

## **CHAPTER II**

### **ADMINISTRATION**

#### **ARTICLE I**

#### **TOWN MEETING AND ELECTIONS**

##### **2-1 TOWN MEETING AND ELECTIONS.**

2-1.1 Notice of Town Meeting. Notice of every Town Meeting shall be given by posting at the Post Office, Town Hall, and at each of the Meeting Houses in the Town, an attested copy of the warrant for such meeting, at least seven (7) days before the time named in the warrant for holding the meeting.

(Art. I ~ 1, 7/15/15)

2-1.2 Warrants for Annual Town Meeting and Town Elections. Printed copies of all warrants for Annual Town Meeting and Town Elections shall be mailed or otherwise delivered by the Board of Selectmen to the registered voters at least seven (7) days before the date for the Town Meeting or Election or the May Special Town Meeting held on the same day within the Annual Town Meeting, and fourteen (14) days before a Special Town Meeting.

(Art. I ~ 2, 7/15/15; Art. XII, 3/4/18; Art. I ~ 2, 3/16/39; (Art. 24, 5/7/77; Art. 33, 5/7/02)

2-1.3 Time of Annual Town Meeting. The Annual Town Meeting shall be called for the first Tuesday in May at 7:00 o'clock in the afternoon. The election of Town officers and the vote upon such questions as can legally be placed upon the ballot shall take place on the first Thursday after the first Tuesday in May and the polls shall be opened at 7:00 a.m. and may close at 8:00 p.m.

(STM Art. 5, 6/17/71; Art. 37, 3/19/73 [A1 ~ 3]; Art. 50, 5/20/75; Art. 25, 5/7/77; Art. 35, 5/5/98; Art. 25, 5/4/04).

2-1.4 Location of Annual and Special Town Meetings. The Town may hold its Annual and Special Town Meetings or any adjournments thereof at the Masconomet Regional School in the Town of Boxford; provided, that any meeting for the election by official ballot of Federal, State, County or other officials shall be held within the Town of Topsfield.

(Voted by Legislature 11/26/73)

2-1.5 Quorum Required at Town Meeting. One hundred (100) of the legal voters of the Town shall constitute a quorum for the transaction of business of the Town at all Town Meetings except such parts of the meetings as are devoted exclusively to the election of Town Officers, but a number less than a quorum may adjourn a meeting to a later date.

(STM Article I, 7/15/15; Art. 1 ~ 5, 3/6/50; Art. 39, 3/2/59)

2-1.6 Two-Thirds Voice Vote. The Moderator may take all votes requiring a two-thirds majority in the same manner in which he or she conducts the taking of a vote when a majority is required.

(Art. 36, 5/5/98)

## **ARTICLE II**

### **WARRANT FOR ANNUAL TOWN MEETING**

#### **2-2 ISSUANCE OF WARRANT.**

- 2-2.1 Duty of Board of Selectmen. The Board of Selectmen shall issue the Warrant for the Annual Town Meeting in accordance with subsection 2-1.2.

(Art. 2, 7/15/15; Art. 35, 3/3/19; Art. 24, 3/16/50; Art. 51, 3/5/56; Art. 28, 3/6/61; Art. 37, 3/19/73; Art. 27, 5/9/77)

## **ARTICLE III**

### **BOARD OF SELECTMEN**

#### **2-3 BOARD OF SELECTMEN: DUTIES.**

2-3.1 Membership. The Board of Selectmen shall consist of five (5) members who are elected by popular vote at an annual Town election in May for alternating terms. Each Selectman shall serve for a three (3) year term, with no more than two Selectmen's terms to run concurrently. Notwithstanding the provisions of the immediately preceding sentence, at the Annual Town Election in May of 2006, one additional member shall be elected for a two (2) year term and one additional member shall be elected to a three (3) year term. The terms of those members currently serving as Selectmen at the time of the adoption of this By-law shall be unchanged.

#### **2-3.2 Duties.**

a. Distribution of Warrant of Town Meeting to the Finance Committee. The Board of Selectmen shall immediately upon issuance, forward warrants of all Town Meetings to the Finance Committee.

b. Annual Code Supplementation. The Board of Selectmen shall on an annual basis, subject to appropriation by Town Meeting, contract for a complete supplementation service for the insertion of General By-laws, Zoning By-laws, operating rules and regulations as enacted and/or adopted by the Town Meeting and/or any Town Board, Committee or Official in the Municipal Code Book.

c. Appointment of Town Administrator. Upon the passage of a Town Meeting, vote establishing the Office of Town Administrator and effective January 1, 2007, the Board of Selectmen shall, by majority vote, appoint a Town Administrator, who shall have the powers as set forth in Article X, Section 67-1. Said Administrator shall be a person especially fitted by education, training and experience to perform the duties of the office.

1. Three Year Contract. The Town Administrator shall be given a three (3) year contract which may be terminated by the Board of Selectmen sooner, for cause, only upon the vote of not less than four (4) members of the Board of Selectmen.

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

2-3.3 Salary. Each Selectman shall receive, subject to appropriation, an annual salary of \$900.00, prorated for any period of time less than one (1) year served due to resignation, special elections, or the like.

(Art. 3, 3/1/05)

2-3.4 Distribution of Warrant of Town Meeting to the Finance Committee. The Board of Selectmen shall immediately upon issuance, forward warrants of all Town Meetings to the Finance Committee.

(Art. 36, 3/3/19; Art. III ~ 1, 3/6/39)

2-3.5 Annual Code Supplementation. The Board of Selectmen shall on an annual basis, subject to appropriation by Town Meeting, contract for a complete supplementation service for the insertion of general By-Laws, zoning By-Laws, and operating rules and regulations, as enacted and/or adopted by the Town and/or any Town Board, Committee or Official in the Municipal Code Book.

(Art. 44, 5/2/95)

## **ARTICLE IV**

### **FINANCE COMMITTEE**

#### **2-4. FINANCE COMMITTEE ESTABLISHED.<sup>i</sup>**

2-4.1 Members; Duties. There shall be a Finance Committee appointed by the Town Moderator, consisting of seven (7) legal voters none of whom shall be officers of the Town elected by ballot. The duties of this Committee shall include consideration of any and all municipal questions for the purpose of making reports and recommendations to the Town, and consideration of the articles in the warrant for Town Meetings and it shall report at each Town Meeting estimates and recommendations with reasons therefor for the action of the Town.

(Art. 3, 7/15/15; Art. 3, 3/6/39; Art. 15, 5/7/77)

2-4.2 Requests for Information. All the Officers and Committees shall, upon its request, furnish it with facts, figures, and any other information pertaining to their several Departments.

(Art. 3, 7/15/15; Art. 3, 3/6/39)

## **ARTICLE V**

### **ZONING BOARD OF APPEALS**

#### **2-5. ZONING BOARD OF APPEALS ESTABLISHED.**

2-5.1 Members: Duties. A Zoning Board of Appeals, consisting of five (5) members appointed by the Board of Selectmen, is responsible for administering the Topsfield Zoning By-Laws in conformity with the provisions of GLc 40A, as amended (known as "The Zoning Act"). Four (4) Associates, appointed by the Board of Selectmen, may sit in the place of absent members upon designation by the Chairman, or, in his absence, the Acting Chairman. Associates shall be appointed for a term of one (1) year. These Rules and Procedures shall incorporate The Zoning Act, as amended, as if fully set forth herein.

##### **2-5.2 Jurisdiction.**

a. To hear and decide applications for special permits pursuant to Article V, Section 5.02 of the Topsfield Zoning By-Law;

b. To hear and decide petitions for variances from the requirements of the Topsfield Zoning By-Laws;

c. To hear and decide applications for Site Plan Review pursuant to Article IX of the Topsfield Zoning By-Laws;

d. To hear and decide applications for Comprehensive Permits pursuant to GLc 40B ~ 20-23;

e. To hear and decide appeals from decisions of the Building Inspector or others pursuant to Section R:11-8c of these Rules and Procedures.

