provides a reasonable system for circulation and utilities pending completion of the rest, and provided that appropriate arrangements have been made for later disposition of such interim facilities as temporary turnarounds.
  - (3) Security.
    - (a) The Board may release the applicant from the covenant upon receipt of an agreement executed by the applicant and by the holder of a first mortgage on the premises providing for retention of funds and their availability to the town upon default. (See MGL c. 41, § 81U, paragraph 11.)
    - (b) The Board shall retain security in an amount equal to at least 15% of the total cost of

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**106.Editor's Note: Forms F-1 and F-2 are available from the office of the Planning Board.**



improvements until the integrity of road pavement and drainage has been verified following a full winter in place and an amount equal to at least 5% of the total cost until trees and other vegetation have been established and the fee has been conveyed to the town or three years have elapsed since completion of the improvements.

- (4) Refusal of release. If the Planning Board determines that said construction or installation has not been completed, it shall specify in a notice sent by registered mail to the applicant and to the Town Clerk the details wherein said construction and installation fails to comply with the requirements of this regulation.
- G. Rescission. Failure of the developer to record the definitive plan within six months of its endorsement; or to comply with the construction schedule incorporated into the performance agreement; or to initiate construction of improvements or sell lots in a subdivision or portion thereof within seven years of the approval of the definitive plan; or to comply with all applicable Zoning Bylaws and requirements of the Conservation Commission under the Wetlands Protection Act; or the unauthorized departure from any agreements made or plans submitted, whether or not at the direction of other public agencies, shall constitute reason for the Planning Board to consider rescission of such approval, in accordance with the requirements and procedures of MGL c. 41, § 81W.

#### **§ 202-11. Street status.**

- A. Approval not to constitute acceptance of streets or footpaths. Approval by the Board of a definitive subdivision plan shall not constitute the laying out or acceptance by the town of any streets or footpaths within a subdivision.
- B. Ownership of ways and easements.
  - (1) The subdivider shall retain title to the fee of each street, path or easement in or appurtenant to the subdivision until conveyed to the town or for at least three years after completion of improvements, whichever is the lesser, and shall maintain and repair the roads and drainage facilities in a manner satisfactory to the Board during that period. Notation that fee is to be retained shall be placed on the definitive plan. However, this provision may be waived by the Planning Board for subdivisions where the public interest is served by retention of private ways and means of securing such retention and their maintenance have been agreed upon.
  - (2) Prior to final release of security, the developer shall submit all necessary documentation for street acceptance, including plans in form acceptable to the Registry of Deeds, legal description, easements, list of owners and mortgagees of lots having rights in the street and any grants of rights necessary.
- C. Completion within three years. The Board may decline to approve any plan unless the applicant agrees to complete the ways shown thereon and install the public utilities aforesaid within three years of the date of approval. If the ways in any subdivision are not complete and the utilities aforesaid are not installed within the time so agreed to by the applicant or so required by the Board, the Board's approval of the definitive plan shall lapse, and no such way shall thereafter be laid out, constructed, completed or opened for public use unless and until a new application and definitive plan in accordance with the rules and regulations then in effect is filed with and approved by the Board.
- D. As-built plans.
  - (1) Upon completion of construction and before release of the performance guaranty, the subdivider shall have prepared and submitted as-built plans at the same scale as the street plans, which shall

indicate the actual location of all of the following:

- (a) Street lines.
  - (b) Traveled way edges and driveways. **[Amended 9-28-1994]**
  - (c) Path locations.
  - (d) Permanent monuments.
  - (e) Location and inverts of the required utilities and drainage.
  - (f) Locations of any other underground utilities, such as electricity, telephone lines and streetlighting and aboveground boxes. **[Amended 9-28-1994]**
- (2) The accuracy of such as-built plans shall be certified by a registered land surveyor or registered professional engineer retained by the subdivider and approved by the Planning Board engineer.

ARTICLE III  
**Design Standards and Improvements**

**§ 202-12. General requirements.**

- A. Design guides. All subdivisions shall be designed and improvements made by the developer consistent with the requirements of this article. Design and construction shall:
- (1) Reduce, to the extent reasonably possible, the following:
    - (a) Volume of cut and fill.
    - (b) Area over which existing vegetation will be disturbed, especially if within 200 feet of a river, pond or stream or having a slope of more than 15%.
    - (c) Number of mature trees removed.
    - (d) Extent of waterways altered or relocated.
    - (e) Visual prominence of man-made elements not necessary for safety or orientation.
    - (f) Volume and contamination of runoff. **[Added 8-10-2021]**
  - (2) Increase, to the extent reasonably possible, the following:
    - (a) Use of collector streets to avoid traffic on streets providing house frontages.
    - (b) Visual prominence of natural features of the landscape.
    - (c) Vistas from public ways.
- B. Required cross section. Street construction shall conform to the required street cross section included as Exhibit A with these rules and regulations.<sup>107</sup> Grass strips and driveway entrances shall be so graded as to prevent surface water on the street from running onto private land.
- C. Extension. Reasonable provisions shall be made for extension of pavements and utilities to adjoining properties, including installation of water gates and manholes, if necessary. The developer shall not deny others connection to the water system, drainage or cable utilities, provided that they pay all costs of such connection and comply with all applicable requirements of the Town of Chelmsford or any relevant water districts.
- D. Construction standards. In the event of any question as to construction details, specifications for the composition of material, workmanship and the method of applying materials or in the absence of established town standards, or if town standards are less demanding, standards of the Massachusetts Department of Public Works shall apply in each instance.
- E. Compliance with Zoning Bylaw.<sup>108</sup> The location of buildings and other structures on land involved in subdivision or other plans submitted to the Board and the division of such land into lots shall comply with the Town Zoning Bylaw then in effect or with a variance granted by the Town Board of Appeals.
- F. No expense to town. All streets, footpaths, water mains and pipes, hydrants, fire alarm systems, drains, catch basins, culverts and other related facilities and municipal services shall be installed in

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<sup>107</sup>.Editor's Note: Exhibit A is included at the end of this chapter.

<sup>108</sup>.Editor's Note: See Ch. 195, Zoning.

subdivisions and completed in accordance with these rules and regulations and without expense to the town. Water mains and pipes (other than service pipes), hydrants and fire alarm systems will be installed by the appropriate water district or the town at the expense of the subdivider or will be installed by the developer and/or subdivider at his or her expense in accordance with specifications established by the water district and subject to its inspection, as directed by the Planning Board. In installing the fire alarm system within a subdivision, the developer shall connect the same to the town's existing fire alarm system at a location designated by the Fire Chief.

### § 202-13. Streets.

#### A. Horizontal design.

- (1) Width of streets. All streets shall be designed so as to provide safe travel for vehicles and pedestrians. Streets shown on subdivision plans shall be classified as business streets, collector streets, minor streets or lanes, and minimum widths shall be the following:

Type of Street	Right-of-Way (feet)	Pavement (feet)
Business street	60	34
Collector street	60	30
Minor street	50	26
Lane	40	22
Off-street path	8	Varies

- (2) Planned projections of streets into adjoining property. Streets within the subdivision shall be projected to connect with existing or proposed streets on adjoining property which come up to the boundary line.
  - (a) If adjoining property is not subdivided but is, in the opinion of the Board, suitable for eventual development, provision shall be made for proper projection of streets into such property by continuing appropriate streets within the subdivision to the exterior boundary thereof.
  - (b) Streets with temporary dead ends, laid out to permit future projection, shall conform to the provisions of alignment, width and grade that would be applicable to such streets if extended.
- (3) Curvilinearity. Curvilinear street systems shall be used wherever feasible.
- (4) Radii. The minimum center-line radii shall be 300 feet for business or collector streets, 150 feet for minor streets and 100 feet for lanes.
- (5) Intersections. Street lines 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°. Wherever possible, street intersections shall be at least 150 feet apart. Intersections involving collector streets shall be spaced at least 400 feet apart. Curblines at intersections shall be cut back so as to provide for corner radii of not less than 30 feet at any intersection with a business or collector street and of not less than 20 feet at any other intersection. Intersections shall be located in locations that provide safe corner sight distances. Wherever possible, the sight distance shall conform to the following: **[Amended**

**9-28-1994]**

<b>Proposed Street</b>	<b>Intersecting Street</b>	<b>Sight Distance (feet)</b>
Lane	Lane	200
Any street	Minor, collector or business	300

- (6) Dead ends. Permanent dead-end streets (a street, extension of a street or system of streets connected to other streets only at a single point) shall not serve more than 10 lots unless, in the opinion of the Board, they are necessitated by topography or other local conditions. If dead-end streets are approved, a turnaround with a radius of at least 62.5 feet to the outside of the layout will be required. Temporary dead-ends shall similarly provide for a turnaround, which may be located in part on easements over lots so long as contractual assurance is provided that upon extension of the street the terminated turnaround will be removed and replaced with loam and planting.
- (7) Reserve strips. Reserve strips or barriers prohibiting access to streets or adjoining property will not be permitted.

**B. Vertical alignment.**

- (1) Grades of streets. Grades of streets along the gutter line shall be not less than 1%. Vertical curves are required wherever the algebraic difference in grade between center-line tangents exceeds 1%. Maximum street grade and vertical curve length shall conform to the following: **[Amended 9-28-1994]**

<b>Type of Street</b>	<b>Maximum Grade</b>	<b>Forward Sight Distance (feet)</b>
Business or collector street	6%	200
Minor street	10%	150
Lane	12%	125

- (2) Leveling areas. On any street where the grade exceeds 6% on the approach to an intersection, a leveling area with a slope of not more than 4% shall be provided for a distance of at least 50 feet from the nearest edge of the intersecting traveled way. The maximum center-line grade through a cul-de-sac shall be 5%. **[Amended 9-28-1994]**

**C. Roadway construction.**

- (1) Street grading. Stumps, brush, roots, boulders and like material shall be removed as necessary for the roadway and utilities. Wherever feasible, existing vegetation shall be retained and protected. **[Amended 7-8-1981]**
- (a) The full length and width of the proposed roadway pavement area shall be excavated or filled, as necessary, to a depth of at least 15 1/2 inches below the finished surface as shown on the profile. However, if the soil is soft and spongy or contains undesirable material, such as clay, sand pockets, peat, stones over six inches in diameter or any other material detrimental to the subgrade, such material shall be removed and replaced with suitable well-compacted material.

- (b) No topsoil suitable for reuse shall be removed from the subdivision unless adequate topsoil will remain on site or is otherwise assured to provide all disturbed areas within the subdivision with a topsoil depth of at least four inches and there is also assurance that all streets from which topsoil is being removed will be brought to subgrade with approved materials within six months.
- (2) Finished subbase. **[Amended 7-8-1981]**
- (a) Roadways shall be constructed with a foundation of at least eight inches compacted thickness of gravel borrow conforming to Massachusetts Department of Transportation Specification for Highways and Bridges M1.03.0, Type b. The source of this material (with a five-pound sample) shall be made available to the Planning Board engineer. Over this subbase material a four-inch layer of processed gravel conforming to the Massachusetts Department of Transportation Standard Specification for Highways and Bridges M1.03.1 shall be placed. **[Amended 8-10-2021]**
  - (b) The gravel shall be spread in two layers, each of which shall be thoroughly watered and rolled true to line and grade with a roller of not less than 12 tons. Any depressions that appear during and after rolling shall be filled with additional gravel and rerolled until the surface is true and even. This surface shall be 3 1/2 inches below the proposed finished grade as shown on the profiles and have transverse grade conforming to that shown on the required cross sections.
- (3) Finished pavement.
- (a) After the treated roadway base has been subjected to the action of traffic for a time period specified by the Planning Board engineer, but not in excess of 30 days, a binder course of Class I-1 bituminous concrete shall be applied and compacted and rolled to a thickness of two inches with a true surface conforming to the cross section of the road. A second course of Class I-1 bituminous concrete top shall then be applied and compacted and rolled to a thickness of 1 1/2 inches (two inches for business streets) with a true surface conforming to the cross section of the road. Specifications for the composition of material, workmanship and the method of applying pavement material shall conform to the specifications of the town.
  - (b) Pavements shall be constructed for the full length of all streets within the subdivision shown on the plan. The center line of such pavements shall coincide with the center line of the street rights-of-way unless a minor variance is specifically approved by the Board.
  - (c) Minimum width of roadway pavements shall coincide with the requirements of Subsection A(1) of this section as determined by the Board.
  - (d) Minimum outside diameter of roadway pavement area within turnarounds on dead-end streets, if allowed, shall be 108 feet.

**§ 202-14. Stormwater management. [Amended 9-28-1994; 8-10-2021]**

- A. General approach. Storm drains, culverts and related facilities shall be designed to permit the unimpeded flow of all natural watercourses, to ensure adequate drainage at all low points along streets, to control erosion and to intercept stormwater runoff along streets at intervals reasonably related to the extent and grade of the area being drained. To the maximum extent feasible, stormwater shall be recharged rather than piped to surface water. Peak volume and rate of runoff at the boundaries

of the development must not be higher following development than prior to development.

- B. Design basis. Storm sewers shall be based on a twenty-five-year storm, culverts for a fifty-year storm, detention basins for a 100-year storm with one foot of freeboard.
- C. Design method. Design shall be based on Runoff Method, Soil Conservation Service Technical Release No. 20 (SCS TR-20). Refer to the Chelmsford DPW Stormwater Management Regulations for more details on design requirements. The stormwater design must meet all applicable Massachusetts DEP Stormwater Standards. Water velocities in pipes and gutters shall be between two feet and 10 feet per second and not more than five feet per second on ground surfaces. All undeveloped tributary areas shall be assumed to be fully developed in accordance with the Zoning Bylaw. The coefficient of runoff used shall not be less than 0.45 for subdivided areas.
- D. Storm sewers. A catch basin to manhole drain configuration shall be used. All drain pipes shall be at least 12 inches inside diameter and made of reinforced concrete conforming to Massachusetts Department of Transportation specifications for Class III pipe or such higher class as may be required by depth of cover, which shall be not less than 24 inches, or high-density polyethylene (HDPE) pipe.
- E. Structures. Generally, catch basins will be required on both sides of the roadway on continuous grade at intervals of not more than 250 feet. Catch basins shall be at least six feet deep and four feet in diameter (inside measurements), with a four-foot or greater sump below pipe invert, and shall be constructed of precast concrete units. Manhole covers and grates shall be in conformance with Massachusetts Department of Transportation specifications, designed and placed so as to cause no hazard to bicycles.
- F. Waterways. Open brooks or tributary ditches which are to be altered shall be shaped to a cross section and gradient and provided with stream bottom hardening, all acceptable to the Planning Board.
- G. Connections. Proper connections shall be made with any existing drains in adjacent streets or easements which prove adequate to accommodate the drainage flow from the subdivision. Runoff must be treated prior to connecting to the municipal drainage system. No increase in volume will be allowed to the municipal drainage system. In the absence of such facilities, or the inadequacy of the same, it shall be the responsibility of the developer to extend drains from the subdivision as required to properly dispose of all drainage from said subdivision in a manner determined to be proper by the Board.