### 2-5.3 Organization.

a. The Zoning Board of Appeals shall annually elect a Chair and a Clerk from its membership.

b. Meetings of the Zoning Board of Appeals shall be held at the call of the Chair. Public notice of meeting time and place shall be filed with the Town Clerk at least forty-eight (48) hours prior to the meeting.

c. The Chair may designate an alternate member to sit on the Board in case of absence, inability to act, or conflict of interest on the part of any member thereof, or in the event of a vacancy on the Board until the vacancy is filled by appointment of the Selectmen.

d. A concurring vote of at least four (4) out of five (5) Board members shall be required for the granting of a variance or special permit, or any extension, modification, or renewal thereof, and for any order or decision or reversal.

e. Records of the Board's proceedings shall be kept by the Clerk and shall upon approval of the Board become public record.

(Art. 42, 5/1/90)

2-6--2-12 RESERVED

## **ARTICLE VI**

### **ANNUAL AUDIT**

#### 2-13. ANNUAL FINANCIAL AUDIT.

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

(A 27, 5/4/93)

## **ARTICLE VII**

### **BOARDS, COMMITTEES AND COMMISSIONS**

2-14 CAPITAL PROGRAM COMMISSION deleted Article 4,

(STM 3/1/05 effective January 1, 2007)

2-14 RESERVED

2-15 CONSERVATION COMMISSION.

2-15.1 Establishment; Statutory Authority. Under the provisions of GLc 40 ~ 8C, inserted by Section I of Chapter 223 of the Acts of 1957, a Conservation Commission for the promotion and development of the natural resources and for the protection of watershed resources of the Town may be established. A Conservation Commission shall be established in accordance with the Acts of 1957, Chapter 223.

2-15.2 Members: Term. A Conservation Commission of five (5) members shall be appointed by the Board of Selectmen for three-year overlapping terms, commencing July 1 of each year, so arranged that the term of no more than two members shall expire in any given year.

2-15.3 Powers, Duties and Authority. The Topsfield Conservation Commission will have all the powers, duties, and authority as conferred on Conservation Commissions under the Massachusetts General Laws and the Town By-Laws, Rules and Regulations thereof.

(Art. 28 & 29, 3/7/60; Art. 34, 5/2/95; Art. 38, 5/6/14)

2-16 COUNCIL ON AGING.

2-16.1 Establishment, Membership and Tenure: The Council On Aging, as established hereunder, shall consist of seven, nine or eleven members to be appointed by the Board of Selectmen for alternating three year terms commencing on July 1 of each year; provided, however, that initial appointments made hereunder may be for one, two or three year terms, and thereafter for terms of three years; and provided further that any members of the Council On Aging holding office as of the effective date of this by-law may continue to serve until the expiration of their term or sooner resignation. Members of the Council On Aging may be removed for cause after a hearing. Vacancies shall be filled for the remainder of the unexpired term in the manner of the original appointment.

2-16.2 Quorum: For purposes of this by-law, a quorum of members of the Council On Aging shall constitute a majority of those then in office.

2-16.3 Duties: Members shall have the duties, powers and authority as are conferred from time to time by M.G.L. Chapter 40, Section 8b as amended.

(Art. 17, 3/20/72; Art. 9, 11/19/73; Art.31 & Art 32 , 5/5/92; Art.28, 5/1/07)

2-17 TOPSFIELD HISTORICAL COMMISSION.<sup>ii</sup>

2-17.1 Established; Members. There is hereby established a Topsfield Historical Commission under the provisions of the Historic Districts Act, GLc 40C, as amended, consisting of five (5) members, appointed by the Board of Selectmen, including one (1) member, where possible, from two (2) nominees submitted by the Topsfield Historical Society, one (1) member, where possible, from two (2) nominees submitted by the Massachusetts State Chapter of the American Institute of Architects, and one (1) member where possible, from two (2) nominees of the Board of Realtors covering Topsfield. One of the foregoing shall be, where possible, a resident of, and one shall be, where possible, a property owner within the Historic District established in Topsfield pursuant to the Historic Districts Act. When the Commission is first established, one (1) member shall be appointed for a term of one (1) year, two (2) shall be appointed for a term of two (2) years, and two (2) shall be appointed in like manner for three (3) years, and their successors shall be appointed in like manner for terms of three (3) years.

The alternate members shall be appointed by the Board of Selectmen for a term of one (1) year and may actively participate as a member of the Commission upon the request of the Chairman of the Historical Commission in the absence of any regular member of the Historical Commission.

2-17.2 Powers and Duties. Pursuant to GLc 40C ~ 14, the Historical Commission shall have the powers and duties of an Historical Commission as provided in GLc 40 ~ 8D and rename the Historic District Commission the Topsfield Historical Commission.

(Art. 30, 3/20/72; Art. 32, 5/21/74; Art. 18, 10/22/85; Art. 56, 5/12/89)

## 2-18 INSURANCE COMMITTEE BY-LAW

2-18.1 Establishment, Membership and Tenure: The Insurance Committee, as established hereunder, shall consist of five (5) voting members, the Town Administrator as a non-voting ex-officio member, and at the discretion of the Committee, may include additional non-voting ex-officio members as required by said Committee.

- a. One (1) member of the Board of Selectmen selected thereto annually by the Chairman of the Board.
- b. One (1) member of the Finance Committee selected thereto annually by the Finance Committee Chairman.
- c. Three (3) members appointed annually by the Board of Selectmen.

2-18.2 Duties: The Committee shall be chartered hereunder to review on an annual basis the Town's insurance policies including but not limited to Property and General Liability, Worker's Compensation, Professional Liability, Police and Fire Accident, Employee Health Insurance, and provide a recommendation to the Board of Selectmen concerning said policies relative to comprehensiveness of coverage, statutory requirements and cost impacts."

(Art. 28, 3/2/64; Art. 27, 5/2/06)

## 2-19 RESERVED

### **Editor's Note:**

Community Preservation Committee By-Law ( formerly identified as 2-19 Article 45 of the Annual Town Meeting of May 4, 2004, required passage of The Community Preservation Act at the next election to become effective. The Community Preservation Act failed to be adopted by ballot vote at the election of May 3, 2005 - Ballot Question Six. And therefore has been deleted from the Town Code..

## 2-20 BOARD OF HEALTH COMMITTEE MEMBERSHIP BY-LAW

There shall be a five member Board of Health to be appointed by the Board of Selectmen for alternating three year terms commencing on July 1 of each year. Upon the expiration of the terms of the three appointees holding office on the date this By-Law is approved by the Town, the Board of Selectmen shall appoint two additional members to the following terms: one member to be appointed for an initial one (1) year term, the other to be appointed to a two (2) year term; and thereafter for three years.

(Art. 43, 5/4/04)

## 2-21 AGRICULTURAL COMMISSION BY-LAW

2-21.1 Purpose: The mission of the Agricultural Commission, hereinafter “the Commission”, is to preserve, revitalize and sustain the Topsfield agricultural industry and to promote agricultural-based economic opportunities. The Commission once appointed shall develop a work plan to guide its activities. Such activities include, but are not limited, to the following: shall serve as facilitators for encouraging the pursuit of agriculture in Topsfield; shall promote agricultural-based economic opportunities in Town; shall act as advocates and educators on farming issues; shall work for preservation of prime agricultural lands; and shall pursue all initiatives appropriate to creating a sustainable agricultural community.