#### **§ 202-15. Water supply.**

- A. The Board will not approve a subdivision plan unless water, suitable in the opinion of the Board for domestic use and fire protection, is certified by the developer's engineer to be available throughout the subdivision at a minimum standard of 500 gallons per minute open hydrant flow, with at least 20 pounds per square inch residual pressure. In addition, the Board may require the installation of booster pumps in dwellings to assure at least 20 pounds per square inch pressure throughout such dwellings.
- B. In the event that a plan for a proposed subdivision is located in an area of town which, in the opinion of the Board, precludes the practicality of the obtainment of water supply from any water district, the Board will not approve such subdivision unless, in its opinion, upon advice of the Health Department, adequate groundwater is available at the site to supply suitable water for domestic use and, upon advice of the Fire Department, adequate provisions have been made for firesafety. Excavations made for water connections subsequent to paving shall be backfilled, compacted and surfaced under supervision of the Planning Board engineer so as to completely avoid differential settlement or

displacement.

C. Sanitary sewers. **[Added 9-28-1994; amended 4-9-1997]**

- (1) Connection. The Planning Board will not approve a subdivision plan unless all plans submitted provide for construction of a municipal sewer system within the subdivision to be connected to the existing municipal sewer system, if available. In the event that the municipal sewer system is not available for reasonable connection of the subdivision, the Sewer Commission shall provide the proponent with a location and depth of the future connection to enable the proponent to design and construct a dry sewer line for future use by the town.
- (2) Requirements.
  - (a) All engineering plans, designs and profiles for construction of the municipal sewer system within the subdivision shall be prepared by the proponent and shall meet all requirements and specifications of the Sewer Commission and shall be in general conformity with the existing municipal sewer system.
  - (b) All engineering plans, profiles and designs shall be reviewed by the Sewer Commission and its engineer at the proponent's expense, and a certification of approval shall be delivered by the applicant to the Planning Board prior to approval of the definitive subdivision plan. Failure to provide said certification shall be grounds to disapprove the definitive plan.
  - (c) The Planning Board shall not waive the provisions of this section without the written recommendation of the Sewer Commission that the construction of a sewer system within the subdivision is not feasible.
- (3) Bonding.
  - (a) In determining the bonding for the project pursuant to MGL c. 41, § 81U, all costs of the sewer system, including off-site construction, shall be included and bonded.
  - (b) In the event that the location and depth of the sewer that will be servicing the subdivision are not available, the Planning Board may require the proponent to sufficiently bond the cost of the sewer line installation. The proponent will bear the cost of legal, consulting and testing fees required to arrive at an estimate for the bond.
- (4) Sewer extension. The design and approval of the municipal sewer within the subdivision shall fall within the sole jurisdiction of the Sewer Commission. In the event that off-site construction is proposed to extend the existing sewer system to service the subdivision, the approval of the extension shall fall within the sole discretion of the Sewer Commission. Approval of the extension shall be evidenced by a fully executed sewer extension agreement between the proponent and the Sewer Commission, together with all state approvals and permits.
- (5) Easements. The proponent shall provide all necessary sewer easements required by the Sewer Commission, and these shall be shown on the definitive plan. The final location of the sewer lines within the subdivision and the location of the connection to the municipal sewer shall remain in the sole jurisdiction of the Sewer Commission.
- (6) Expenses. The proponent shall be responsible for reimbursement to the Sewer Commission of all costs and expenses incurred for legal and engineer consultants, inspection and testing.



**§ 202-16. Cable utilities.****A. Requirement. [Amended 7-8-1981]**

- (1) All wiring, cables and other appurtenances of electric power, telephone and fire alarm systems shall be placed underground within the limits of the street right-of-way, except where such underground installations would cause undue hardship by reason of topography, subsoil conditions or other site peculiarities. The Planning Board may allow all or any part of the wiring, cables and other appurtenances to be placed above ground within appropriate easements.
- (2) A plan shall be submitted for streetlighting of the proposed subdivision from an underground electrical distribution net. After approval by the Planning Board (fire, police and highway), the developer shall install the lighting prior to issuance of any occupancy permit.

**B. Timing.** All cable utilities shall be installed at the time of development.**C. Depth.** Electric power cables shall be not less than 30 inches below finished grade.**D. Locations.** Underground utilities shall be located as indicated on the required cross section. All underground utility systems, including power, communications and gas, shall have their aboveground appurtenances designed to avoid system interruption or damage in the event of flooding to base flood elevation.**§ 202-17. Sidewalks.****A. Where required.** Footpaths shall be installed on both sides of collector streets, on both sides of minor streets and lanes in the RC District, based on the Chelmsford Zoning Bylaw,<sup>109</sup> and on one side of minor streets and lanes in other residential districts, unless the Planning Board determines that no sidewalk is appropriate because a continuous system is infeasible or such walk would serve neither pedestrian convenience nor safety. Sidewalks will be required on one side of business streets. **[Amended 9-28-1994]**

- (1) In addition, the Planning Board shall, under conditions other than the above, require that the grading of the right-of-way be so executed as to make possible later additions of sidewalks without major regrading.
- (2) Footpaths shall be not less than five feet in width, except four feet on lanes, and shall be located as close as is feasible to the street side line.

**B. Construction.** All materials shall be removed for the full width of the footpath to a subgrade 10 1/2 inches below the finished grade as shown on the cross section, and all soft spots and other undesirable material below such subgrade shall be replaced with gravel (Massachusetts Department of Transportation Specification M1.03.0, Type b) and rolled. The excavated area shall then be filled with gravel (Specification M1.03.0, Type b) and rolled with a cross slope of not less than 1/4 inch nor greater than 3/8 inch to the foot. The footpath shall be constructed of bituminous concrete in two courses consisting of 1 1/2 inches of binder and one inch of finish. All bituminous concrete shall conform to Massachusetts Department of Transportation specifications, as amended. **[Amended 9-28-1994; 8-10-2021]**

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109. Editor's Note: See Ch. 195, Zoning.

**§ 202-18. Easements. [Amended 9-28-1994]**

Easements for water mains, storm drains, utilities and other purposes and their appurtenances shall be provided where such are located outside the street line and shall be at least 30 feet wide. Where a subdivision is traversed by a natural watercourse, drainageway, channel or stream, the Board may require that there be provided an easement or drainage right-of-way of adequate width to conform substantially to a line 15 feet distant from either side of the watercourse or stream. The Board may require the enclosure of any such watercourse or stream and, in the event of enclosure, may require an adequate easement to service the same. All utility (sewer, water, drain, etc.) pipes, structures and appurtenances shall be designed and constructed so as to be accessible by equipment necessary for the future operation and maintenance of the facilities.

**§ 202-19. Open space and planting.**

- A. Reservation of open space. Where it believes proper and subject to governing statutes, the Board may require the plan to provide open areas suitably located for parks, for playground or recreational purposes or for other required public facilities. Such areas shall not be unreasonable in area in relation to the land being subdivided and to the prospective public use of such land. The Board, by appropriate endorsement on the plan, may restrict the erection of a building or buildings upon such reserved areas for a period of three years without its written approval. Low-impact development (LID) features can be located within the open space. **[Amended 8-10-2021]**
- B. Preservation of trees. No trees over four inches in diameter shall be removed from a subdivision or a lot within a subdivision and no grading of a subdivision or a lot within a subdivision shall be undertaken until the Department of Public Works of the town has marked those trees of such size that may or shall be removed and those trees of such size that must be welled in order to ensure their preservation following grading. **[Amended 10-13-1999]**
- C. Shade trees. Such trees as are suitable, in the opinion of the Board, for preservation shall be preserved. Where, in the opinion of the Board, existing trees are inadequate, shade trees having a diameter of at least two inches and of a variety suitable, in the opinion of the Board, shall be planted. Such planted trees shall usually be spaced not more than 40 feet apart, in 1/2 cubic yard of topsoil satisfactory to the Board.
- D. Planting space. There shall be a planting space between the curbline of the roadway and the footpath or street sidewalk. Said area shall be surfaced with not less than six inches of topsoil, which shall be seeded and rolled to the satisfaction of the Board. Low-impact development (LID) features can be located within the right-f-way. **[Amended 8-10-2021]**
- E. Grading of slopes of streets. All slopes resulting from grading of streets are to be graded to a slope not steeper than 2:1 in cut and 3:1 in fill nor more than 3/4:1 in ledge. Slopes and other areas where topsoil has been removed shall be loamed with a topsoil satisfactory to the Board to a depth of at least six inches, seeded with a permanent grass mixture and rolled. In the event that such slopes cannot be contained within the street side lines, the subdivider shall reserve slope easements wherever feasible. If retaining walls are necessary in the opinion of the Board, they shall be constructed of reinforced concrete, stone, brick or other materials deemed suitable by the Board.

**§ 202-20. Monuments.**

Bounds shall be placed at all angle points, at the beginning and end of all curves, at all intersections of streets and at such other places as may be required by the Board. Such bounds shall be of sound granite,

not less than three feet long and not less than five inches square. The top of each bound shall be dressed and have a one-half-inch drill hole.

- A. At front lot corners where a road bound is not required by the above, a granite bound not less than three feet long and not less than three inches square, with a one-half-inch drill hole, shall be set.
- B. No permanent bounds shall be installed until all construction which would disturb or destroy bounds is completed.

**§ 202-21. Curbing and berms. [Amended 7-8-1981; 9-28-1994; 8-10-2021]**

In some subdivisions, the Board may require infiltration trenches (see the required cross section detail<sup>110</sup>) along the edge of asphalt pavement for lanes, minor streets, collector streets and business streets. In all cases sloped granite curbing shall be required. All granite curbing, where required, shall be sloped granite curbing comparable to Massachusetts Department of Transportation Specification M9.04.2, Type SB. When used on a radius of 20 feet or less, curb shall be cut with radial joints. Workmanship and method of setting shall conform to the specifications of the Massachusetts Department of Transportation. Where curbing is not required, Class I bituminous concrete berms shall be placed in accordance with Massachusetts Department of Transportation Specification 470.

**§ 202-22. Guardrails. [Amended 9-28-1994; 8-10-2021]**

Guardrails or similar devices for keeping vehicles on the road shall be installed where deemed necessary by the Board and shall be capable of withstanding without displacement the impact of an automobile traveling five miles per hour and of being readily seen by drivers. Guardrails shall conform to Massachusetts Department of Transportation specifications.

**§ 202-23. Street signs.**

The developer shall furnish and erect street signs at the intersection of all new streets within a subdivision to designate the name of each street in the development, said signs to conform with those used by the town. From the time the construction of said street or streets is commenced until the time final approval is requested, a temporary sign of wood or masonite with appropriate letters may be used.

**§ 202-24. Removal of debris; restoration of property.**

Before sale of a lot, the subdivider shall clean up any debris thereon caused by street construction and installation of utilities. All areas within a street destroyed or altered in construction operations shall be restored to vegetation or other finish satisfactory to the Board.

**§ 202-25. Construction process.**

- A. Safety.
  - (1) All precautions should be taken by the developer and the developer's subcontractors to observe common sense safety requirements. The Board designates the Planning Board engineer to report to the Board all unsafe activities in preparation of the subdivision.
  - (2) Holes greater than five feet in depth and soil piles higher than 10 feet or materials stacked in an unsafe manner shall not be allowed unless the area is adequately protected.

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**110. Editor's Note: See Exhibit A at the end of this chapter.**

**B. Inspections.**

- (1) Inspections shall be arranged for as outlined on Form H, Inspection Form.<sup>111</sup> The Planning Board engineer may authorize minor on-site departures from the street plan and profile and may issue a stop-work order effective for two weeks or until the next Planning Board meeting, whichever is sooner. No drainage or utility elements shall be backfilled or otherwise covered until authorized by the Planning Board engineer.
- (2) No asphalt pavement shall be placed until a certified (by a registered professional engineer or registered land surveyor) as-built plan has been reviewed by the Planning Board engineer.

**C. Compliance.**

- (1) It is the responsibility of the developer to ensure that the approved construction plans and these regulations are implemented. Use of qualified persons to furnish adequate and timely engineering supervision during construction is required. Surveillance and site visits by town officials shall not be construed as relieving this responsibility.
- (2) Prior to release of security, a certificate by a registered professional engineer (civil) and a registered land surveyor acceptable to the Board must be obtained by the developer and filed, indicating that all improvements for which security is being released have been completed consistent with the approved plans and with these regulations.

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**111.Editor's Note: Form H is available from the office of the Planning Board.**

ARTICLE IV  
**Administration**

**§ 202-26. Variation of requirements.**

- A. The Board may, in any particular case, where such action is in the public interest and not inconsistent with the intent and purpose of the Subdivision Control Law:
- (1) Require information and impose requirements and conditions in addition to, and vary the procedures set forth in, these rules and regulations.
  - (2) Waive strict compliance with these rules and regulations, provided that such waiver is requested in writing, granted in writing and referenced on the definitive plan or street plans and profiles.
- B. In particular, variation may be allowed for subdivisions of four or fewer lots which are not contiguous with property subdivided within the past five years and now or previously in the same ownership, provided that the developer covenants that no additional lots will be created on that or contiguous lands in the same ownership for five years from the date of approval and the plan is annotated to indicate that the street does not meet usual standards for town acceptance and that betterments may be involved in the event of such acceptance.

**§ 202-27. Board of Appeals.**

As designated by § 195-102 of the Chelmsford Zoning Bylaw, the Zoning Board of Appeals shall also be the Subdivision Regulations Board of Appeals, exercising the power granted by MGL c. 41, § 81Z.

**§ 202-28. Court appeals.**

Appeals may be taken to the Superior Court, in accordance with MGL c. 41, § 81BB.

**§ 202-29. Severability.**

In case, for any reason, any part or parts of these rules and regulations should be held to be invalid, such invalidity shall not affect the remainder.

**§ 202-30. When effective.**

These rules and regulations or any revisions to them shall become effective following their adoption by the Planning Board and upon transmittal of certified copies of them to the Register of Deeds and to the Recorder of the Land Court.



TRAFFIC RULES AND ORDERS

**Chapter 203**

TRAFFIC RULES AND ORDERS

**[HISTORY: Adopted by the Board of Selectmen of the Town of Chelmsford 7-6-1931, as amended through 1997. Subsequent amendments noted where applicable.]**

GENERAL REFERENCES

Vehicles and traffic — See Ch. 174.

Unregistered vehicles — See Ch. 180.

ARTICLE I  
**General Provisions**

**§ 203-1. Purpose; definitions.**

- A. These are traffic rules and orders regulating traffic upon streets open to the public in the Town of Chelmsford and repealing all other bylaws in conflict herewith, ordained by the Selectmen of the Town of Chelmsford as follows.
- B. Wherever in these rules and orders the following terms are used, they shall have the meanings respectively ascribed to them in this section:

**AUTHORIZED EMERGENCY VEHICLES** — Vehicles of the Fire Department (fire patrol), police vehicles and such ambulances and emergency vehicles of municipal departments or public service corporations as are designated or authorized by the Chief of Police.

**COMMERCIAL VEHICLE** — Any vehicle being used in the transportation of goods, wares or merchandise for commercial purposes.