2-21.2 Membership: The Commission shall consist of five members, at least four of whom shall be Topsfield residents, appointed by the Board of Selectmen. The Commission shall consist of a minimum of two members whose primary or secondary source of income is derived from farming of agricultural-based enterprises in Topsfield and another three who are interested in farming. The Board of Selectmen shall appoint two alternates who may be full or part-time farmers or interested in farming. The members shall serve overlapping terms of three years. For the first Agricultural Commission, the Selectmen shall appoint two members for a term of three years, two members for a term of two years and one member for a term of one year. Thereafter, appointments shall be for three year terms. The Board of Selectmen shall fill a vacancy based on the un-expired term of the vacancy in order to maintain the cycle of appointments. The Board of Selectmen shall appoint the alternates for three year terms. The Commission may recommend appointees to fill vacancies.

(Art. 36, 5/3/05)

## 2-22 -- 2-24 RESERVED

## 2-25 MEMORIAL DAY COMMITTEE BY-LAW.

2-25.1 Established. The Moderator shall appoint a permanent Memorial Day Committee consisting of three (3) members. Members shall be appointed by the Moderator for a term of three (3) years.

(Art. 5, 3/4/57)

## 2-26 -- 2-30 RESERVED

## 2-31 PARK AND CEMETERY COMMISSIONERS BY-LAW.

The Board of Park and Cemetery Commissioners is hereby established. The Board shall have the duties and authority of the respective Boards of Park and Cemetery Commissioner. The Board shall consist of three (3) members who are elected by popular vote. Each Commissioner shall serve for a three (3) year term.

(Art. 28, 5/1/79; Art. 59, 5/2/89)

2-32 -- 2-36 RESERVED

2-37 PLANNING BOARD BY-LAW.

The Planning Board shall consist of five (5) members elected by popular vote for terms of three (3) years. Any Planning Board member may serve for not more than three (3) consecutive terms

(Art. 39, 5/12/78)

2-38--2-40. RESERVED

2-41 PUBLIC WORKS COMMITTEE BY-LAW.

2-41.1 Members Designated. The Superintendents of the Water, Park, Cemetery, and Highway Departments, the Town Engineer and the Tree Warden shall constitute a Public Works Committee for the Town. The Committee shall appoint one (1) of the members of the Committee to be Chairman for a one (1) year term and shall also appoint someone to act in their place during their absence. A member may not be appointed as Chairman for more than two (2) consecutive one (1) year terms. It shall be his duty to call and preside at the meetings of the Committee, and to file a written report to be included in the Town report upon the activities, accomplishments and proposals of the Committee. The Committee shall from time to time elect or designate a secretary who shall keep minutes of the meetings and give notice of all regular and special meetings. The Committee shall meet at least once a month at a time and place designated by the Chairman.

2-41.2 Duties of the Committee. It shall be the duty of the Committee:

a. To coordinate the work of the several departments engaged in public works for the purpose of obtaining the most efficient use of equipment and manpower;

b. To devise uniform record keeping forms and procedures with reference to the use of manpower and personnel which will record the hours worked by each employee, the nature of the work done and for what department;

c. To devise uniform record keeping forms designed to show with respect to each vehicle or piece of equipment its utilization from day to day in terms of hours, location, project worked on, department for which used, and also to record mileage, maintenance, repairs, etc.;

d. To maintain uniform personnel policies and procedures in all departments;

e. To take such steps as may be possible to bring about pooling and centralized housing, maintenance and repair of vehicles and equipment;

f. To review and implement communication procedures to the end that citizens' needs and requests may always be known and attended to promptly;



g. To continuously explore opportunities for joint purchasing, both among the departments engaged in public works and also with other Town departments;

h. To coordinate requests for capital equipment appropriations and purchases and to develop joint manpower forecasts for planning and budgeting purposes;

i. To make recommendations to appropriate Town Officials respecting the combining or elimination of departments, the transfer of functions from one department to another or other modifications in the structure of the Town government which may lead to greater efficiency or economy in the carrying out of the public works.

j. To act upon any recommendations made by Town Officials.

(Art. 44, 5/3/88)

2-42--2-43 RESERVED

2-44 SHADE TREE COMMITTEE BY-LAW.

2-44.1 Appointment. The Moderator shall appoint a Committee of five (5) to serve as a Shade Tree Committee acting as an advisory committee to the Tree Warden and the Moth Superintendent. The Tree Warden and the Moth Superintendent shall be members of the Committee ex-officio. The Committee shall have specific responsibility for Dutch Elm Disease control, surveys and recommendations.

(Art. 23, 3/5/56)

2-45--2-48 RESERVED

2-49 TREE PLANNING SUBCOMMITTEE.

2-49.1 Established. The Tree Planning Subcommittee was established by the Topsfield Conservation Commission as a subcommittee in November, 1968.

2-50--2-53 RESERVED

## **ARTICLE VIII**

### **POLICES AND PROCEDURES**

2-54. DISPOSAL OF PERSONAL PROPERTY BY-LAW.

The Board of Selectmen shall have exclusive authority for and on behalf of the Town to sell, or otherwise dispose of, and transfer title to, any personal property owned by the Town except that which is used exclusively for school purposes, provided there is recorded with the Board of Selectmen a certificate of the Board, Department or Officer having charge of the property that, in its opinion, the value of the said property is less than one thousand (\$1,000.00) dollars and that said property should be sold, or otherwise disposed of, for the reason that it is either obsolete, surplus, inadequate or requires replacement.

(Art. 28, 3/3/58)

2-55--2-58 RESERVED

## 2-59 PAYMENT OF FEES TO TOWN TREASURY BY-LAW.

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

(Art. 42,,5/1/84)

## 2-60--2-64 RESERVED

# **ARTICLE IX**

## **CONTRACTS AND AGREEMENTS**

## 2-65 BY-LAW REQUIRING EQUAL OPPORTUNITY EMPLOYER FOR TOWN CONTRACTS.

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

(Art. 3, 6/17/71)

## 2-66 AFFORDABLE HOUSING TAX AGREEMENT BY-LAW

2-66.1 Pursuant to the provisions of M.G.L. Chapter 58, §8C, the Board of Selectmen or its designee is hereby authorized to negotiate on behalf of the Town an Affordable Housing Tax Agreement ("Agreement") between the Town and the developer of sites or portions of sites that will be used as affordable housing, as defined in M.G.L. Chapter 60, §1, regarding the abatement of up to 75% of the real estate tax obligations and up to 100% of the outstanding interest and penalties on said sites or portions of sites, provided that the Commission of Revenue has approved in writing the Town's request to grant such abatement.

2-66.2 The Agreement must be approved by Town Meeting if it exceeds \$25,000. In all other cases, no Town Meeting action is necessary.

2-66.3 Prior to executing the Agreement, the Town must file with the Commissioner of the Department of Revenue a written request to grant an abatement under M.G.L. Chapter 58, §8C. If the Commissioner of the Department of Revenue approves the request for abatement, or fails to act within thirty (30) days from the date of the receipt of the request for abatement to make a determination, the Board of Selectmen or its designee may execute the Agreement.

2-66.4 The Agreement must be executed by the Board of Selectmen or its designee and notarized and attested to by the Town Clerk of the municipality. A copy of the executed Agreement must be given to (1) the developer, (2) the Board of Selectmen, (3) the Department of Housing and Community Development, and (4) the Commissioner of the Department of Revenue.

2-66.5 The site covered by an agreement must be developed for: (1) affordable housing use only: or, (2) mixed affordable housing and commercial use, as set forth below.

a. Affordable Housing

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

b. Mixed Use

i. Primary Use

In accordance with the Department of Revenue’s Informational Guideline Release No. 02-207, affordable housing must be the primary use of any mixed-use development. The site may include commercial uses, but not market-rate housing. Primary use means that more than 50% of the floor space of the improvements on the site must be devoted to affordable housing. This condition and definition of primary use must be included in any Agreement entered into pursuant to this Bylaw, along with plans showing the percentage of floor space devoted to affordable housing use. Common areas, such as floor space used for heating, air conditioning or storage, are to be prorated and allocated to the affordable housing and other uses.

ii. Compliance

No building permits or certificates of occupancy may be issued unless the Inspector of Buildings determines that the development of the site conforms to the primary use requirement set forth in sub-section b(i).

Any Agreement made in accordance with this Bylaw must provide, at a minimum, that if the development later becomes non-conforming during the period covered by the agreement, or within 20 years of its effective date, whichever period is shorter, the certificates of occupancy for the commercial space shall be revoked unless the amount of real estate taxes abated pursuant to the agreement are repaid.

2-66.6 The Agreement must include, but is not limited to, the following elements:

- a. the outstanding amount of real estate taxes;
- b. the rate of interest to accrue, if any;
- c. the amount of monthly payments;
- d. the commencement date of the payments;
- e. the due date of the final payment;
- f. the late penalty fee, if any;
- g. the number of affordable housing units to be developed; and
- h. the amount of real estate taxes to be abated subject to Department of Revenue approval.

2-66.7 The Board of Selectmen is hereby authorized to establish a written policy or policies regarding the circumstances under which agreements under this By-law may be made as well as any parameters regarding the terms of such agreements.

2-66.8 This By-law may be amended from time to time by a majority vote of the Town Meeting consistent with the provisions of M.G.L. Chapter 58, §8C.

- 2-66.9 Provided the M.G.L. Chapter 58, §8C is accepted by the voters of the Town at a Special or Annual Town Meeting, this By-law shall take effect after all requirements of M.G.L. Chapter 58, §8C have been met.

(Art. 31, 5/6/03; Art. 47, 5/4/04)

## **ARTICLE X**

### **TOWN ADMINISTRATOR POWERS AND DUTIES**

**Effective January 1, 2007**

#### **67-1 Town Administrator; Duties.**

67-1.1 The Town Administrator appointed by the Board of Selectmen as set forth in Chapter II, Article III, Section 2-3.2 of The Topsfield Town Code shall have the following duties:

- a. Chief Administrative Officer. The Town Administrator shall serve as the Town's Chief Administrative Officer, shall act as the agent for the Board of Selectmen and shall be responsible to the Board of Selectmen for the proper operation of Town affairs for which said Administrator is given responsibility under this By-law. The Administrator shall supervise, direct and be responsible for the efficient administration of all departments and employees under the jurisdiction of the Board of Selectmen and all functions for which the Administrator is given responsibility, authority or control by The Town of Topsfield Code, town meeting vote, or by vote of the Board of Selectmen.
- b. Chief Procurement Officer. The Town Administrator shall act as Chief Procurement Officer pursuant to Section 24-2 (a) of The Town of Topsfield Procurement By-law.
- c. Appointments. The Town Administrator shall appoint, based upon merit and fitness, all department heads and officers, subordinates and employees under the jurisdiction of the Board of Selectmen, except employees of the school department, persons serving under officers, boards, or committees elected directly by the voters of the Town of Topsfield, or appointments otherwise reserved to the Board of Selectmen or other officials pursuant to The Town of Topsfield Town Code. Appointment of the Chief of Police and the Fire Chief shall be subject to confirmation by the Board of Selectmen. All other appointments of the Town Administrator shall be made in consultation with the appropriate department head, board, commission, or committee and shall be in compliance with the Personnel By-law and Personnel Rules and Regulations of the Town. Any person holding office or employment upon the effective date of the adoption of this By-law, shall continue to perform his or her duties under the provisions of the Personnel By-law and Personnel Rules and Regulations of the Town of Topsfield, unless such position is abolished by Town Meeting vote and nothing contained herein shall otherwise impair contractual rights established prior to the adoption of this By-law.
- d. Personnel Director. The Town Administrator shall be the Town's Personnel Director and shall administer the Town's Personnel By-law. In addition, the Town Administrator shall direct the Town's contract negotiations, subject to ratification by the Board of Selectmen;
- e. Positions/Committees Abolished. Simultaneously with the establishment of the position of Town Administrator and the appointment of the same, the positions of Executive Secretary, the Personnel Board, and the Capital Program Committee shall be abolished. In addition, upon the appointment of a Town Administrator, the provisions of the Town Code (Article VII, 2-14), concerning the Capital Program Committee, shall be deleted.

(Art. 4, 3/1/05)

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iEditor's Note: Article VII 2-19 Community Preservation Committee By-Law deleted. Its adoption failed to be confirmed under Ballot Question Six –Town Election May 3, 2005.

ii Editor's Note:

See Article VII of this chapter for the establishment of the Capital Program Committee Regulations, Section 3-6. Note: Capital Program Committee deleted January 1, 2007 Article 4, Special Town Meeting March 1, 2005.

ivEditor's Note: Refer to Chapter XXVII, Historic District's By-Law.

v Editor's Note: Article X Town Administrator Powers & Duties established by Town Meeting vote Article 4, STM 3/1/05 effective January 1, 2007.

viEditor's Note: The Agricultural Commission was established by Town Meeting vote Article 36, Annual Town Meeting May 3, 2005, effective August 30, 2005.

**CHAPTER I**  
**GENERAL PROVISIONS**

1-1 SHORT TITLE.

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

1-2 DEFINITIONS.

For the purpose of this Code, and in the interpretation and application of all other By-Laws, rules, regulations and resolutions heretofore or hereafter adopted, except as the context may otherwise require:

A.T.M., when referenced within this Code, shall mean the Annual Town Meeting.

GL, when referenced within this Code, shall mean Massachusetts General Laws. GLc refers to a particular chapter of the Massachusetts General Laws. The symbol ~ refers to a section of that chapter.

Month shall mean a calendar month unless otherwise specifically provided.

S.T.M., when referenced within this Code, shall mean a Special Town Meeting.

Year shall mean a calendar year unless otherwise specifically provided.

1-3 CONSTRUCTION.

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

The present tense includes the past and future tenses.

The masculine gender includes the feminine and neuter.

The singular number includes the plural and the plural the singular.

"Shall" is mandatory and "may" is permissive.

"Writing" and "written" shall include printing, typewriting and any other mode of communication using paper or similar material which is in general use, as well as legible handwriting.

Whenever a specific time is used in this Code, it shall mean the prevailing time in effect in the Commonwealth of Massachusetts during any day in any year.

Any citation of a statute or law contained in this Code shall be deemed to refer to such statute or law as amended, whether or not such designation is included in the citation.

"Chapter" shall mean one of the major divisions of the Code identified by a Roman numeral and divided by subject matter.

"Section" shall mean a major subdivision of a chapter.

"Subsection" shall mean a subdivision of a section, identified by a decimal number.

"Paragraph" shall mean a subdivision under a subsection, identified by an alphabetical letter or Arabic number.

#### 1-4 SEVERABILITY.

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

#### 1-5 PENALTY.

1-5.1 Maximum Penalty.<sup>i</sup> Any person who shall violate any general provision of this Code or other By-Law of the Town, where no specific penalty is provided regarding the section violated, shall, upon conviction thereof, be punishable by a fine not exceeding three hundred (\$300.00) dollars, unless the penalty for such violation is limited by the Massachusetts General Law or any other law.

1-5.2 Separate Violations. Except as otherwise provided, every day in which a violation of any provision of this Code or any other By-Law of the Town exists shall constitute a separate violation.

1-5.3 Penalty for Zoning Violation of the Zoning Chapter. This penalty is not applicable for violations of the Zoning Chapter. See Zoning Chapter for penalty provision applicable to that Chapter.

(Art. 22, 5/6/86)

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<sup>i</sup> Editor's Note: MGLA c. 40, ~ 21 authorizes Town to prescribe penalty for each violation or offense, the penalty not to exceed three hundred (\$300.00) dollars.