**COMMERCIAL VEHICLE, HEAVY** — Any commercial vehicle of 21/2 tons in capacity or over.

**CROSSWALK** — That portion of a roadway ordinarily included within the prolongation of curb and property lines at intersections or any other portion of a roadway clearly indicated for pedestrian crossing by lines or other markings on the surface.

**INTERSECTION** — The area embraced within the prolongation of the lateral curblines or, if none, then the lateral boundary lines of two or more streets or highways which join one another at an angle, whether or not one such street or highway crosses the other.

**MOTORIZED SCOOTER** — Any scooter with two or more wheels that is gasoline or alcohol fueled or electrically powered. (This definition does not apply to wheel chair or mobility scooters equipped with a seat.)**[Added 7-19-2004]**

**MOTOR VEHICLE** — Every vehicle, as herein defined, which is self-propelled.

**OFFICIAL TRAFFIC SIGNALS** — All signals, not inconsistent with these rules and orders, placed or erected by authority of a public body or official having jurisdiction for the purpose of directing, warning or regulating traffic.**[Amended 10-4-1999]**

**OFFICIAL TRAFFIC SIGNS** — All signs, markings and devices, other than signals, not inconsistent with these rules and orders, placed or erected by authority of a public body or official having jurisdiction for the purpose of guiding, directing, warning or regulating traffic.**[Amended 10-4-1999]**

**PARKING** — The standing of a vehicle, whether occupied or not, upon a roadway otherwise than temporarily for the purpose of and while actually engaged in loading or unloading or in obedience to traffic regulations or traffic signs or signals.

**PEDESTRIAN** — Any person afoot.

**SAFETY ZONE** — The area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times.**[Amended 10-4-1999]**

**SIDEWALK** — That portion of a street between the curblines and the adjacent property lines.

**TRAFFIC** — Pedestrians, ridden or herded animals, vehicles and other conveyances, either singly or together, while using any street for purposes of travel.



**TRAFFIC CONTROL SIGNAL** — Any device using colored lights or words, or any combination thereof, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed.

**VEHICLE** — Every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

ARTICLE II  
**Enforcement; Applicability**

**§ 203-2. Authority of police.**

It shall be the duty of the Police Department of this town to enforce the provisions of these rules and orders. Officers of the Police Department are hereby authorized to direct all traffic either in person or by means of visible or audible signal in conformance with the provisions of these rules and orders, provided that in the event of a fire or other emergency or to expedite traffic or safeguard pedestrians, officers of the Police or Fire Department may direct traffic, as conditions may require, notwithstanding the provisions of these rules and orders.

**§ 203-3. Authority of Selectmen; emergencies and special conditions.**

The Board of Selectmen is hereby empowered to make and enforce regulations necessary to make effective the provisions of these rules and orders and to make and enforce regulations to cover emergencies or special conditions.

**§ 203-4. Public employees.**

The provisions of these rules and orders shall apply to the operator of any vehicle owned by or used in the service of the United States government or this state, county or town, and it shall be unlawful for any said operator to violate any of the provisions of these rules and orders, except as otherwise permitted in these rules and orders.

**§ 203-5. Emergency vehicles.**

The provisions of these rules and orders regulating the movement, parking and standing of vehicles shall not apply to authorized emergency vehicles as defined in these rules and orders while the driver of such vehicle is operating the same in an emergency in the necessary performance of public duties. This exemption shall not, however, protect the driver of any such vehicle from the consequence of reckless disregard of the safety of others.

**§ 203-6. Persons propelling pushcarts or riding bicycles or motorized scooters or animals.  
[Amended 7-19-2004]**

Every person propelling any pushcart or riding a bicycle or motorized scooter or an animal upon a roadway, and every person driving an animal, shall be subject to the provisions of these rules and orders applicable to the operator of any vehicle, except those provisions of these rules and orders with reference to the equipment of vehicles and except those provisions which by their very nature can have no application.

ARTICLE III  
**Traffic Signs and Signals**

**§ 203-7. Selectmen to place and maintain traffic signals. [Amended 10-4-1999]**

The Selectmen are hereby authorized and, as to those signs and signals required hereunder, it shall be their duty to place and maintain or cause to be placed and maintained all official traffic signs and signals. All signs required hereunder for a particular purpose shall so far as practicable be uniform as to type and location throughout the town.

**§ 203-8. Effect of signs on enforcement.**

No provision of these rules and orders for which signs are required shall be enforceable against an alleged violator if at the time and place of the alleged violation the sign herein required is not in the proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, such section shall be effective without signs being erected to give notice thereof.

**§ 203-9. Obedience required.**

It shall be unlawful for any operator to disobey the instructions of any official traffic sign or signal placed in accordance with the provisions of these rules and orders, unless otherwise directed by a police officer.

**§ 203-10. School zones.**

A flashing yellow light with a sign attached to read "School Buses Entering Ahead" shall be installed in the vicinity of the following school locations:

- A. Graniteville Road (near) High School entrance (200 Richardson Road).
- B. North Road near the McCarthy School (250 North Road).
- C. Boston Road near the South Row School (250 Boston Road).
- D. Graniteville Road near the Parker School (75 Graniteville Road).
- E. Richardson Road near the Harrington School and entrance to High School (120 Richardson Road).
- F. Billerica Road near the Center School (84 Billerica Road).
- G. Dalton Road near the Westlands School (170 Dalton Road).
- H. Brick Kiln Road, the location of the Murdoch Charter School. **[Added 12-2-2002]**

**[NOTE: See Article 47, ATM 1973]**

**§ 203-11. Signal colors.**

- A. Colors in traffic control signals shall have the commands ascribed to them in this section and no other meanings, and no driver of a vehicle or operator of a railway car shall fail to comply with said commands, except when otherwise directed by a police officer or lawful traffic regulating sign, signal device.

- (1) Red. While the red lens is illuminated, no driver of a vehicle facing the signal shall enter the intersection; provided, however, that if a right, left or vertical green arrow is illuminated at the same time, a driver may enter the intersection to make the movement permitted by the green arrow or arrows.
  - (2) Yellow. While the yellow lens is illuminated no waiting driver of any vehicle shall proceed until the green lens is illuminated, and any driver of a vehicle approaching the intersection who can stop said vehicle with safety before reaching the intersection or a marked stop line shall stop at such point; provided, however, that if a right, left or vertical green arrow is illuminated at the same time a driver may enter the intersection to make the movement permitted by the green arrow or arrows.
  - (3) Green.
    - (a) While the green lens is illuminated, the driver of a vehicle facing the signal may proceed in any direction, notwithstanding the use or not of any special right, left or vertical green arrow lens which may be incorporated in such signal.
    - (b) Special green arrow. When a special right, left or vertical (meaning straight ahead) green arrow lens is incorporated in a signal, drivers facing said signal may, regardless of either red or yellow indications, turn right or left or go straight ahead, respectively, in accordance with the movement permitted by the green arrow or arrows illuminated at the time. In no case shall a driver proceed without due regard for the safety of those persons already within the intersection.
  - (4) Red and yellow. While the red and yellow lenses are illuminated together no driver of a vehicle shall enter the intersection, and during such time the intersection shall be reserved for the exclusive use of pedestrians.
  - (5) Flashing red. The red lens, when illuminated with rapid intermittent flashes, shall indicate those intersections at which a driver is required by law to stop before entering.
  - (6) Flashing yellow. The yellow lens, when illuminated with rapid intermittent flashes, shall indicate the presence of a hazard and shall permit drivers to proceed only with caution.
- B. The word "intersection" as used in this section shall mean any intersection of one or more ways with another and any intersection of ways with a railroad.

#### **§ 203-12. Unauthorized signs and signals.**

It shall be unlawful for any person to place or maintain or to display upon or in view of any street any unofficial sign, signal or device which purports to be or is an imitation of or resembles an official traffic sign or signals or which attempts to direct the movement of traffic or which hides from view any official traffic sign or signals. Every such prohibited sign, signal or device is hereby declared to be a public nuisance, and the Selectmen are hereby empowered to remove the same or cause it to be removed without notice.

#### **§ 203-13. Interference with signs and signals.**

It shall be unlawful for any person to willfully deface, injure, move or obstruct or interfere with any official traffic sign or signal.

**§ 203-14. Crosswalks.**

The Selectmen are hereby authorized to establish and to designate and shall thereafter maintain or cause to be maintained, by appropriate devices or lines upon the surface of the roadway, crosswalks at intersections where, in their opinion, there is particular danger to pedestrians crossing the roadway and at such other places as they may deem necessary.

**§ 203-15. Safety zones and lanes for traffic.**

- A. The Selectmen are hereby empowered to establish safety zones of such kind and character at such places as they may deem necessary for the protection of pedestrians.
- B. The Selectmen are authorized to mark lanes for traffic on street pavements at such places as they may deem advisable consistent with the provisions of these rules and orders.

ARTICLE IV  
**Pedestrians**

**§ 203-16. Vehicle operators to yield right-of-way.**

- A. The operator of any vehicle shall yield the right-of-way to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at the end of a block, except at intersections where the movement of traffic is being regulated by police officers or traffic control signals.
- B. Whenever any vehicle has stopped at a marked crosswalk or at any intersection to permit a pedestrian to cross the roadway, it shall be unlawful for the operator of any other vehicle approaching from the rear to overtake and pass such stopped vehicle.

**§ 203-17. Controlled intersections.**

At intersections where traffic is controlled by traffic control signals, the following movements shall prevail: pedestrians cross on amber light only; traffic moves on green only; and traffic stops on red.

**§ 203-18. Soliciting rides.**

It shall be unlawful for any person to stand in a highway for the purpose of soliciting a ride from the operator of any private vehicle.

ARTICLE V  
**Stopping, Standing and Parking**

**§ 203-19. Places where illegal.**

It shall be unlawful for the operator of a vehicle to stop, stand or park such vehicle in any of the following places, except when necessary to avoid conflict with other traffic or in compliance with the direction of a police officer or traffic sign or signal:

- A. Within an intersection.
- B. On a crosswalk.
- C. In front of a private driveway.
- D. Within 10 feet of a fire hydrant.
- E. Within 30 feet upon the approach to any flashing beacon, stop signs or traffic control signal located at the side of the roadway, the same to be designated by official signs.
- F. Within 15 feet of the driveway entrance to any fire station, the same to be designated by official signs.
- G. Within 20 feet of any street corner.<sup>112</sup>
- H. Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic.

**§ 203-20. Passenger zones and loading zones.**

- A. The Selectmen shall have the authority to determine the location of necessary zones and loading zones and shall erect and maintain or cause to be maintained appropriate signs indicating the same.
- B. It shall be unlawful for the operator of a vehicle to stop, stand or park said vehicle for a period of time longer than is necessary for the expeditious loading or unloading of passengers in any place marked as a passenger zone.
- C. It shall be unlawful for the operator of a vehicle to stop, stand or park said vehicle for a period of time longer than is necessary for the expeditious loading or unloading of passengers or for the unloading and delivery or pickup and loading of materials in any place marked as a loading zone.
- D. In no case shall the stop for loading and for unloading of materials exceed 30 minutes.

**§ 203-21. Designation of bus stops and taxicab stands.**

The Selectmen are hereby authorized to establish bus stops and taxicab stands on such public streets in such places and in such number as they shall determine to be of the greatest benefit and convenience to the public, and every bus stop and taxicab stand shall be designated by appropriate signs.

**§ 203-22. Parking in bus stops and taxicab stands.**

It shall be unlawful for the operator of any vehicle other than a bus to stand or park in any official designated bus stop or any vehicle other than a taxicab to stand or park in an official designated taxicab

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**112.Editor's Note: Amended at time of adoption of Code (see Ch. 200, General Provisions, Art. III).**

stand, except that the operator of any passenger vehicle may temporarily stop in any such stop or stand for the purpose of and while actually engaged in the loading or unloading of passengers.

**§ 203-23. Parking of buses and taxicabs.**

It shall be unlawful for the operator of any bus or taxicab to park upon any street in any business district at any place other than at a bus stop or taxicab stand, except that this provision shall not prevent the operator of any such vehicle from temporarily stopping in accordance with other parking regulations at any place for the purpose of and while actually engaged in loading or unloading passengers.

**§ 203-24. Obstructing free movement of traffic.**

- A. It shall be unlawful for any operator to stop, stand or park any vehicle upon a street, other than an alley, in such a manner or under such conditions as to leave available less than 18 feet of the width of the roadway for free movement of vehicular traffic, except that an operator may stop temporarily during the actual loading or unloading of passengers or when necessary in obedience to traffic regulations or traffic signs or signals of a police officer.
- B. It shall be unlawful for any operator to park a vehicle within an alley in such a manner or under such conditions as to leave available less than 10 feet of the width of the roadway for the free movement of vehicular traffic.

**§ 203-25. Parking time limited in designated places.**

- A. One-hour parking. The operator of a motor vehicle shall not park such vehicles for longer than one hour at any time in the following designated districts:

Name of Street	Side	Location
Adams Avenue	Easterly	From a point 100 feet south of the entrance to the Adams Library southerly for a distance of 100 feet
Central Square	Easterly	40 feet southerly from the line of Billerica Street to the Boston Road
Central Square	Westerly	50 feet from the Acton Road to the railroad location of the New York, New Haven and Hartford Railroad, except that distance from Cushing Place to a point in front of property at Numbers 15-16 Central Square, for an approximate distance of 129 feet



<b>Name of Street</b>	<b>Side</b>	<b>Location</b>
Central Square Park	Northerly	—
Groton Road	Westerly	Commencing at the intersection of Newfield Street and Groton Road and ending at the intersection of Groton Road and Adams Street, from Monday through Saturday, between the hours of 8:00 a.m. and 6:00 p.m.
North Road	Easterly	In front of the Old Town Hall, 1A North Road, from a point commencing at the driveway adjacent to the New York, New Haven and Hartford Railroad to a point of 300 feet, from Monday through Friday, between the hours of 8:00 a.m. and 6:00 p.m.