## **CHAPTER LVIII**

### **WATER SUPPLY BY-LAWS**

58-1

#### **WATER SUPPLY BETTERMENT BY-LAW**

##### **58-1.1 TITLE.**

This Article sets forth the purpose, authority, and applicability of the Topsfield Water Supply Betterment By-Law hereinafter called "By-Law".

##### **58-1.2 PURPOSE.**

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

- a. For creating water supply betterment zones in accordance with the applicable requirements of GLc 40 § § 420 through I.
- b. For a fair and acceptable method of apportioning part or all of the cost among those who benefit from any proposed water supply construction in said zones.
- c. For granting abatements as provided under the applicable sections of GLc 80.

##### **58-1.3 AUTHORITY.**

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

##### **58-1.4 APPLICABILITY.**

The provisions of this By-Law shall apply and be binding upon all owners of land that benefit from water supply betterments constructed in water supply betterment zones established in accordance with the provisions of the By-Law, except that, if the Town accepts the provisions of GLc 80 § 13B, owners of land affected by the provisions of this By-Law may apply for an exemption thereof with the Board of Water Commissioners.

The provisions of the By-Law shall not apply to land owners located in these zones that do not receive benefit from water supply betterments constructed in these zones, nor shall they apply to construction authorized by the Board for the purpose of maintaining or improving the existing public water supply system.

##### **58-1.5 DEFINITIONS.**

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

Abutter shall mean any person who owns land that fronts on a public way along which a water supply pipe has been installed under the provisions of the By-Law.

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

Frontage shall mean the length of the front line of a property abutting a public way.



Water Main shall mean a pipe laid in the public way for the purpose of conveying and distributing water to abutters on said public way.

58-1.6 THE BETTERMENT ZONE.

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

a. Preparation of the Plan.

1. The Board of Water Commissioners, hereinafter called the "Board," upon its own motion or upon petition by ten (10) registered voters owning land fronting on public ways, may determine the advisability of constructing water mains in said public ways.
2. If the Board determines that the proposed betterment should proceed, the Board shall issue an "Order of Betterment" wherein it is declared that all costs and damages connected with said betterment shall be assessed upon and apportioned among those owners of land that receive benefit from the betterment.
3. The "Order of Betterment" shall also contain a record of the Board's vote to proceed with the proposed betterment. Thereafter the Board shall request the Town Engineer to prepare a plan for the construction of water mains in said public ways and a cost estimate of that construction. The plan and cost estimate shall be submitted to the Board within six (6) months from the date of the request or such further time as may be requested by the Town Engineer and granted by the Board.
4. The plan shall at a minimum contain the following information:
  - (a) That portion of each public way in which a water main is to be constructed.
  - (b) The location of each such water main within the right-of-way.
  - (c) All lots that front on the ways referred to in (a) together with the names of the owners of record of each of said lots as contained in the most recent tax records.
  - (d) The measured frontage of each lot referred to in (c) and reconciled with the Assessor's records.
  - (e) Any land abutting the public way in the betterment zone which is registered with the Land Court.

b. Public Hearing.

Upon receipt of the plan and cost estimate from the Town Engineer, the Board shall hold a public hearing which shall be advertised in a newspaper of local circulation at least five (5) days prior to the date of said hearing. Additionally, all land owners listed on the plan prepared under the provisions of paragraph a. shall be notified of said hearing by registered mail.

The Board shall determine by majority vote of all abutters present and voting, which of the four (4) methods of assessment set forth in GLc 40 § 42H shall be used to apportion the cost of the

proposed water betterment.

The record of vote shall be notarized and submitted to the Town Clerk within three (3) days after the conclusion of the public hearing.

Thereafter the Board may recommend to the Board of Selectmen that funds for the proposed water betterment be appropriated by the Town.

Where Town-owned land is subject to the special assessment for the proposed water betterment, the amount of said assessment shall be computed and approved by vote of the Board. The Board of Selectmen shall thereupon be notified of said assessment.

c. Recordation of Water Betterment Plan.

In the event that the Town approves funds for the construction of the water betterment, the Board shall within thirty (30) days of the date of the Town Meeting cause the "Order of Betterment", the plan and cost estimate to be recorded at the Registry of Deeds. In the event that registered land is included in the water betterment zone as indicated on the plan, the above mentioned documents shall also be filed with the Land Court.

58.1.7 CERTIFICATION OF ASSESSMENT.

Upon completion of construction, and in any event no later than six (6) months thereafter, the Board shall certify the actual expenditures incurred in the construction inclusive of debt service and legal fees, and determine the actual assessment to be apportioned on every property owner to receive benefits from the betterment in accordance with the assessing methods selected under the provisions of Art. II § 2 and all applicable provisions of GLc 40 § 421. The certificate of expenditures and the schedule of assessments shall be signed by the majority of the Board and submitted to the Board of Assessors. The Board of Assessors shall thereupon notify said persons of the amount assessed by the Water Commissioners. (Art. 38, 5/3/87 A IV § 1; Art. 52, 5/2/89)

58.1.8 METHOD OF PAYMENT.

All persons assessed under the provisions of this By-Law shall be given the option of paying the amount assessed over a period of twenty (20) years at an annual interest on the unpaid balance that may not be greater than two (2%) percent above the interest rate of the water betterment bond issue four (4) by the Town as provided under GLc 80 § 13.

58.1.9 ABATEMENTS.

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

58.1.10 REASSESSMENTS AND DIVISION.

The applicable provisions of GLc 80 to the reassessment of land or the subdivision thereof shall apply to all land assessed under the provisions of this By-Law.

58.1.11 AMENDMENT OF APPLICATION.

This amendment shall not apply to any existing betterment zone and said vote waives any requirements for amendment in the By-Law or any other law and hereby ratifies and confirms all existing and previous procedures concerning the adoption of the existing betterment zone.  
(Art. 38, 5/6/87; Art. 52, 5/2/89)

58-2

**WATER USE RESTRICTION BY-LAW**

58-2.1 AUTHORITY.

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

58-2.2 PURPOSE.

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

58-2.3 DEFINITIONS.

Conservation Measures shall mean restrictions on water use as defined in Section 58-2.5.

DEP shall mean the Massachusetts Department of Environmental Protection.

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

Nonessential Use shall include uses of water that are not essential uses.

Off-Peak Hours shall be between 5 P. M. and 9 A.M. the following day.

Outdoor Watering shall include watering of lawns, shrubbery, bushes or other outdoor vegetation.

Outdoor Water Use shall include but is not limited to outdoor watering, filling of swimming pools and the washing of automobiles, boats or other vehicles.

Peak Hours shall be between 9 A.M. and 5 P.M. each day.

Person shall mean any Individual, Corporation Trust, Partnership or Association, or other entity.

State of Water Supply Emergency shall mean a State of Water Supply Emergency declared by the Department of Environmental Protection under M.G.L. c. 21G, §15-17.

State of Water Supply Conservation shall mean a State of Water Supply Conservation declared by the Town pursuant to Section 58-2.4 of this Bylaw.

Water Customers shall mean all users of the Town's public water system, irrespective of any person's responsibility for billing purposes for water used at any particular location.

Water Users shall mean all persons, regardless of their geographic location, using water withdrawn from water sources located within the Town of Topsfield.

WMA shall mean the Water Management Act, M. G. L. c. 21G and any requirement or special condition imposed under the Town under said act.