- B. Thirty-minute parking. The operator of a motor vehicle shall not park such vehicle for longer than 30 minutes at any time in the following designated districts:

<b>Name of Street</b>	<b>Side</b>	<b>Location</b>
Central Square	Easterly	From a point commencing at the exit of the Stop & Shop Parking Lot, 16-20 Boston Road, 430 feet to a point northerly 100 feet from the intersection of Billerica Road and Boston Road
Central Square	Northerly	At a point at the intersection of Chelmsford Street and the Penn Central Railroad property, a total distance of 152 feet

<b>Name of Street</b>	<b>Side</b>	<b>Location</b>
Central Square	Westerly	From Cushing Place to a point in front of property at Numbers 15-16 Central Square, for an approximate distance of 129 feet, such area to be used for parallel parking
Dunstable Road	Easterly	From a point 60 feet northerly of its intersection with Tyngsboro Road to a point 140 feet northerly of the point of beginning

**§ 203-26. Parking prohibited in designated places.**

The operator of a motor vehicle shall not park such vehicle at the following designated areas:

<b>Name of Street</b>	<b>Side</b>	<b>Location</b>
Acton Road	Both	From the intersection of Bartlett Street to a point beyond the 9-13 Acton Road, a total distance of 600 feet
Acton Road	South	Beginning at Proctor Road and running in a westerly direction on Acton Road for a distance of 400 feet
Adams Avenue	East	From a point 200 feet south of the driveway of the Adams Library to the intersection of Adams Avenue and Boston Road
Adams Avenue	West	From the intersection of Adams Avenue and Bartlett Street to the intersection of Adams Avenue and Boston Road, a total distance of 500 feet
Adams Street	North	Westerly 100 feet from the westerly line of Groton Road
Adams Street	South	From a point at the intersection of Adams Street and Grant Street to a point at the intersection of Adams Street and Sherman Street, a total distance of 250 feet

<b>Name of Street</b>	<b>Side</b>	<b>Location</b>
Bartlett Street	Both	From the intersection of Bartlett Street and Acton Road a total distance of 450 feet, commencing at a point adjacent to Bartlett Park
Boston Road	East	Commencing in front of 6 Boston Road (a.k.a. 34 Central Square) northerly to intersection of Billerica Road (Rte. 129)
Boston Road	East	Commencing at the northerly side of Summer Street, in a northerly direction for a distance of 675 feet to the boundary of the property of Stop & Shop, 16-20 Boston Road and 6 Boston Road
Boston Road	West	From the intersection of Adams Avenue and Boston Road northerly for a distance of 676 feet to the property of the Mobil Gas Station (30 Central)
Boston Road	West (between signs)	In front of the Adams Library, from the intersection of Boston Road and Adams Avenue northerly for a distance of 50 feet
Byam Road	East and west	From a point beginning at the intersection of Byam Road and Acton Road northerly to the intersection of Byam Road and Barton Hill Road, a total distance of 1,700 feet
Carlisle Street	Right-hand side	In a northwesterly direction, from a point in front of Number 74 Carlisle Street to the corner of the intersection of Albina Street and Carlisle Street
Carlisle Street	West	Commencing at a point at the intersection of Carlisle Street and Marshall Street, 540 feet southerly
Central Square	North	Northerly 50 feet from the northerly line of Chelmsford Street

<b>Name of Street</b>	<b>Side</b>	<b>Location</b>
Central Square	North	Southerly 50 feet from the railroad location of the New York, New Haven and Hartford Railroad
Central Square Park	East and west	One-hour parking
Chelmsford Street	North	From a point at the driveway of Number 8 Chelmsford Street to Central Square, a total distance of 50 feet
Chelmsford Street	North	Opposite Number 89 Chelmsford Street for a distance of 1,035 feet to a point opposite the intersection of Wilson Street and Chelmsford Street
Chelmsford Street	South	Commencing at the intersection of Billerica Road for a distance of 1,056 feet ending at the intersection of Wilson Street and Chelmsford Street
Chelmsford Street	South	Commencing at the intersection of Wilson Street and Chelmsford Street for a distance of 1,035 feet to a point beyond a little league field at entrance to property of Number 89 Chelmsford Street
Church Street	North	From Middlesex Street to Quigley Avenue
Crooked Spring Road	East	From a point at the intersection of Richardson Road northerly to the rear entrance of the Parker School, a total distance of 330 feet
Crooked Spring Road	West	From a point at the intersection of Richardson Road northerly to the rear entrance of the Parker School, a total distance of 330 feet
Crosby Lane	North	On the easterly side of North Road 55 feet northerly

<b>Name of Street</b>	<b>Side</b>	<b>Location</b>
Davis Road	East	From a point at the intersection of Davis Road and Old Westford Road to a point at the intersection of Davis Road and Graniteville Road, a total distance of 392 feet
Drum Hill Road	Both	From a point at the blinking yellow traffic light at the entrance to the Route 3 rotary to the town line at Parkhurst Road, a total distance of 1,590 feet
Fletcher Street	North	From a point at the entrance of St. Mary's parking lot westerly to the intersection of North Road and Fletcher Street, a distance of 185 feet
Fletcher Street	North	On the easterly side of North Road 611 feet northerly to the southern point of Crosby Lane
Fletcher Street	South	Commencing at the intersection of North Road and Fletcher Street, easterly for a distance of 980 feet
Gay Street	South	Between Middlesex Street and Princeton Street
Glen Avenue [Added 8-15-2005]	---	Within 50 feet on either side of Pole #12 on Glen Avenue
Graniteville Road	Both	From a point at the intersection of Richardson Road to the second entrance to the Parker School property, a total distance of 1,500 feet
Graniteville Road	North	From a point at the intersection of Old Westford Road and Graniteville Road in a northerly direction a total distance of 192 feet
Graniteville Road	South	From a point at the intersection of Davis Road and Graniteville Road to a point at the intersection of Graniteville Road and Old Westford Road, a total distance of 900 feet

<b>Name of Street</b>	<b>Side</b>	<b>Location</b>
Grant Street	East	From a point at the intersection of Grant Street and Washington Street to a point at the intersection of Grant Street and Adams Street, a total distance of 795 feet
Larcom Square	All	At the intersection of Boston Road and Adams Avenue
Littleton Road	South	From State Highway Survey Station 100 x 50 in 103 x 40
North Road	East	Southerly 500 feet from the southerly line of Fletcher Street
North Road	—	At main entrance to the Old Town Hall, 1A North Road, as amended by § 203-26A
North Road	West	635 feet northerly from the entrance to Westford Street to the northern point of Fletcher Street
North Road	West	Northerly 500 feet from the intersection of Fletcher Street with North Road
Old Westford Road	North	From a point at the intersection of Old Westford Road and Graniteville Road to a point at the intersection of Old Westford Road and Davis Road, a total distance of 821 feet
Parkerville Road	East	Commencing at the intersection of Parkerville Road and Pond Street, northerly for a distance of 750 feet to the intersection of Parkerville Road and Maple Road
Parkerville Road	West	Commencing at the intersection of Maple Road and Parkerville Road southerly for a distance of 750 feet to the intersection of Pond Street and Parkerville Road
Pond Street	North	From the intersection of Pond Street and Parkerville Road to the intersection of Pond Street and Acton Road, a total distance of 1,156 feet, effective June 15 to September 15 inclusive, yearly

<b>Name of Street</b>	<b>Side</b>	<b>Location</b>
Pond Street	South	From the intersection of Pond Street and Parkerville Road easterly for a distance of 385 feet, effective June 15 to September 15 inclusive, yearly
Princeton Street	—	The main entrance to the North Town Hall, 31 Princeton Street
Princeton Street	East	From Mt. Pleasant Street to Gay Street
Princeton Street	West	From its intersection with Mt. Pleasant Street northerly to the entrance of 73-77 Princeton Street
Princeton Street	West	From the southerly line of Shaw Street to the southerly end of the driveway at No. 1 Princeton Street, a total distance of 90 feet
Proctor Road	East and west	Beginning at a point 510 feet in from the intersection of Proctor and Acton Road southerly for a distance of 310 feet
Quigley Avenue	East	From the intersection of Quigley Avenue and Mt. Pleasant Street to the intersection of Quigley Avenue and Middlesex Street, a total distance of 700 feet
Richardson Road	East	From a point at the intersection of Graniteville Road southerly to the entrance of the high school (opposite Crooked Spring Road), a total distance of 345 feet
Richardson Road	West	From a point at the intersection of Graniteville Road to the intersection of Crooked Spring Road, a total distance of 545 feet
Sherman Street	East	From a point at the intersection of Sherman Street and Adams Street to the intersection of Sherman Street and Varney Avenue, a distance of 1,120 feet
Street extending from Worthen Street along Fletcher Park	South	For a distance of 114 feet to the westerly side of North Road

<b>Name of Street</b>	<b>Side</b>	<b>Location</b>
Washington Street	North	From here to corner from the intersection of Princeton Street and Washington Street, a total distance of 20 feet
Washington Street	South	From the intersection of Washington Street and Princeton Street to the end of the Fire Department property, a total distance of 250 feet
Wellman Avenue	—	Within the cul-de-sac area
Wellman Avenue	North and south	From a point at the intersection of Wellman Avenue and Tyngsboro Road westerly 210 feet to the Boston and Maine Railroad tracks
Westford Street	West	From a point commencing at the parking lot of the Unitarian Church southerly for a distance of 295 feet, except for church services
Wilson Street	East	From the intersection of Wilson Street and Billerica Road to the intersection of Wilson Street and Chelmsford Street, a total distance of 550 feet
Worthern Street	East	1,000 feet from the northern point of the intersection of North Road and Northern Street southerly to Westford Street

**§ 203-27. Snow emergencies. [Added 5-11-1987STM by Art. 9<sup>113</sup>]**

- A. The Board of Selectmen shall have the authority to declare a snow emergency.
- B. Upon the declaration of a snow emergency, it shall be unlawful to park any vehicle upon any street, and all such vehicles shall forthwith be removed.

**§ 203-28. Standing or parking close to curb.**

- A. Except when necessary in obedience to traffic regulations or traffic signs or signals, the operator of a vehicle shall not stop, stand or park such vehicle in a roadway other than parallel to the edge of the roadway and with the right curbside wheels of the vehicle within six inches of the edge of the roadway, except as provided in the following Subsection A(1) and (2):

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113.Editor's Note: This article also deleted former Section 27, All-night parking prohibited.



- (1) Upon those streets which have been marked or signed for angle parking, a vehicle shall be parked at the angle to the curb indicated by such marks or sign.
  - (2) In places where, and at hours when, stopping for the loading or unloading of merchandise or materials is permitted, vehicles used for the transportation of merchandise or materials may back into the curb or take on or discharge loads when the owner of such vehicle holds a permit granting the owner such special privilege, and provided further that such permit shall be either in the possession of the operator or on the vehicle at the time such vehicle is backed against the curb to take on or discharge a load, and it shall be unlawful for any such owner or operator to violate any of the special terms or conditions of any such special permit.
- B. The Selectmen shall determine upon what streets angle parking shall be permitted and shall mark or sign such streets or cause the same to be marked or signed.
- C. The Selectmen are hereby authorized to issue to any owner of a vehicle used to transport merchandise or materials a special permit, renewable annually, and to state therein the terms and conditions thereof, allowing the operator of such vehicle the privilege of loading and unloading while the vehicle is backed against the curb, if in the opinion of the Selectmen such privilege is reasonably necessary in the conduct of the owner's business and will not seriously interfere with traffic.

#### **§ 203-29. Parking vehicle for sale.**

It shall be unlawful for any person to park upon a street any vehicle displayed for sale.

#### **§ 203-30. Parking fines.<sup>114</sup>**

Penalty charges are established as follows:

<b>Violation</b>	<b>Penalty</b>
Overtime parking	\$10.00
Parking in wrong direction	\$10.00
Parking more than one foot from curb	\$10.00
Parking in taxi stand	\$10.00
Violation of snow emergency	\$10.00
Parking in restricted area	\$20.00
Parking within 10 feet of hydrant	\$20.00
Parking to block driveway of private way	\$20.00
Parking within 20 feet of intersection	\$20.00
Parking in bus stop	\$20.00
Double parking	\$25.00
Parking on crosswalk	\$25.00
Parking on sidewalk	\$25.00

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<sup>114</sup>Editor's Note: Amended at time of adoption of Code (see Ch. 200, General Provisions, Art. III).

<b>Violation</b>	<b>Penalty</b>
Parking in a street, other than an alley, so as not to leave 18 feet of unobstructed travel	\$25.00
Parking in an alley so as not to leave 10 feet of unobstructed travel	\$25.00
Parking to block snow removal	\$25.00
Parking in front of fire station	\$25.00
Parking across from fire station when posted	\$25.00
Parking in fire lane	\$25.00
Parking in handicapped space	\$100.00
Illegal use of handicapped placard	\$100.00

ARTICLE VI  
**Operation of Vehicles**

**§ 203-31. Driving on right side of street.**

- A. Upon all streets, except upon one-way streets, the operator of a vehicle shall drive the same upon the right half of the street, and the operator of a slow-moving vehicle shall drive the same as close as possible to the right-hand edge or curb of the street, unless it is impracticable to travel on such side of the street and except when overtaking and passing.
- B. The foregoing provision of this section shall not be deemed to prevent marking of lanes for traffic upon any street and the allocation of designated lanes to traffic moving in a particular direction.

**§ 203-32. Turning at intersections.**

- A. Right turns. The operator of a vehicle intending to turn to the right at an intersection or into an alley or driveway shall approach the point of turning in the traffic lane nearest the right-hand edge or curb of the street and, in turning, shall keep as close as practicable to the right-hand curb or edge of the street.
- B. Turning left. The operator of a vehicle intending to turn to the left at an intersection or into a driveway shall approach the point of turning in the lane for traffic to the right of and next to the center of the roadway, and, unless otherwise directed by turning markers, the operator of a vehicle in turning left at an intersection shall pass to the right of the center of the intersection before turning. Upon streets laned for traffic and upon one-way streets, a left turn shall be made from the left lane of traffic.
- C. Turning markers. The Selectmen are hereby authorized to place turning markers within or at the entrance to intersections directing that traffic turning left shall follow a line of travel other than as directed in Subsection B of this section. Whenever turning markers have been placed as herein provided, traffic turning left shall follow the line as directed by such markers.

**§ 203-33. Limitations on turning around.**

It shall be unlawful for the operator of any vehicle to turn such vehicle so as to proceed in the opposite direction unless such movement can be made in safety and without backing or otherwise interfering with other traffic.

**§ 203-34. Emerging from alley or driveway.**

The operator of a vehicle emerging from an alley, driveway or building shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway.

**§ 203-35. Driving within sidewalk area.**

The operator of a vehicle shall not drive within any sidewalk area except at a permanent or temporary driveway.

**§ 203-36. Boarding or alighting from vehicles.**

It shall be unlawful for any person to board or alight from any vehicle while such vehicle is in motion.

**§ 203-37. Riding on portion of vehicle not designed for passengers.**

It shall be unlawful for any person to ride a vehicle upon any portion thereof not designated or intended for the use of passengers when the vehicle is in motion. This provision shall not apply to any employee engaged in the necessary discharge of duty or within truck bodies in space intended for merchandise.

**§ 203-38. Railway trains not to block street.**

It shall be unlawful for the directing officer or the operator of any steam or street railway train or car to direct the operation of or to operate the same in such manner as to prevent the use of any street for purposes of travel for a period of time longer than five minutes, except that this provision shall not apply to trains or cars in motion other than those engaged in switching. It shall be unlawful for any street railway train or car to stop within an intersection or on a crosswalk for the purpose of receiving or discharging passengers.