#### 58-2.4 DECLARATION OF A STATE OF WATER SUPPLY CONSERVATION.

The Town, through its Board of Water Commissioners, may declare a State of Water Supply Conservation upon a determination by a majority vote of the Board that one or more of the following conditions exist:

- a) A shortage of water exists. When a shortage exists, conservation measures will be imposed on water customers to ensure an adequate supply of water for all customers. A shortage of water may be caused by drought, loss of water storage, or other condition that impairs the Town's ability to meet water demand for its customers.
- b) Water use may exceed permitted limits. When the water system's use may exceed that which is permitted through the WMA, conservation measures will be imposed on water customers in order to comply with WMA limits.
- c) Ipswich River streamflow is low. When Ipswich River streamflow falls below limits specified through the WMA requiring the implementation of the conservation measure specified as Outdoor Water Use Peak Hours Ban, an Outdoor Water Use Peak Hours Ban will be imposed on all water users in order to comply with the WMA requirements.
- d) Ipswich River streamflow is very low. When Ipswich River streamflow falls below limits specified through the WMA requiring the implementation of the conservation measure specified as Outdoor Water Use Restriction, an Outdoor Water Use Restriction will be imposed on all water users in order to comply with the WMA requirements.

Public Notice of a State of Water Supply Conservation shall be given under Section 58-2.6 of this Bylaw before it can be enforced.

#### 58-2.5 CONSERVATION MEASURES.

A declaration of a State of Water Supply Conservation shall specify one or more of the following conservation measures and shall specify whether the measure(s) are voluntary or mandatory and whether the measure(s) apply to water customers only or to all water users. The applicable restrictions, conditions, or requirements shall be included in the Public Notice required under Section 58-2.6 and shall not apply to essential uses.

- a) Outdoor Watering Odd / Even Day Restriction: Outdoor watering odd numbered addresses is restricted to odd numbered days; outdoor watering at even numbered addresses is restricted to even numbered days.
- b) Outdoor Water Use Peak Hours Ban: Outdoor water use is prohibited during peak hours.
- c) Outdoor Water Use Restriction: Outdoor water use is prohibited during peak hours and outdoor water use during off-peak hours is limited to hand held hoses, buckets or watering cans.
- d) Total Outdoor Water Use Ban: Outdoor water use is prohibited.

#### 58-2.6 PUBLIC NOTIFICATION OF A STATE OF WATER SUPPLY CONSERVATION.

Notification of any provision, restriction, or condition imposed by the Town as part of a State of Water Supply Conservation shall be published in a newspaper of general circulation within the Town, or by such means reasonably calculated to reach and inform all users of water of the State of Water Supply Conservation. Any restriction imposed under Section 58-2.5 shall

not be effective until such notification is provided. Notification of the State of Water Supply Conservation may also be simultaneously provided to the Massachusetts Department of Environmental Protection.

#### 58-2.7 TERMINATION OF A STATE OF WATER SUPPLY CONSERVATION.

A State of Water Supply Conservation may be terminated by a majority vote of the Board of Water Commissioners, upon a determination that the conditions requiring the State of Water Supply Conservation no longer exists. Public notification of the termination of a State of Water Supply Conservation shall be given in the same manner required by Section 58-2.6.

All water usage restrictions issued by the Board pursuant to the Bylaw shall be superseded by water usage restrictions issued by the DEP under its declaration.

#### 58-2.8 STATE OF WATER SUPPLY EMERGENCY.

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

#### 58-2.9 PENALTIES.

Any person violating any Section of this Bylaw shall be liable to the Town in the amount listed below:

- a) First Violation: Warning
- b) Second Violation: \$50.00
- c) Third Violation: \$100.00
- d) Fourth and subsequent Violations: \$300.00

The fines and charges shall inure to the Town. Fines shall be recovered by indictment or on complaint before the District Court, or by non-criminal disposition in accordance with section 21D of Chapter 40 of the General Laws. For purposes of non-criminal disposition, the enforcing person shall be any Police Officer of the Town or the Water Superintendent. Each day of violation within a declared State of Water Supply Conservation or State of Water Supply Emergency shall constitute a separate offense.

#### 58-2.10 RIGHT OF ENTRY.

Entrance to any Building, Dwelling or Business Property shall be restricted as follows:

- a) Public Buildings may only be entered during normal business hours and in areas normally available to the general public, or upon the order of a Court of Law having jurisdiction.
- b) Private property may be entered only with the advice and consent of the owner, or upon the order of a Court of Law having jurisdiction.

#### 58-2.11 SEVERABILITY.

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

(Art. 43, 5/2/2000, Art. 28, 5/6/2008)

58-3

**AUTOMATIC LAWN SPRINKLER BY-LAW**

58-3.1 REGISTRATION.

All automatic lawn sprinkler systems connected to the municipal water system in the Town of Topsfield shall be registered with the Board of Water Commissioners. A fee may be charged for this registration. Registration fees shall be set by the Board of Water Commissioners.

All sprinkler systems subject to this Bylaw shall be plumbed so that a shut off valve is located outside the building and situated so that it may be shut off if found to be in violation of this Bylaw and/or the Water Use Restriction Bylaw. For the purposes of this section only, Police Officers of the Town and/or Agents of the Board of Water Commissioners may enter upon any property to enforce this section.

58-3.2 BACKFLOW PREVENTION.

All automatic lawn sprinkler systems connected to the municipal water system in the Town of Topsfield shall be protected from a backflow condition by the installation of a backflow prevention device approved by the Board of Water Commissioners. Each backflow prevention device shall be registered with the Board of Water Commissioners. A fee may be charged for this registration. Registration fees shall be set by the Board of Water Commissioners.

The Board of Water Commissioners shall maintain a list, available to the Public, of approved backflow prevention devices.

Each backflow prevention device shall be installed in accordance with Massachusetts General Law and the manufacturers instructions. Each device shall be tested upon it's installation and annually thereafter, in accordance with Massachusetts General Law. A Massachusetts Certified Backflow Device Tester shall perform all testing. Copies of results of all testing shall be filed with the Water Department.

58-3.3 RAIN SENSOR DEVICE.

Installation of new automatic lawn sprinkler systems connected to the municipal water supply in the Town of Topsfield shall be equipped with a rain sensor device, approved by the Board of Water Commissioners, so that watering will be automatically prevented during rain storms.

Any service or repair to an existing automatic lawn sprinkler system shall include the installation of an approved rain sensor device, if the same is not already installed and in good working condition.

The Board of Water Commissioners shall maintain a list, available to the Public, of approved rain sensor devices.

58-3.4 ENFORCEMENT.

This Bylaw may be enforced using the Non-Criminal Disposition Bylaw. The enforcing person shall be any Police Officer of the Town as well as duly appointed Agents of the Board of Water Commissioners.

The non-criminal penalties for violations of the Bylaw shall be:

- |    |                                 |          |
|----|---------------------------------|----------|
| a) | First Violation                 | Warning  |
| b) | Second Violation                | \$50.00  |
| c) | Third and subsequent Violations | \$100.00 |

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

58-3.5 SEVERABILITY.

The invalidity of any portion or provision of the Bylaw shall not invalidate any other portion or provision thereof.

(Art. 43, 5/2/2000)

## **CHAPTER LVII**

### **RECREATIONAL VEHICLE** **OVERNIGHT PARKING BAN BY-LAW**

#### 57.1 NO OVERNIGHT STREET PARKING OF CERTAIN RECREATIONAL VEHICLES.

That there shall be no parking on Topsfield streets between midnight and 5:00 AM of recreational vehicles (or other vehicles) that have sleeping facilities, such as Motor Homes or 'Winnebago' – type vehicles which are greater than twenty (20) feet in length. (Art. 45, 5/3/2000)



## **CHAPTER LV**

### **TOPSFIELD SCENIC ROAD BY-LAW**

55-1. In accordance with this bylaw and the Scenic Roads Act, G.L.c.40, §15C, alterations or improvements along a designated scenic road shall not involve or include the cutting or removal of trees, or the tearing down or destruction of stone walls, or portions thereof, except with the prior written consent of the Planning Board. Furthermore, public shade trees shall not be cut, trimmed or removed, in whole or in part, by any person without the expressed permission of the Tree Warden or his designee.

#### 55-2. Permit Granting Authority

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

55-3. Permits for the alteration and/or relocation of stone walls or of trees along Topsfield's scenic roads may be granted by the Planning Board after a public hearing. Applicants for such permits shall apply to the Planning Board in writing. A plan demonstrating the scope of the proposed work and plans to reconstruct the wall(s) and replant trees along with the written approval of the Tree Warden shall be provided with the application. A public hearing shall be held following notification of abutters and advertising of said hearing twice in a local newspaper, as to time, date, place and purpose, the last publication to occur at least seven days prior to such hearing.

55-4. All permit granting authorities shall notify the Planning Board of any application to perform work adjacent to a scenic road, and the Planning Board shall determine whether a permit under this by-law is required.

55-5. Without waiving any other enforcement authority, violations of the Scenic Road By-law may be subject to a penalty and punishable by a fine of up to \$300 for the initial violation in accordance with a notice of violation sent by the Planning Board. In addition, the property owner or whoever is responsible for the violation shall be required within a reasonable amount of time but not less than sixty 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.

The failure of the property owner to restore or mitigate as directed by the Planning Board shall be deemed a subsequent violation for which the Planning Board may assess further penalties of up to \$300 for each subsequent violation. Each day that a subsequent violation continues shall constitute a subsequent and separate violation.

55-6. This bylaw may be enforced by the Planning Board, its agent, or any Police Officer of the Town of Topsfield, by any available means in law or equity, including but not limited to enforcement by non-criminal disposition pursuant to M.G.L. Chapter 40, §21D. Each day a violation exists shall constitute a separate violation. When enforced through non-criminal disposition, unless otherwise specifically provided for by bylaw, rule or regulation, the penalties shall be as follows:

First violation:	\$25.00
Second violation:	\$50.00
Third violation:	\$100.00
Fourth and subsequent violations:	\$200.00 "

(Art. 28, 5/4/2010 ~ 6)

55-7. All the clauses of this bylaw are distinct and severable, and if any clause shall be deemed illegal, void, or unenforceable, it shall not affect the validity, legality, or enforceability of any other clause or portion of this bylaw.

(Art. 27, 5/4/04)

**Editor's Note:**

A listing of Topsfield roads designated scenic roads may be found in the document entitled **Town Ways**, which is on file in the Office of The Town Clerk.

## **CHAPTER LIV**

### **UNREGISTERED MOTOR VEHICLE BY-LAW**

#### **54-1 KEEPING OF UNREGISTERED MOTOR VEHICLES PROHIBITED.**

54-1.1 Prohibition; Exception. The keeping of more than one (1) unregistered motor vehicle, assembled or disassembled, except by a person licensed under GLc 140 ~ 59, on any premises shall not be permitted unless the vehicles are stored within an enclosed building. (Art. 3, 11/23/65; Art. 21, 3/3/69)

#### **54-2 PERMIT REQUIRED TO KEEP MORE THAN ONE UNREGISTERED VEHICLE.**

A permit to keep more than one (1) unregistered motor vehicle on any premises not within an enclosed building after a duly called public hearing to which all abutters to the premises have received notice may be granted by the Board of Selectmen if it finds that such keeping is:

- a. In harmony with the general purposes and intent of this By-Law;
- b. Will not adversely affect the neighborhood; and
- c. Will not be a nuisance.  
(Art. 3, 11/23/65; Art. 21, 3/3/69)

#### **54-3 RESTRICTIONS.**

All such permits shall limit the number of unregistered motor vehicles to be kept on the premises by the permit holder, shall not run with the land and shall be limited to a reasonable length of time. (Art. 3, 11/23/65; Art. 21, 3/3/69)

#### **54-4 EXCEPTION FOR FARM VEHICLES.**

This By-Law shall not apply to motor vehicles which are designed for and used for farming purposes. (Art. 3, 11/23/65; Art. 21, 3/3/69)

#### **54-5 VIOLATIONS, PENALTIES.**

Whoever violates any provision of this section of the By-Law shall be liable to penalty of five (\$5.00) dollars per day for each day of violation, commencing ten (10) days following the date of receipt of written notice of such violation from the Board of Selectmen. (Art. 3, 11/23/65; Art. 21, 3/3/69)

**CHAPTER LIII**  
**UNDERGROUND PETROLEUM PRODUCT STORAGE**  
**TANK SYSTEM BY-LAW<sup>i</sup>**

ARTICLE I  
Preamble

53-1 PREAMBLE.

53-1.1 Purpose. The purpose of the Underground Petroleum Product Storage Tank System By-Law, hereinafter called the "By-Law", is to protect the safety and welfare of the inhabitants of Topsfield by minimizing the danger of explosion or fire from leaks or discharges of petroleum products from underground petroleum product storage tank systems and by ensuring that no such leakage or spillage is discharged into the groundwater thereby contaminating Topsfield's sole source of potable water. (Art. 25, 5/6/86 [A 1 ~ 1])

53-1.2 Authority. The adoption and administration of the By-Law is authorized pursuant to GLc 148 ~ 9 and 13 and to GLc 40 ~ 21 as amended. (Art. 25, 5/6/86 [A 1 ~ 2])

53-1.3 Applicability. The By-Law shall apply to all underground tank systems containing flammable petroleum products which are presently located within the jurisdiction of the By-Law and to all underground tank systems installed after the date of its adoption. Underground storage of liquefied petroleum gases such as propane or natural gas and nonflammable chemicals listed in the Massachusetts Substance List compiled under the applicable provisions of GLc 111F, as amended, shall not be permitted within the jurisdiction of the By-Law. (Art. 25, 5/6/86 [A 1 ~ 3])

ARTICLE II  
Definitions

53-2 DEFINITIONS.

53-2.1 Abandoned. Abandoned shall mean out of service or operation for a continuous period in excess of six (6) months for underground tanks licensed under the provisions of GLc 148 ~ 13 and in excess of two (2) years for underground tanks exempt from above license. (Art. 25, 5/6/86 [A II])

53-2.2 Applicant. Applicant shall mean any person who submits an application for a permit to install and maintain, or to discontinue the operation of an underground tank in Topsfield. (Art. 25, 5/6/86 [A II])

53-2.3 Local Licensing Authority. Local Licensing Authority shall mean the Topsfield Fire Chief or his authorized deputy in his absence. (Art. 25, 5/6/86 [A II])

53-2.4 All Other Terms. All other terms used in the By-Law shall have the meaning as provided in 527 CMR 9.02 as amended. (Art. 25, 5/6/86 [A II])

ARTICLE III  
Permit Procedure

53-3 PERMIT PROCEDURE.

Every person intending to install, maintain, or discontinue the operation of an underground petroleum product storage tank system, hereinafter called an "Underground Tank", shall secure the necessary permits from the Local Licensing Authority. (Art. 25, 5/6/86 [A III])

53-3.1 Permit to Maintain Underground Tanks.

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

1. The owner of every underground tank in Topsfield installed prior to May 9th, 1986 has complied with the provisions set forth in 527 CMR 9.24, (3)(a).

2. Owners and operators of underground tanks exempted from the reporting requirement under the provisions of 527 CMR 9.24 (d) shall have the underground tank tested for tightness in accordance with the provisions of 527 CMR 9.18, (2), (3), and (4) as applicable.

3. Underground tanks used exclusively for farm or residential purposes with a total capacity of less than 1100 gallons installed after the date of adoption of the By-Law shall be tested for tightness in accordance with the schedule contained in 527 CMR 9.18, (4), unless they are of the double wall type as set forth in 527 CMR 9.16, (3).