**§ 203-39. Obedience to isolated stop signs.**

- A. Every driver of a vehicle, railway car or other conveyance approaching an intersection of ways where there exists facing such driver an official sign bearing the word "Stop" or a flashing red signal indication, said sign or signal having the written approval of the Department of Public Works, Commonwealth of Massachusetts, and/or the Chelmsford Board of Selectmen, such approval being in effect, shall, before proceeding through the intersection, bring such vehicle, railway car or other conveyance to a complete stop at such point as may be clearly marked by a sign or line or, if a point is not so marked, than at the nearer line or crosswalk of said intersection.
- B. In accordance with the foregoing, the erection and maintenance of an isolated stop sign or signs or flashing red signals, as the case may be, are authorized as follows:<sup>115</sup>

<b>Stop Sign on</b>	<b>Direction of Traffic</b>
Adams Avenue at Boston Road	Eastbound
Adams Street at Groton Road	Northbound
Adams Street at Sherman Street	East and westbound
Alpha Road at Billerica Road (Route 129)	Northbound
Alpine Lane at Route 110	—
Barton Hill Road at Acton Road	North and southbound
Berkeley Drive at Graniteville Road	Northbound
Billerica Road (Rte. 129), Chelmsford Street (Rte. 110) and Central Square	All drivers entering intersection
Bradford Road and Aberdeen Street	East and westbound

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**115.Editor's Note: A former entry for northbound drivers on Acton Road at Bartlett Street was deleted 8-16-1999.**

<b>Stop Sign on</b>	<b>Direction of Traffic</b>
Brick Kiln Road at Carlisle Street	Northbound
Brook Street at Summer Street	Westbound
Burning Tree Lane at Acton Road (Route 27)	Northwestbound
Byam Road at Acton Road	Eastbound
Byam Road at Robin Hill Road <b>[Added 11-9-1998]</b>	—
Canter Road at Thomas Drive	Eastbound
Castlewood Drive at Graniteville Road	Southbound
Cathy Road at Thomas Drive	Westbound
Chatham Road at Warren Avenue	Southbound
Clear Street at Linwood Street	North and southbound
Clover Hill Drive at Pine Hill Road	Northbound
Coolidge Street at Groton Road	Southbound
Courtland Drive at Westford Street	Northbound
Cross Street at Mission Road	Westerly
Dalton Road at Westford Street	Westbound
Davis Road at Graniteville Road	Northbound
Davis Road at Old Westford Road	East and westbound
Dayton Street at Bradford Road <b>[Added 3-15-1999]</b>	Northbound
Dunstable Road at Groton Road (Route 40)	Southerly
Elizabeth Drive at Mill Road	Eastbound
Elm Street at Acton Road	Westbound
Field Street at Erlin Road	Northbound
Field Street at Linwood Street	East and westbound
First Street at Warren Avenue	Northbound
Galloway Road at Pine Hill Road	Southbound

<b>Stop Sign on</b>	<b>Direction of Traffic</b>
Golden Cove Road at Billerica Road (Route 129)	Southbound
Graniteville Road at Old Westford Road	Northbound
Groton Road at Vinal Square	Eastbound
Grove Street at Perham Street [Added 5-15-1995]	Eastbound
Hall Road at Parker Road	East and westbound
Harold Street at Warren Avenue	Northbound
Hazen Road at Concord Road	Southerly
Highland Avenue at Middlesex Street [Added 3-17-1997]	Northbound
High Street at Acton Road	East and westbound
High Street at Robin Hill Road	Eastbound
Hitchinpost Road at Old Westford Road	Westbound
Hornbeam Hill Road at Fairbanks Road	Northbound
Housatonic Avenue at Bowl Road [Added 11-6-2000]	North and southbound
Ideal Avenue at Linwood Street	North and southbound
Industrial Avenue at Billerica Road (Route 129)	Northbound
Janet Road at Wildes Road	Northbound
Jordan Street at Crooked Spring Road	Eastbound
Joyce Street at Pleasant Street	—
Locke Road at Westford Street	Westbound
Locust Road at Robin Hill Road	North and southbound
Main Street at Groton Road	Northbound
Manning Road at Carlisle Street	Eastbound
Mansur Street at Sherman Street	—
Maple Road at Acton Road [Added 4-26-2004]	Eastbound

<b>Stop Sign on</b>	<b>Direction of Traffic</b>
Maple Road at Parkerville Road	Eastbound
Marshall Street at Carlisle Street	Eastbound
Maynard Circle at Meadowbrook Road	Westbound
Meadowbrook Road at Crooked Spring Road	Southerly
Meadowbrook Road at Main Street	Southbound
Middlesex Street at Vinal Square	Westbound
Miland Avenue at Linwood Street	East and westbound
Moore Street at Brick Kiln Road <b>[Added 11-9-1998]</b>	Eastbound
Mt. Pleasant Street at Church Street	Northeastbound
Newfield Street at Adams Street	East and westbound
Newfield Street at Washington Street	North and southbound
Pennock Road at Abbott Lane <b>[Added 8-11-2014]</b>	—
Pine Hill Road at Westford Street	Northbound
Purcell Drive at Acton Road	Westbound
Quigley Avenue at Church Street	Southbound
Rack Road at Old Westford Road	Northbound
Richardson Road at Graniteville Road	Southbound
River Meadow Drive at Warren Avenue	Southbound
Riverneck Road at Billerica Road	Westbound
Riverneck Road at Carlisle Street	East and westbound

<b>Stop Sign on</b>	<b>Direction of Traffic</b>
St. Nicholas Avenue at Bowl Road [Added 11-6-2000]	North and southbound
San Mateo Road at Proctor Road	Westbound
School Street at Graniteville Road	All drivers entering intersection
School Street at Old Westford Road	Southbound
Scientia Drive at Billerica Road (Route 129)	Northbound
Shaw Street at Newfield Street	—
Sleeper Street at Tyngsboro Road	Southbound
Smith Street at Parkhurst Road	Westbound
Smith Street at Steadman Street	Eastbound
Spaulding Road at Gristone Road	Westbound
Spaulding Road at Monument Hill Road	Eastbound
Steadman Street at Dalton Road	All drivers entering the intersection, including Subway Avenue as it enters this intersection
Subway Avenue at Dalton Road	Northwestbound
Summer Street (a.k.a. Grove Street) at Billerica Road	Westbound
Summer Street at Boston Road	Westbound
Sunset Avenue at Dalton Road	North and southbound
Swain Road at Dunstable Road	Northbound
Sycamore Street at Westford Street	Southbound
Turnpike Road at Mill Road	Eastbound
Westford Street at Littleton Road	Southbound
Westford Street at Old Westford Road	Westbound
Westford Street at Route 110 (Littleton Road)	Southbound



<b>Stop Sign on</b>	<b>Direction of Traffic</b>
Wildwood Road at Dalton Road [Added 5-19-2014]	—
Winslow Road at Rack Road	East/westbound
Woodlawn Avenue at Linwood Street	East and westbound
Wood Street at Tyngsboro Road	Eastbound
Wotton Street at Middlesex Street	Eastbound

**§ 203-40. Operation at ways connected by ramps and at intersections with islands.**

At any junction or crossing of ways where the roadway grades have been separated and where the ways are connected by ramps and at the intersections of ways in which there are traffic islands, drivers of vehicles shall proceed only as indicated by official signs, signals or markings.

**§ 203-41. One-way streets.**

Upon the following streets or parts of streets vehicular traffic shall move only in the direction indicated below, provided that a sufficient number of official signs are erected and maintained at each of the exits for each one-way street so that at least one sign will be clearly visible for a distance of at least 75 feet to drivers approaching such an exit:

<b>Name of Street</b>	<b>Direction of Travel</b>	<b>Location</b>
Acton Road	Southerly	From the intersection of Acton Road and Boston Road to the intersection of Acton Road and Bartlett Street, for a total distance of 360 feet
Adams Avenue	Southerly	From the intersection of Adams Avenue and Bartlett Street to the intersection of Adams Avenue and Boston Road, for a total distance of 390 feet
Adams Street [Added 11-8-1993]	Southerly	From Groton Road to Newfield Street
Bartlett Street	Southerly	From the intersection of Bartlett Street and Acton Road to the intersection of Bartlett Street and Adams Avenue, for a total distance of 514 feet

<b>Name of Street</b>	<b>Direction of Travel</b>	<b>Location</b>
Boston Road	Northerly	From the intersection of Boston Road and Adams Avenue to a point at the traffic island in Central Square, for a total distance of 1,030 feet
Gay Street [Added 3-16-1998] <sup>116</sup>	—	Entering from Princeton Street and exiting onto Middlesex Street.

#### **§ 203-42. Heavy commercial vehicles.**

- A. Restricted. The use and operation of heavy commercial vehicles having a carrying capacity of more than 21/2 tons are hereby restricted on the following named streets or parts thereof and in the manner outlined and during the period of time set forth:
- (1) North Road, between Littleton Road and Route 3. The alternate route shall be via Chelmsford Street (Route 110) and Route 3.
  - (2) Golden Cove Road, entire length, 24 hours a day. The alternate route shall be via Billerica Road (Rte. 129) to Wilson Street to Chelmsford Street (Rte. 110).
  - (3) Scientia Drive, entire length, 24 hours a day. The alternate route shall be via Billerica Road and Industrial Avenue.
  - (4) Lynn Avenue, 6:00 a.m. to 6:00 p.m. [Added 12-2-2002]
- B. Exemptions. Subsection A of this section shall not apply to heavy commercial vehicles going to or coming from places upon said streets for the purpose of making deliveries of goods, materials or merchandise to or similar collections from abutting land or buildings or adjoining streets or ways to which access cannot otherwise be gained or to vehicles used in connection with the construction, maintenance and repair of said streets or public utilities therein or to vehicles owned by a federal, state, municipal or public service corporation.
- C. Subsection A of this section shall be effective only during such times as official signs are erected and maintained setting forth its provisions.

#### **§ 203-43. Clinging to moving vehicles.**

It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates or any toy vehicle to cling to, or attach himself/herself or his/her vehicle to, any other moving vehicle or streetcar upon any roadway.

#### **§ 203-44. Limitations on backing.**

The operator of a vehicle shall not back the same unless such movement can be made in safety.

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116. Editor's Note: Rivermeadow Road (formerly known as "Third Street"), formerly a one-way street, became two-way per Board of Selectmen 9-16-1991.

**§ 203-45. Parades and processions.**

No parade or procession or group of individuals or vehicles shall occupy or march on any street, except funeral processions and Police and Fire Departments, unless written permit therefor is given by the Chief of Police, and said Chief of Police may designate the period during which said street or streets may be thus occupied.

**§ 203-46. Areas of restricted access.**

A. Do not enter signs shall be posted as follows:

- (1) High Street in the easterly direction from Acton Road, in effect from 6:00 a.m. until 9:00 a.m., Monday through Friday.
- (2) Worthen Street in the southerly direction from North Road, in effect from 6:00 a.m. to 9:00 a.m., Monday through Friday.
- (3) Bartlett Street in a northerly direction from Action Road, in effect at all times.
- (4) Quigley Avenue in a northerly direction from Middlesex Street, in effect at all times. **[Added 1-12-2004]**
- (5) Access onto Sycamore Street from Westford Street, with a time restriction of 6:00 a.m. to 10:00 a.m., Monday through Friday. **[Added 9-12-2005]**

B. Turn restrictions shall be posted as follows:

- (1) No left enter from Worthen Street in easterly direction at Fletcher Square Park, in effect from 4:00 p.m. to 6:00 p.m.
- (2) No right turn from Groton Road onto Sherman Street, 7:00 a.m. to 9:00 a.m., Monday through Friday.
- (3) No right turn from Groton Road onto Newfield Street, 7:00 a.m. to 9:00 a.m., Monday through Friday.
- (4) No left turn from Chelmsford Street (Rte. 110) easterly onto Billerica Road (Rte. 129), in effect at all times.
- (5) No left turn from Golden Cove Road onto New Fletcher Street, 7:00 a.m. to 9:00 a.m., Monday through Friday. **[Added 12-17-2012]**
- (6) No left turn from Golden Cove Road onto New Spaulding Street, 7:00 a.m. to 9:00 a.m., Monday through Friday. **[Added 12-17-2012]**
- (7) No left turn from Golden Cove Road onto Dawn Drive, 7:00 a.m. to 9:00 a.m., Monday through Friday. **[Added 12-17-2012]**

C. No parking signs shall be posted as follows: **[Added 4-11-2016]**

- (1) Along the 200 feet on both sides of the entrance and exit of Wellman Avenue.

ARTICLE VII  
**Penalties; Disposition of Fines**

**§ 203-47. Violations and penalties. [Amended 10-4-1999]**

Except as otherwise provided in these rules and orders, any person violating any of the provisions of these rules and orders or any rule or regulation made by the Board of Selectmen pursuant thereto shall be guilty of a violation and, upon conviction thereof, shall be liable to a fine not to exceed \$20.

**§ 203-48. Disposition of fines and forfeitures.**

All fines or forfeitures collected upon conviction or upon the forfeiture of bail of any person charged with a violation of any of the provisions of these rules and orders shall be paid into the town treasury.

ARTICLE VIII  
**Severability; Repealer**

**§ 203-49. Severability.**

If any section, subsection, sentence, clause or phrase of these rules and orders is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of these rules and orders. The Board of Selectmen hereby declares that it would have passed these rules and orders and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases is declared unconstitutional.

**§ 203-50. Repealer.**

The former traffic rules and orders of this town are hereby repealed, and all ordinances or parts of ordinances in conflict with or inconsistent with the provisions of these rules and orders are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of these rules and orders.

{END OF CHAPTER}

## **Appendix**

**Chapter A300****ACCEPTED STATUTES AND ACTS****§ A300-1. Accepted statutes and acts.**

<b>Accounting System, State</b>	
Ch. 598, Acts of 1910 (1921 ATM Art. 7)	Authorizes the installation of the State Accounting System
Ch. 44, § 53E (5-5-1986 ATM Art. 16)	Revolving accounts
Ch. 40, § 4G (5-4-1987 ATM Art. 23)	Advertising municipal contract, etc.
Ch. 44, § 53E (6-4-1990 ATM)	Appropriate certain anticipated receipts
Ch. 44, § 53F 1/2 (10-20-1997 ATM Art. 15; 4-25-2016 ATM Art. 10)	Enterprise fund
<b>Accountant, Town</b>	
Ch. 264, Acts of 1910	Authorizes the Selectmen to appoint a Town Accountant
Ch. 252, Acts of 1916 (12-17-1920 STM Art. 2)	
<b>Appeals, Board of</b>	
Ch. 40, § 30A (now Ch. 40A, § 20) (3-12-1956 ATM Art 71)	Restricts reconsideration of previously rejected matters by the Board of Appeals
<b>Assessors</b>	
Ch. 889, Acts of 1971 (5-6-1974 ATM Art. 28)	\$1,000 per year additional compensation
Ch. 60A, § 1 (5-21-1984 ATM Art. 49)	Tax exemption for veterans
Ch. 59, § 5 (17C) (5-11-1987 STM)	Exemption of certain real estate from taxes
Ch. 59, § 5 (41B) (5-11-1987 STM Art. 13)	Exemption of certain real estate
Ch. 59, § 5 (41C and 17D) (5-1-1989 ATM Art. 13)	Exemption for low-income residents

Ch. 653, § 40, Acts of 1989 (4-23-1990 STM)	Change in assessment dates
Ch. 59, § 5 (37A) (5-4-1992 ATM Art. 7)	Blind exemption (\$500)
Ch 59, § 5J (4-30-1998 ATM)	Phased-in assessment for owner who improves occupied historic property
Ch. 39, § 23D	Allowing members of boards, commissions and committees who have missed a single adjudicatory hearing to participate in a decision on the matter under certain circumstances
Ch. 59, § 5K (4-27-2000 ATM Art. 13)	Senior citizens property tax work-off abatement program, effective beginning in Fiscal Year 2001
<b>Bridges</b>	
Ch. 134, Acts of 2015 (11-23-2015)	Designating Lance Corporal Andrew J. Zabierek Memorial Bridge
<b>Building Line</b>	
Ch. 82, § 37 (General Laws of 1921) (4-2-1923 STM Art. 2)	Authorizes the establishment of a building line (setback) from existing streets or ways and prohibits the erection of buildings within said line when established
<b>Cemetery</b>	
Ch. 264, Acts of 1890	Authorizes the election of Cemetery Commissioners
<b>Chelmsford Country Club</b>	
<u>Golf course</u>	
Ch. 44, § 53F 1/2 (10-17-2011 ATM Art. 8)	Allows Town to establish an "enterprise fund"
<b>Civil Service</b>	
<u>Police</u>	
Ch. 31, § 48 (1944 ATM Art. 10)	Civil service status for police officers
<u>Police Chief</u>	
Ch. 31, § 49 (1944 ATM Art. 11)	Civil service status for Chief of Police
Ch. 366, Acts of 1993 (10-21-1993 ATM Art. 12)	Exempt Police Chief from civil service
<u>Fire</u>	



Ch. 31, § 48 (3-7-1966 ATM by ballot)	Civil service status for member of Fire Department
Ch. 112, Acts of 2024 <b>(6-12-2024)</b>	Exempt Deputy Fire Chief from civil service
<b>Conservation Commission</b>	
Ch. 40, § 8c (1961 ATM Art. 27)	Establishing Conservation Commission
Ch. 45, § 21 (5-19-1977 ATM Art. 59)	Care and management of Town Forest
Ch. 287, Acts of 1988 (5-1-1989 ATM Art. 30)	Special legislation to establish Chelmsford-Carlisle Regional Conservation District
Ch. 120, Acts of 2000	Granting of sewer easement to town
<b>Community Preservation Act</b>	
Ch. 44B (2-26-2001 STM Art. 1)	Acceptance of Act
<b>Council on Aging</b>	
Ch. 44, § 53E 1/2 (5-1-1997 ATM)	Authorizing a revolving fund for Senior Trip Program
<b>Dogs</b>	
Ch. 140, § 147A (5-5-1986 ATM Art. 18) (10-17-2005 ATM Art. 14)	Regulation of dogs
<b>Elections</b>	
<u>Nomination Papers</u>	
Ch. 53, § 9A (4-25-2011 ATM Art. 14)	Obtaining of blank nomination papers; statement by candidate
<u>Official Ballots</u>	
Ch. 11, § 364 (Rev. Laws) (1-29-1903 STM Art. 3)	Authorizing the use of official ballots at Town Election
<b>Employees</b>	
<u>8-Hour Day</u>	
Ch. 54, Acts of 1909 (now Ch. 148, § 31) (1914 ATM)	8-hour day for town employees
<u>Retirement System</u>	
Ch. 32, §§ 1 to 28 (11-5-1946 state election)	Accept provisions of retirement system
<u>Vacation</u>	

Ch. 44, § 65 (6-13-1949 STM Art. 5)	Authorizes the payment in advance of vacation pay
Ch. 41, § 111 (6-13-1949 STM Art. 6)	Authorized two weeks' vacation annually without loss of pay to municipal employees
<u>Pension</u>	
Ch. 647, Acts of 1960 (3-13-1961 ATM Art. 53)	Pension increase for retired employees
Ch. 820, Acts of 1950 (12-11-1950 STM Art. 13)	Authorizes increase in pension benefits to retired employees
<u>Group Insurance</u>	
Ch. 32B (1961 ATM, by ballot)	Authorizes group insurance benefits for town employees and their families
Ch. 32B, § 9A (1970 ATM by ballot)	Town to pay 1/2 the cost of group insurance
Ch. 32B, § 9D (4-25-1983 ATM)	Surviving spouse insurance
Ch. 41, § 111 (12-11-1950 STM Art. 13)	Retired police officers and fire fighters, hospital, etc., expenses
Ch. 32B, § 9D (4-25-1983 ATM Art. 24)	1/2 premium costs payable by surviving spouse
Ch. 32B, § 7A (4-25-1983 ATM Art. 24)	Addition rate
<u>Indemnification</u>	
Ch. 41, § 100A (1970 ATM Art. 14)	Indemnification of town employees for damage sustained in the operation of town vehicles
<u>Vacation</u>	
Ch. 41, § 111D (1969 ATM by ballot)	Extension of vacation benefits for members of Police and Fire Departments
<u>Reserve Fund for Compensated Absences</u>	
Ch. 40, § 13D (10-15-2012 ATM Art. 4)	Establish reserve fund for future payment of accrued liabilities for compensated absences due upon termination
<u>Early Retirement</u>	
Ch. 133, § 48, Acts of 1992 (10-19-1992 ATM Art. 4)	Early retirement incentive
Ch. 399, § 48, Acts of 1992 (4-26-1993 ATM Art. 13)	Early retirement incentive
<u>Retirement</u>	

Ch. 32B, § 20 (10-17-2011 ATM Art. 4)	Allows Town to establish an Other Post-Employment Benefits Liability Trust Fund
<u>Health Benefits</u>	
Ch. 32B, § 18 (10-16-2006 ATM Art. 6)	Requires all retirees, their spouses and dependents who are enrolled in Medicare Part A at no cost to the retiree, spouse or dependents, or eligible for coverage thereunder at no cost to the retiree, spouse or dependents, to enroll in a Medicare health benefits supplemental plan offered by the Town
Ch. 69, Acts of 2011 (Board of Selectmen, 7-25-2011)	Authorizes Town to modify employee health plans without going through the full collective bargaining process
<b>Expedited permitting</b>	
Ch. 43D (10-20-2008 ATM Art. 13)	Allows Town to designate priority development sites and confers eligibility for technical assistance funding
<b>Fees</b>	
Ch. 40, § 22F (4-25-2005 STM Art. 3)	Allows Town boards and officers to fix reasonable fees for licenses, permits and certificates, and reasonable fees for services provided by such board or officer
<b>Fire Department</b>	
Ch. 148, § 6 (General Laws of 1921) (1923 ATM Art. 21)	Authorizes Fire Department officials to enter buildings to make inspections of fire hazards
Ch. 48, §§ 42 to 44 (1954 ATM Art. 103)	Establishment of Fire Department to be under the control of a Chief
Ch. 48, § 59A (Board of Selectmen, 5-2-1966)	Mutual aid and participation in parades
Ch. 148, § 26C (5-21-1979 ATM Art. 4)	Smoke and heat detectors
Ch. 148, § 26G (5-23-1983 ATM Art. 45)	Automatic sprinklers
Ch. 45, Acts of 2013	Authorizes the Town to continue the employment of Fire Chief Michael Curran until June 30, 2015, until the date of his retirement or until the date he is relieved of his duties by the Town Manager, whichever occurs first
<u>Work Week</u>	

Ch. 48, § 58D (1969 ATM by ballot)	Authorizes 42-hour week for firefighters
<b>Handicapped Commission</b>	
Ch. 40, § 8J (1-27-1986 STM Art. 2)	Establish Handicapped Commission (Commission on Disabilities)
<b>Health (Board of)</b>	
Ch. 29C, § 1 (5-1-1997 ATM Art. 30)	Massachusetts Water Pollution Abatement Trust
<b>Highway Surveyor</b>	
Ch. 11, § 336 (Rev. Laws) (1903 ATM Art. 16)	Authorizes town to elect, annually, a Highway Surveyor
<b>Historical Commission</b>	
Ch. 40, § 8D (3-14-1966 ATM Art. 13)	Authorizes the creation of an Historical Commission
<b>Historical District</b>	
Boundaries of district (5-8-1975 ATM Art. 35)	Establish Historic District
<b>Housing Authority</b>	
Ch. 121B (1970 ATM Art. 53)	Establishing of a Housing Authority
Ch. 571, Acts of 1989	Designate as the Ruth K. Delaney Housing for the Elderly
<b>Ice Skating Rink - Tully Forum</b> (Brick Kiln Road - Chelmsford-Billerica Line)	
Ch. 141 H.B. No. 5340 Sec. 10, 1998 2nd Annual Session Approved 5-28-1998	Authorizes the Division of Capital Planning and Operations to enter into a lease of certain property within the Town of Chelmsford
<b>Industrial Development Commission</b>	
Ch. 297, Acts of 1954 (1954 ATM Art. 43)	Authorizes the creation of an Industrial Development Commission
Ch. 40, § 8A (1956 ATM Art. 73)	Establishment of an Industrial Development Commission
<b>Industrial Development Finance Authority</b>	
Ch. 40D (1974 ATM Art. 31)	Establishment of an Industrial Development Finance Authority
<b>Insurance Fund</b>	

Ch. 191, Acts of 1905 (1907 ATM)	Establishment of municipal building insurance
Ch. 718, Acts of 1977 (5-19-1977 ATM Art. 61)	Abolish Sinking Fund Commission
<b>Library</b>	
Ch. 347, Acts of 1890 (1893 ATM Art. 12)	Authorizing the State Board of Library Commissioners to assist any town which accepts this Act in the establishment and maintenance of a free public library
<b>Licenses</b>	
<u>Alcoholic Beverages</u>	
Ch. 168, Acts of 2015 (1-6-2016)	Authorizing the Town to hold licenses for the sale of all alcoholic beverages to be drunk on the premises
<u>Bowling</u>	
Ch. 136, § 4B (3-18-1960 STM Art. 1)	Permits the licensing of bowling on the Lord's Day
<u>Ice Cream</u>	
Ch. 423, Acts of 1909 (now Ch. 136, § 7) (1917 ATM Art. 30)	Sale of ice cream, confectionery on the Lord's Day may be licensed
<u>Nudity</u>	
Ch. 138, § 12B (10-23-1995 ATM Art. 14)	Prohibition of nudity in any premises licensed to sell alcoholic beverages
<u>Picnic Groves</u>	
Ch. 309, Acts of 1885 (1900 ATM Art. 13)	Authorizes the granting of licenses to establish, let, keep open and maintain a grove to be used for picnics and other gatherings
<u>Sports and Games</u>	
Ch. 136, §§ 21 to 28 (7-2-1923 STM Art. 8)	Licenses may be issued for sports and games on the Lord's Day
<b>Moderator - Election</b>	
Ch. 835, § 397, Acts of 1913 (1913 STM Art. 12)	Authorizes the election of a moderator on official ballots for a 1-year term
<b>Motor Vehicles</b>	
<u>Parking Violations</u>	
Ch. 90, § 20A (10-4-1965 STM Art. 7; 4-26-2010 ATM Art. 15 <sup>117</sup> )	Requires the visible tagging of motor vehicles for violations of law

Ch. 90, § 20C (5-21-1979 ATM Art. 38; 12-4-1981 STM Art. 2)	Violation of parking regulations, etc.
Ch. 90, §§ 20D and 20E (12-4-1981 STM Art. 2)	Disposition, penalties, violations on motor vehicles, etc. (Parking Clerk)
<u>Towing</u>	
Ch. 40, § 22D (3-12-1962 ATM Art. 38)	Authority to tow illegally parked cars
<b>Park Commission</b>	
Ch. 28, §§ 1 to 14 (Rev. Laws) (1909 ATM Art. 2)	Authorizes the establishment of a Park Commission with certain powers
<b>Planning Board</b>	
Ch. 41, §§ 81A to 81J (1973 ATM Art. 3)	Establishment of a Planning Board with improved powers
Ch. 808 (1978 ATM Art. 31)	
Ch. 41, § 81U, p. 13 (5-1-1989 ATM Art. 20)	Subdivision construction bond
<b>Poles and wires</b>	
Ch. 415, Acts of 2010	Authorizes the Town to regulate the removal of aboveground utility poles, overhead wires and other associated structures and to regulate the installation of underground wires and associated structures
<b>Police Department</b>	
<u>Established</u>	
Ch. 41, § 97 (General Laws of 1921) (1928 ATM Art. 31)	Authorizes the establishment of a Police Department to be under the control of a Chief of Police ("weak chief form")
<u>Uniforms (Police/Fire)</u>	
Ch. 40, § 6B (1953 ATM Art. 18)	Authorizes town to expand funds for police/fire uniforms
<u>Work Week</u>	
Ch. 147, § 16C (3-10-1958 ATM Art. 66)	5-day week for police officers
<u>Mutual Aid</u>	
Ch. 40, § 8G (1974 ATM Art. 44)	Authorization of police mutual aid agreements

117.Editor's Note: This article also repealed the former acceptance of Ch. 90, § 20A 1/2, by Art. 2 of the 12-4-1981 STM.

Ch. 291, Acts of 1990 (Art. 20)	Enhanced 911 Service
Ch. 360, Acts of 1987 (5-11-1987 STM Art. 5)	Appointment dates of certain officers
Ch. 41, § 108L (10-20-1997 ATM Art. 6)	Quinn Bill
<b>Precincts</b>	
Ch. 264, Acts of 1886 (11-2-1886 STM Art. 2)	Divide into convenient voting precincts
<b>Precincts Voting</b>	
Ch. 835, Acts of 1913, § 421	Authorizes use of precinct voting for town elections
Ch. 291, Acts of 1918, § 29 (12-17-1920 STM Art. 7)	
<b>Private Ways</b>	
Ch. 40, § 6F (1954 ATM Art. 23)	Authorizes the town to expend public funds on private ways
Ch. 40, §§ 6C and 6G (6-8-1976 ATM Art. 45)	Removal of ice and snow and temporary resurfacing
<b>Recreation Commission</b>	
Ch. 45, § 14 (3-13-1961 ATM Art. 34)	Authority for Selectmen to appoint a Recreation Commission
Ch. 44, § 531/2 (5-4-1992 ATM Art. 10)	Supporting service revolving fund
Ch. 44, § 53D (4-29-1993 ATM Art. 22)	Recreation and parks revolving fund
<b>Registration - bicycles</b>	
Ch. 85, § 11A (7-23-1942 STM Art. 8)	Authorizes the registration of bicycles
<u>Superintendent</u>	
Ch. 431, Acts of 1888 (1896 ATM Art. 11)	Authorizes two or more towns to unite for the purpose of hiring a Superintendent of Schools
<u>Regional Vocational</u>	
Ch. 71, §§ 16 to 16I (10-4-1965 STM Art. 10)	Authorizes the creation of a Regional Vocational School District
Ch. 188, Acts of 1985 (1-27-1986 STM Arts. 1 and 2; 5-9-1988 ATM Art. 29; 4-24-1989 ATM Art. 5; 6-11-1990 ATM Art. 21)	Grants for Chelmsford and N.V.T.H.S.

Ch. 71, § 83, Acts of 1993	Early retirement for school personnel
Ch. 60, § 3C (5-2-1996 ATM Art. 18)	Chelmsford Arts and Technology Education Fund
<b><u>Finances</u></b>	
Ch. 71, § 71E (5-3-1979 ATM Art. 42)	Expenditure by School Committee of receipts from certain programs
Ch. 71, § 71F (10-16-2000 ATM Art. 21)	Establishment of revolving account for tuition payments for nonresident students and state reimbursements for foster-care children
<b>Selectmen</b>	
Ch. 11, § 343 (2-21-1903 STM)	Authorizes town to designate Selectmen to also serve, by virtue of their office, as Assessors and Overseers of the Poor
<b>Sewer Commission</b>	
Ch. 41, § 63 (1969 ATM Art. 69)	Establishment of a Sewer Commission
Ch. 83, § 16, pp. A to F (9-25-1986 STM Art. 2)	Collection of liens
Ch. 420, Acts of 1985 Ch. 138, Acts of 1987	Establishing an Industrial Sewer District
<b>Taxation</b>	
Ch. 59, § 5, Clause 54 (10-19-2015 ATM Art. 14)	Establishing a minimum value of personal property subject to taxation in the amount of \$5,000
Ch. 60A, § 1 (10-19-2015 ATM Art. 15)	Motor vehicle excise exemption on one vehicle owned or leased and registered for nonbusiness use for Massachusetts residents who are in active military service and deployed outside Massachusetts for at least 45 days in the excise calendar year
Ch. 64L, § 2(a) (8-17-2009 STM Art. 1)	Local meals excise tax, effective 10-1-2009
Ch. 184, § 51, Acts of 2002 (10-17-2005 ATM Art. 13)	Adjustment to senior citizen tax factors as set forth in MGL c. 59, § 5, to first apply in fiscal year 2006, beginning 7-1-2005
<b>Town Clerk</b>	
Ch. 11, § 335 (Rev. Laws) (2-21-1903 STM Art. 3)	Establish a 3-year term of office
<b>Town Hall</b>	



Ch. 265, Acts of 1947 (now Ch. 41, § 110A) (9-29-1947 STM Art. 4)	Close Town Hall on Saturday
<b>Trees</b>	
Ch. 242, Acts of 1867 (1872 ATM Art. 9)	Prohibits the cutting down of any ornamental or shade tree without first giving notice to the Selectmen, who may prohibit its removal, the landowner being entitled to receive damages for the retention of the tree
<b>Treasurer</b>	
Ch. 40, § 57 (9-25-1986 STM Arts. 8 and 9)	Grant for renewal of licenses affected by nonpayment of local taxes and fees
Ch. 60, § 15 (3-5-2009 STM Art. 2)	Fee for each written demand issued by Collector
Ch. 60, § 23A (6-29-1978 STM)	Fees charged for furnishing certificate of lien
Ch. 64G, § 3A (5-5-1986 ATM Art. 27; 8-17-2009 STM Art. 2)	Local room occupancy excise; rate increase
Ch. 80, § 13B (11-30-1987 STM Art. 8)	Liens
Ch. 200A, § 9A (10-24-2016 ATM Art. 15)	Procedure for providing notice and disposing of abandoned funds in the custody of the Town
Ch. 653, § 40, Acts of 1989 (4-23-1990 STM Art. 1)	Quarterly property tax billing
Ch. 653, § 41, Acts of 1989 (4-23-1990 STM Art. 2)	Change in assessment dates
<b>Tully Forum</b>	
See Ice Skating Rink	
<b>Workmen's Compensation</b>	
Ch. 40, § 13A (General Laws of 1921) (8-17-1931 STM Art. 19)	Authorizes self-insurance for workmen's compensation benefits
Ch. 152 (1951 ATM Art. 30)	Extends workmen's compensation coverage to all Town employees
Ch. 807, Acts of 1913 (now Ch. 152, §§ 69 to 75) (1914 ATM, ballot vote)	Workmen's compensation for laborers, mechanics and workmen, for injuries received in public employment

{END OF CHAPTER}

**Disposition List**

**Chapter DL****DISPOSITION LIST**

**[The following is a chronological listing of legislation of the Town of Chelmsford adopted since the publication of the Code and included in the Code. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] Information regarding legislation which is not included in the Code nor on this list is available from the office of the Town Clerk. The last legislation reviewed for the original publication of the Code was Article 48 of the Town Meeting held October 21, 1999. A complete listing, including disposition, of all legislation 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>
ATM, Art. 4	3-27-2000	Wetlands amendment	Ch. 187
ATM, Art. 13	4-27-2000	General Law acceptance	Ch. A300
ATM, Art. 19	4-27-2000	Charter amendment	§ 3-5
ATM, Art. 13	10-16-2000	Vision obstructions	Ch. 142, Art. V
ATM, Art. 17	10-16-2000	Amusement devices	Ch. 10
ATM, Art. 19	10-16-2000	Zoning amendment	Ch. 195
ATM, Art. 20	10-16-2000	Zoning amendment	Ch. 195
ATM, Art. 21	10-16-2000	General Law acceptance	Ch. A300
Board of Selectmen	11-6-2000	Traffic rules and orders amendment	Ch. 203
STM, Art. 1	2-26-2001	Community Preservation Act accepted	Ch. A300
STM, Art. 2	2-26-2001	Community Preservation Committee	Ch. 19
ATM, Art. 17	4-30-2001	Zoning amendment	Ch. 195
ATM, Art. 15	10-15-2001	Noise	Ch. 100
ATM, Art. 16	10-15-2001	Vehicles and traffic amendment	Ch. 174
ATM, Art. 19	10-15-2001	Zoning amendment	Ch. 195
ATM, Art. 20	10-15-2001	Zoning amendment	Ch. 195
ATM, Art. 22	10-15-2001	Zoning amendment	Ch. 195

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
Board of Selectmen	1-28-2002	Traffic rules and orders amendment (no right turn onto Marinel Avenue from Dunstable Road)	NCM (temporary measure)
ATM, Art. 12	4-29-2002	Dogs amendment	Ch. 11, Art. I
ATM, Art. 13	4-29-2002	Street openings amendment	Ch. 142, Art. II
ATM, Art. 21	4-29-2002	Zoning Map amendment	NCM
ATM, Art. 22	4-29-2002	Zoning amendment	Ch. 195
ATM, Art. 20	10-24-2002	Zoning amendment	Ch. 195
ATM, Art. 23	10-24-2002	Annual Report	Ch. 12
Board of Selectmen	12-2-2002	Traffic rules and orders amendment	Ch. 203
Board of Selectmen	12-2-2002	Traffic rules and orders amendment	Ch. 203
ATM, Art. 1	4-28-2003	Town Meeting amendment	Ch. 154
ATM, Art. 20	4-28-2003	Zoning amendment	Ch. 195
Board of Selectmen	1-12-2004	Traffic rules and orders amendment	Ch. 203
Board of Selectmen	4-26-2004	Traffic rules and orders amendment (stop sign at intersection of Maple Road and Acton Road)	Pending litigation
ATM, Art. 19	4-26-2004	General Law acceptance	Ch. A300
ATM, Art. 27	4-26-2004	Zoning amendment	Ch. 195
Board of Selectmen	4-26-2004	Traffic rules and orders amendment	Ch. 203
Board of Selectmen	7-19-2004	Traffic rules and orders amendment (scooters)	Ch. 203
ATM, Art. 17	10-18-2004	Zoning amendment	Ch. 195
STM, Art. 3	4-25-2005	General Law acceptance	Ch. A300
ATM, Art. 21	4-25-2005	Demolition of buildings	Ch. 16
ATM, Art. 23	4-25-2005	Zoning amendment	Ch. 195
ATM, Art. 24	4-25-2005	Zoning amendment	Ch. 195
ATM, Art. 25	4-25-2005	Zoning amendment	Ch. 195

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
ATM, Art. 26	4-25-2005	Zoning amendment	Ch. 195
ATM, Art. 27	4-25-2005	Zoning amendment	Ch. 195
ATM, Art. 28	4-25-2005	Zoning amendment	Ch. 195
ATM, Art. 29	4-25-2005	Zoning amendment	Ch. 195
Board of Selectmen	8-15-2005	Traffic rules and orders amendment	Ch. 203
Board of Selectmen	9-12-2005	Traffic rules and orders amendment	Ch. 203
ATM, Art. 12	10-17-2005	Recreation vehicles	Ch. 124
ATM, Art. 13	10-17-2005	General Law acceptance	Ch. A300
ATM, Art. 14	10-17-2005	Dogs amendment; General Law acceptance	Ch. 11, Art. I; Ch. A300
ATM, Art. 15	10-17-2005	Alarm systems amendment	Ch. 5
ATM, Art. 17	10-17-2005	Finance amendment	Ch. 35
ATM, Art. 18	10-17-2005	Fire prevention amendment	Ch. 42
ATM, Art. 19	10-17-2005	Fortune-tellers amendment	Ch. 46
ATM, Art. 20	10-17-2005	Solicitors amendment	Ch 116, Art. III
ATM, Art. 21	10-17-2005	Street openings amendment	Ch 142, Art. II
ATM, Art. 22	10-17-2005	Recycling amendment	Ch. 137
ATM, Art. 23	10-17-2005	Adoption of amended Zoning Map	NCM (see § 195-3)
ATM, Art. 26	10-17-2005	Officers, boards and committees amendment	Ch. 106
ATM, Art. 23	4-24-2006	Finance amendment	Ch. 35
ATM, Art. 26	4-24-2006	Chelmsford Arts and Technology Education Fund amendment	Ch. 51, Art. I
ATM, Art. 6	10-16-2006	General Law acceptance	Ch. A300
ATM, Art. 14	10-16-2006	Dogs amendment	Ch. 11, Art. I
ATM, Art. 17	10-16-2006	General Law acceptance	Ch. A300
ATM, Art. 19	10-16-2006	Zoning amendment	Ch. 195
ATM, Art. 24	10-16-2006	Petition to General Court for Charter amendment	NCM

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
ATM, Art. 27	10-16-2006; ratified 4-3-2007 ATE	Charter amendment	§ 3-2
ATM, Art. 29	10-16-2006; ratified 4-3-2007 ATE	Charter amendment	§ 3-3
ATM, Art. 35	10-16-2006; ratified 4-3-2007 ATE	Charter amendment	§ 4-2
ATM, Art. 36	10-16-2006; ratified 4-3-2007 ATE	Charter amendment	§ 4-3
ATM, Art. 37	10-16-2006; ratified 4-3-2007 ATE	Charter amendment	§ 4-5
ATM, Art. 38	10-16-2006; ratified 4-3-2007 ATE	Charter amendment	§ 4-6
ATM, Art. 39	10-16-2006; ratified 4-3-2007 ATE	Charter amendment	§ 8-5
ATM, Art. 15	5-3-2007	Vehicles and traffic amendment	Ch. 174
ATM, Art. 16	5-3-2007	Officers, boards and committees amendment	Ch. 106
ATM, Art. 17	5-3-2007	Recycling amendment	Ch. 137
ATM, Art. 18	5-3-2007	Zoning amendment	Ch. 195
ATM, Art. 19	5-3-2007	Zoning amendment	Ch. 195
ATM, Art. 20	5-3-2007	Zoning Map amendment	NCM
ATM, Art. 21	5-3-2007	Zoning Map amendment	NCM
ATM, Art. 12	10-22-2007	General penalty amendment	Ch. 1, Art. II
Ch. 157, Acts of 2007		Special act	Ch. A300
ATM, Art. 17	4-28-2008	Conservation Commission amendment	Ch. 20, Arts. I and II
ATM, Art. 18	4-28-2008	Wetlands amendment	Ch. 187
ATM, Art. 19	4-28-2008	Wetlands amendment	Ch. 187
ATM, Art. 20	4-28-2008	Zoning amendment	Ch. 195
ATM, Art. 21	4-28-2008	Zoning amendment	Ch. 195
ATM, Art. 11	10-20-2008	Poles and wires amendment	Ch. 119
ATM, Art. 12	10-20-2008	Zoning amendment	Ch. 195
ATM, Art. 13	10-20-2008	General Law acceptance	Ch. A300

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
ATM, Art. 14	10-20-2008	Demolition of buildings amendment	Ch. 16
STM, Art. 2	3-5-2009	Fee for delinquent excise fees	Ch. A300
ATM, Art. 17	4-27-2009	Wetlands amendment	Ch. 187
ATM, Art. 18	4-27-2009	Officers, boards and committees amendment	Ch. 106
ATM, Art. 19	4-27-2009	Zoning amendment	Ch. 195
STM, Art. 1	8-17-2009	General Law acceptance	Ch. A300
STM, Art. 2	8-17-2009	General Law acceptance	Ch. A300
ATM, Art. 13	4-26-2010	Streets and sidewalks: general provisions amendment	Ch. 142, Art. I
ATM, Art. 14	4-26-2010	Zoning amendment	Ch. 195
ATM, Art. 15	4-26-2010	General Law acceptance	Ch. A300
ATM, Art. 16	4-26-2010	Vehicles and traffic amendment	Ch. 174
ATM, Art. 25	4-26-2010	Energy conservation: Stretch Energy Code	Ch. 25
ATM, Art. 17	10-18-2010	Zoning amendment	Ch. 195
ATM, Art. 18	10-18-2010	Zoning amendment	Ch. 195
ATM, Art. 19	10-18-2010	Zoning amendment	Ch. 195
ATM, Art. 20	10-18-2010	Streets and sidewalks: general provisions amendment	Ch. 142, Art. I
Ch. 415, Acts of 2010		Special act	Ch. A300
ATM, Art. 14	4-25-2011	General Law acceptance	Ch. A300
ATM, Art. 16	4-25-2011	Town Meeting amendment	Ch. 154
ATM, Art. 19	4-25-2011	Right to farm	Ch. 127
Board of Selectmen	6-27-2011	Acceptance of final report by Sewer Commission; dissolution of Sewer Commission	Charter (footnote only)

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
Board of Health	7-11-2011	Health Regulations: Commercial Refuse/ Dumpster Collection Licensing and Operation Amendment	Ch. 201, Art. V
Board of Selectmen	7-25-2011	General Law acceptance	Ch. A300
ATM, Art. 4	10-17-2011	General Law acceptance	Ch. A300
ATM, Art. 8	10-17-2011	General Law acceptance	Ch. A300
ATM, Art. 16	10-17-2011	Zoning Map amendment	NCM
ATM, Art. 17	10-17-2011	Zoning amendment	Ch. 195
ATM, Art. 18	10-17-2011	Zoning Map amendment	NCM
ATM, Art. 19	10-17-2011	Zoning Map amendment	NCM
ATM, Art. 20	10-17-2011	Zoning amendment	Ch. 195
ATM, Art. 21	10-17-2011	Zoning amendment	Ch. 195
ATM, Art. 16	4-30-2012	Trees amendment	Ch. 161
ATM, Art. 25	4-30-2012	Zoning amendment	Ch. 195
ATM, Art. 26	4-30-2012	Zoning amendment	Ch. 195
ATM, Art. 28	4-30-2012	Zoning amendment	Ch. 195
ATM, Art. 29	4-30-2012	Zoning amendment	Ch. 195
ATM, Art. 30	4-30-2012	Scenic roads	Ch. 130
ATM, Art. 4	10-15-2012	General Law acceptance	Ch. A300
ATM, Art. 15	10-15-2012	Dog license fees	Ch. 11, Art. I (footnote only)
ATM, Art. 17	10-15-2012	Zoning amendment	Ch. 195
ATM, Art. 18	10-15-2012	Zoning amendment	Ch. 195
ATM, Art. 19	10-15-2012	Zoning amendment	Ch. 195
Board of Selectmen	12-17-2012	Traffic rules and orders amendment	Ch. 203
Ch. 62, Acts of 2012		Special act	Ch. A300
Ch. 73, Acts of 2012		Special act	Ch. A300
ATM, Art. 24	4-29-2013	Zoning amendment	Ch. 195
ATM, Art. 25	4-29-2013	Zoning amendment	Ch. 195
ATM, Art. 26	4-29-2013	Zoning amendment	Ch. 195
ATM, Art. 27	4-29-2013	Zoning amendment	Ch. 195



<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
ATM, Art. 28	4-29-2013	Fire prevention amendment	Ch. 42
ATM, Art. 29	4-29-2013	Animals: dogs amendment	Ch. 11, Art. I
Ch. 45, Acts of 2013	7-24-2013	Special act	Ch. A300
ATM, Art. 13	10-21-2013	Zoning amendment	Ch. 195
ATM, Art. 14	10-21-2013	Zoning amendment	Ch. 195
ATM, Art. 15	10-21-2013	Zoning amendment	Ch. 195
ATM, Art. 16	10-21-2013	Zoning amendment	Ch. 195
Board of Health	4-1-2014	Health Regulations: Prohibiting Smoking in Smoking Bars and Prohibiting Hookah/ Water Pipes	Ch. 201, Art. XII
ATM, Art. 20	4-28-2014	Animals: dog amendment	Ch. 11, Art. I
ATM, Art. 22	4-28-2014	Zoning amendment	Ch. 195
ATM, Art. 23	4-28-2014	Zoning amendment	Ch. 195
ATM, Art. 25	4-28-2014	Sewage disposal amendment	Ch. 132
Board of Selectmen	5-19-2014	Traffic rules and orders amendment	Ch. 203
Board of Selectmen	8-11-2014	Traffic rules and orders amendment	Ch. 203
ATM, Art. 12	10-20-2014	Zoning amendment	Ch. 195
Board of Health	8-3-2015	Health Regulations: Emergency Lodging Programs Amendment	Ch. 201, Art. IV
ATM, Art. 7	10-19-2015	Sewage disposal amendment	Ch. 132
ATM, Art. 14	10-19-2015	General Law acceptance	Ch. A300
ATM, Art. 15	10-19-2015	General Law acceptance	Ch. A300
ATM, Art. 17	10-19-2015	Zoning amendment	Ch. 195
Board of Health	11-2-2015	Health Regulations: Emergency Lodging Programs Amendment	Ch. 201, Art. IV
Ch. 134, Acts of 2015	11-23-2015	Special act	Ch. A300
Ch. 168, Acts of 2015	1-6-2016	Special act	Ch. A300

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
Board of Health	2-1-2016	Health Regulations: Emergency Lodging Programs Amendment	Ch. 201, Art. IV
Board of Selectmen	4-11-2016	Traffic rules and orders amendment	Ch. 203
ATM, Art. 10	4-25-2016	General Law acceptance	Ch. A300
ATM, Art. 18	4-25-2016	Zoning amendment	Ch. 195
ATM, Art. 19	4-25-2016	Streets and sidewalks: snow and ice amendment	Ch. 142, Art. III
ATM, Art. 20	4-25-2016	Water withdrawal (commercial)	Ch. 185
ATM, Art. 13	10-24-2016	Zoning amendment	Ch. 195
ATM, Art. 14	10-24-2016	Animals: dogs amendment	Ch. 11, Art. I
ATM, Art. 15	10-24-2016	General Law acceptance	Ch. A300
ATM, Art. 15	4-24-2017	Finance amendment	Ch. 35
ATM, Art. 22	4-24-2017	Zoning amendment	Ch. 195
ATM, Art. 25	4-24-2017	Streets and sidewalks: street openings amendment	Ch. 142, Art. II
ATM, Art. 26	4-24-2017	Licenses and permits amendment	Ch. 81
ATM, Art. 27	4-24-2017	Funds: Chelmsford Arts and Technology Education Fund amendment	Ch. 51, Art. I
ATM, Art. 28	4-24-2017	Town Meeting amendment	Ch. 154
Board of Health	6-5-2017	Health Regulations: Lifeguard Variance Regulation Amendment	Ch. 201, Art. III
ATM, Art. 15	10-16-2017	Marijuana Establishments	Ch. 89
ATM, Art. 16	10-16-2017	Zoning Amendment	Ch. 195
ATM, Art. 18	10-16-2017	Scenic Roads Amendment	Ch. 130
ATM, Art. 19	10-16-2017	Zoning Map Amendment	NCM

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
ATM, Art. 20	10-16-2017	Zoning Amendment	Ch. 195
ATM, Art. 22	10-23-2017	Solid Waste Amendment	Ch. 137
ATM, Art. 24	10-16-2017	Charter Amendment	Charter
ATM, Art. 25	10-16-2017	Charter Amendment	Charter
ATM, Art. 26	10-16-2017	Charter Amendment	Charter
ATM, Art. 27	10-16-2017	Charter Amendment	Charter
ATM, Art. 28	10-16-2017	Charter Amendment	Charter
ATM, Art. 29	10-16-2017	Charter Amendment	Charter
Ch. 76, Acts of 2018	4-12-2018	Charter Amendment	Charter
Board of Health	7-2-2018	Health Regulations: Private Wells Amendment	Ch. 201, Art. VIII
ATM, Art. 16	10-15-2018	Zoning Amendment	Ch. 195
ATM, Art. 19	10-15-2018	Zoning Amendment	Ch. 195
ATM, Art. 20	10-15-2018	Zoning Map Amendment	NCM
ATM, Art. 22	10-15-2018	Sustainable Community: Polystyrene in Food Establishments	Ch. 144, Art. II
ATM, Art. 23	10-15-2018	Sustainable Community: Retail Use of Plastic Beverage Straws and Stirrers	Ch. 144, Art. III
STM, Art. 1	10-18-2018	Zoning Amendment	Ch. 195
Board of Health	12-10-2018	Health Regulations Amendment (Domestic Animals)	Ch. 201, Art. II
Board of Health	1-7-2019	Health Regulations Amendment (Domestic Animals)	Ch. 201, Art. II

Enactment	Adoption Date	Subject	Disposition	Supp. No.
STM, Art. 1	2-4-2019	Zoning Amendment	Ch. 195	32
Board of Health	2-11-2019	Health Regulations: Lifeguard Variance Regulation Amendment	Ch. 201, Art III	
Board of Health	3-4-2019	Health Regulations: Domestic Animals Amendment	Ch. 201, Art II	
ATM, Art. 10	5-2-2019	Zoning Amendment	Ch. 195	28
Board of Health	7-1-2019	Health Regulations: Tobacco Amendment	Ch. 201, Art XIV	
ATM, Art. 32	10-24-2019	Sustainable Community: Plastic Bag Reduction In Business Establishments	Ch. 144, Art. I	28
ATM, Art. 25	10-28-2019	Zoning Amendment	Ch. 195	28
ATM, Art. 26	10-28-2019	Zoning Amendment	Ch. 195	28
ATM, Art. 28	10-28-2019	Zoning Amendment	Ch. 195	28
Board of Health	11-4-2019	Health Regulations: Domestic Animals Amendment	Ch. 201, Art II	
Board of Health	1-6-2020	Health Regulations: Tobacco Amendment	Ch. 201, Art XIV	
Ch. 164, Acts of 2020	8-25-2020	Charter Amendment	Charter	29
ATM, Art. 17	10-19-2020	Animals: Wildlife Feeding	Ch. 11, Art. II	31

Enactment	Adoption Date	Subject	Disposition	Supp. No.
ATM, Art. 19	10-19-2020	Sewage Disposal Amendment	Ch. 132	31
Board of Health	12-7-2020	Health Regulations; Domestic Animals Amendment	Ch. 201, Art. II	30
Board of Health	1-11-2021	Health Regulations: Subsurface Sewage and Wastewater Disposal; Groundwater Protection Amendment	Ch. 201, Art. VI	30
ATM, Art. 29	6-17-2021	Select Board Nomenclature Change	Ch. 5; Ch. 10; Ch. 11; Ch. 16; Ch. 19; Ch. 35; Ch. 39; Ch. 42; Ch. 46; Ch. 63; Ch. 81; Ch. 106; Ch. 116; Ch. 119; Ch. 127; Ch. 130; Ch. 137; Ch. 142; Ch. 154; Ch. 161; Ch. 180; Ch. 187	32
ATM, Art. 30	6-17-2021	Select Board Nomenclature Change	Ch. 195	32
ATM, Art. 31	6-17-2021	Stormwater Management	Ch. 141	32
ATM, Art. 32	6-21-2021	Sewage Disposal Amendment	Ch. 132	32
ATM, Art. 37	6-21-2021	Zoning Amendment	Ch. 195	32
Board of Health	7-12-2021	Health Regulations: Subsurface Sewage and Wastewater Disposal; Groundwater Protection Amendment	Ch. 201, Art. VI	33

Enactment	Adoption Date	Subject	Disposition	Supp. No.
Board of Health	8-2-2021	Health Regulations: Groundwater Protection Zone Amendment	Ch. 201, Art. VII	33
Board of Health	8-2-2021	Health Regulations: Private Wells Amendment	Ch. 201, Art. VIII	33
Board of Health	8-2-2021	Health Regulations: Food Service and Retail Food Establishments Amendment	Ch. 201, Art. IX	33
Planning Board	8-10-2021	Subdivision of Land Amendment	Ch. 202	35
Board of Health	9-13-2021	Health Regulations: Domestic Animals Amendment	Ch. 201, Art. II	33
Board of Health	9-13-2021	Health Regulations: Lifeguard Variance Regulation Amendment	Ch. 201, Art. III	33
Board of Health	9-13-2021	Health Regulations: Emergency Lodging Programs Amendment	Ch. 201, Art. IV	33
Board of Health	9-13-2021	Health Regulations: Commercial Refuse/Dumpster Collection Licensing and Operation Amendment	Ch. 201, Art. V	33
Board of Health	9-13-2021	Health Regulations: Private Wells Amendment	Ch. 201, Art. VIII	33

Enactment	Adoption Date	Subject	Disposition	Supp. No.
Board of Health	9-13-2021	Residential-Commercial Refuse Collection	Ch. 201, Art. XI	33
Board of Health	9-13-2021	Health Regulations: Prohibiting Smoking in Smoking Bars and Prohibiting Hookah/Water Pipes	Ch. 201, Art. XII	33
Board of Health	9-13-2021	Health Regulations: Sale of Medical Marijuana Amendment	Ch. 201, Art. XIII	33
Board of Health	9-13-2021	Health Regulations: Tobacco Amendment	Ch. 201, Art. XIV	33
Board of Health	9-13-2021	Health Regulations: Rules and Regulations for Body Art Establishments and Practitioners Amendment	Ch. 201, Art. XVI	33
Board of Health	10-4-2021	Health Regulations: Model Floor Drains Amendment	Ch. 201, Art. X	33
Board of Health	10-4-2021	Health Regulations: Tobacco Amendment	Ch. 201, Art. XIV	33
Board of Health	10-4-2021	Health Regulations: Control and Permitting of Outdoor Wood-Burning Boilers, Hydronic Heaters Amendment	Ch. 201, Art. XVII	33

Enactment	Adoption Date	Subject	Disposition	Supp. No.
STM, Art. 17	10-18-2021; ratified 4-5-2022 ATE	Charter Amendment	§ 3-11	35
STM, Art. 18	10-18-2021; ratified 4-5-2022 ATE	Charter Amendment	§ 2-3	35
STM, Art. 19	10-18-2021; ratified 4-5-2022 ATE	Charter Amendment	§ 2-4	35
STM, Art. 20	10-18-2021; ratified 4-5-2022 ATE	Charter Amendment	§ 2-5	35
ATM, Art. 21	10-18-2021	Officers, Boards and Committees Amendment	Ch. 106	34
ATM, Art. 22	10-18-2021	Buildings, Demolition of Amendment	Ch. 16	34
ATM, Art. 23	10-18-2021	Zoning Amendment	Ch. 195	34
ATM, Art. 24	10-18-2021	Zoning Amendment	Ch. 195	34
ATM, Art. 25	10-18-2021	Zoning Amendment	Ch. 195	34
ATM, Art. 26	10-18-2021	Zoning Amendment	Ch. 195	34
ATM, Art. 27	10-18-2021	Zoning Amendment	Ch. 195	34
ATM, Art. 28	10-18-2021	Zoning Amendment	Ch. 195	34
ATM, Art. 29	10-18-2021	Zoning Amendment	Ch. 195	34
Board of Health	11-1-2021	Health Regulations: Emergency Lodging Programs Amendment	Ch. 201, Art. IV	33



Enactment	Adoption Date	Subject	Disposition	Supp. No.
Board of Health	11-1-2021	Health Regulations: Commercial Refuse/Dumpster Collection Licensing and Operation Amendment	Ch. 201, Art. V	33
Board of Health	11-1-2021	Health Regulations: Residential-Commercial Refuse Collection Amendment	Ch. 201, Art. XI	33
STM, Art. 5	2-24-2022	Zoning Amendment	Ch. 195	36
Board of Health	3-7-2022	Health Regulations: Domestic Animals Amendment	Ch. 201, Art. II	34
Board of Health	3-7-2022	Health Regulations: Subsurface Sewage and Wastewater Disposal; Groundwater Protection Amendment	Ch. 201, Art. VI	34
Board of Health	3-7-2022	Health Regulations: Food Service and Retail Food Establishments Amendment	Ch. 201, Art. IX	34
Board of Health	3-7-2022	Health Regulations: Sale of Medical Marijuana Amendment	Ch. 201, Art. XIII	34

Enactment	Adoption Date	Subject	Disposition	Supp. No.
Board of Health	3-7-2022	Health Regulations: Rules and Regulations for Body Art Establishments and Practitioners Amendment	Ch. 201, Art. XVI	34
ATM, Art. 19	10-17-2022	Charter Amendment	§ 6-7	37
ATM, Art. 21	10-17-2022	Zoning Amendment	Ch. 195	37
ATM, Art. 22	10-17-2022	Zoning Amendment	Ch. 195	37
ATM, Art. 23	10-17-2022	Zoning Amendment	Ch. 195	37
ATM, Art. 18	4-24-2023	Sealer of Weights and Measures	Ch. 131	38
ATM, Art. 19	4-24-2023	Zoning Amendment	Ch. 195	38
ATM, Art. 18	10-16-2023	Finance Amendment	Ch. 35	38
ATM, Art. 21	10-19-2023	Zoning Amendment	Ch. 195	38
ATM, Art. 22	10-19-2023	Town Meeting Amendment	Ch. 154	38
ATM, Art. 23	10-19-2023	Charter Amendment	§ 2-3	38
ATM, Art. 24	10-19-2023	Streets and Sidewalks: Utility Poles Amendment	Ch. 142, Art. IV	38
ATM, Art. 25	10-19-2023	Energy Conservation: Specialized Energy Code	Ch. 26	38
ATM, Art. 26	5-2-2024	Zoning Amendment	Ch. 195	40
Ch. 112, Acts of 2024	6-12-2024	Special Act	Ch. A300	39