4. The Local Licensing Authority may require the installation of observation wells at underground tank sites which are located in areas of high environmental risk as a result of the presence of sole-source aquifers or surface water supplies. (Art. 25, 5/6/86 [A III ~ 1])

53-3.2 Permit to New Underground Tanks.

a. Plans. An applicant who wishes to obtain a permit to install an underground tank shall submit to the Local Licensing Authority the following information in addition to that required under the provisions of 527 CMR 9.24, (2):

1. A site plan drawn at a scale of no larger than one (1) inch equals twenty (20) feet.

2. A locus map drawn at a scale of one (1) inch equals six-hundred (600) feet.

3. A cross-sectional representation of the underground tank (or tanks) inclusive of its bedding, piping, and leak detection system. The plan shall show the location of all man made features inclusive of buildings, parking lots, driveways or other permanent structures within two hundred (200) feet of the underground tank site. The plan shall also show natural features such as brooks, wetlands, ponds, or open water within five-hundred (500) feet of the underground tank site. The plan shall show all sources of potable water within three-hundred (300) feet of the tank site.

4. The plan shall be stamped with the seal of a registered civil engineer licensed to practice in the Commonwealth of Massachusetts and shall bear his signature. The plan shall bear the engineer's certificate that the design of the underground tank installation is in compliance with the recommendations of its manufacturer and all applicable provisions of 527 CMR 9.00 as amended.

5. The plan shall show that the underground tank is secured to a reinforced concrete foundation by means or devices that do not break or abrade the outer coating of the tank.

6. Where the underground tank is to be installed within three-hundred (300) feet of the border of land under the jurisdiction of the Topsfield Board of Water Commissioners or within three hundred (300) feet of a private potable water well or other source of potable water, the plan shall show the installation to consist of approved double-walled tanks with an interstitial monitoring system and a liquid removal port.

b. Submission of Plans. Copies of the above plan together with form T, which shall be available at the Town Clerk's office and appended to the By-Law, shall be sent to the Board of Health, the Conservation Commission, the Inspector of Buildings, and the Board of Water Commissioners.

The application for a permit to install and maintain an underground tank shall be sent to the Local Licensing Authority together with a copy of the aforementioned plan and certificate that the respondent boards, commission, and agent have received form T and copies of said plan.

The Board of Health, the Conservation Commission, the Board of Water Commissioners, and the Inspector of Buildings shall review the plan and indicate on form T approval or disapproval of said plan. In the event of disapproval, the Boards, Commission or Agent shall cite wherein the plan is in violation of local By-Laws, rules and regulatory codes.

Form T containing the Boards', Commissions' or Agents' approval or disapproval shall be returned to the Local Licensing Authority within thirty-five (35) days of receipt of form T. Failure to return form T within thirty-five (35) days of receipt of the form and plans shall constitute constructive approval of the plan.

c. Public Hearing. In the event of a disapproval by anyone of the plan review respondents, the Local Licensing Authority shall hold a public hearing at a time and date which is subject to advertisement in a newspaper of substantial local circulation at least one (1) week prior to the hearing date. At that hearing the reasons for the disapproval shall be reviewed and proposed remedies examined.

The disapproving Board, Commission or Agent shall determine within twenty (20) days of the closing of the above said hearing whether or not the proposed remedies will eliminate the reasons for the disapproval of the proposed installation. The Board, Commission, or Agent may approve or disapprove the proposed plan on the basis of the above determination only no other reasons for a subsequent disapproval of the plan may be considered by the Local Licensing Authority.

d. Issuance of Permit. The Local Licensing Authority shall issue a permit to the applicant for the construction of an underground tank within forty-five (45) days of the receipt of the application in the event that no Board, Commission or Agent has disapproved the plan. The Local Licensing Authority shall issue or deny issuance of the permit within thirty-five (35) days of the close of the public hearing. The Local Licensing Authority may not issue a permit for the installation of the proposed Underground Tank unless it has obtained approval from all respondent Boards, Commissions, and Agents.

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

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

g. Approval to Commence Service. The Local Licensing Authority shall approve the commencement of service of the new underground tank provided that the provisions of subsections 53-3.3e and 53-3.3f have been met to the satisfaction of the Local Licensing Authority. (Art. 25, 5/6/86 [A III ~ 2.0])

### 53-3.3 Permit to Reinstate Service of Underground Tanks.

a. Underground Tanks Temporarily Removed from Service. Prior to the restoration of service of a tank removed from service in accordance with the provisions of 527 CMR 9.21, (3) as amended, the owner or operator of said tank shall have it tested for tightness in accordance with all applicable provisions of 527 CMR 9.18 as amended, except that the Local Licensing Authority may waive the above requirement where in their opinion such a test is not required. (Art. 25, 5/6/86 [A III ~ 3a])

### 53-4 ENFORCEMENT AND ADMINISTRATION.

53-4.1 Fines. Any owner or operator who violates any provision of the By-Law shall be subject to a fine not to exceed three hundred (\$300.00) dollars for each offense. Each day during which such violations continue shall constitute a separate offense. (Art. 25, 5/6/86 [A IV ~ 1.0])

53-4.2 Legal Action. This By-Law may be enforced, pursuant to GLc 40 ~ 21D, by a Police Officer or any other Officer with Police power. The penalty for such noncriminal enforcement shall be fifty (\$50.00) dollars per violation. Upon request by the Local Licensing Authority, the Board of Selectmen shall take such legal action as may be necessary to enforce the provisions of the By-Law. (Art. 25, 5/6/86 [A IV ~ 2.0])

53-4.3 Revocation of Permit. In the event of any violation of the provisions of the By-Law, the Local Licensing Authority may instead of or in addition to the fines and legal action prescribed in subsections 53-4.1 and 53-4.2 revoke or suspend the permit to maintain the underground tank. An underground tank installed and maintained or maintained without required permits may be ordered to be removed at the owner's expense by the Local Licensing Authority.

In the event of an order to remove a tank, the Local Licensing Authority shall hold a public hearing on the proposed order and give the owner notice of such at least ten (10) days in advance of the date of the hearing by certified mail, and shall record its decision in writing with a statement of the reasons for it. (Art. 25, 5/6/86 [A IV ~ 3.0])

53-4.4 Rules and Regulations. The Local Licensing Authority may issue rules and regulations relative to the administration of the By-Law. All rules and regulations in effect on the date of the adoption of the By-Law and not inconsistent with same or with 527 CMR 9.00 shall remain in effect unless amended by the Local Licensing Authority. (Art. 25, 5/6/86 [A IV ~ 4.0])

### 53-5 SEVERABILITY.

The invalidity of any provision of the By-Law shall not affect the validity of the remainder. (Art. 25, 5/6/86 [A V])

APPENDIX TO CHAPTER LIII

FORM T

Departmental Review of Underground Tank Installation Plan

TO: Board of Health  
Conservation Commission  
Inspector of Buildings  
Board of Water Commissioners  
Topsfield, MA \_\_\_\_\_, 19

FROM: \_\_\_\_\_  
Applicant's Name, Address

SUBJECT: \_\_\_\_\_  
Description of Plan, Date

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

TO: Local Licensing Authority (Topsfield Fire Chief)

DATE: \_\_\_\_\_

SUBJECT: \_\_\_\_\_  
Description of Plan, Date

The undersigned hereby

\_\_\_\_\_ approves said plan

\_\_\_\_\_ disapproves said plan\*

This plan has been disapproved for the following reasons:

Signed \_\_\_\_\_  
Board, Commission, or Agent

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

<sup>i</sup> Editor's Note: This By-Law has an effective date of April 13, 1987.



## Chapter LII

### Litter By-Law

No person shall throw, discard, deposit, or abandon upon any public way or other property owned by the Town or on the property of another any litter, except in a designated waste receptacle or as may otherwise be directed by the Town or the property owner. For purposes of this bylaw, the term "litter" shall include but is not limited to: paper wrappers; paper bags; paper towels or napkins; paper or plastic cups; cup lids; plastic bags; plastic or glass bottles; beverage cans; cigarette butts; cigarette packs; gum packs; tissues; fruit skins and containers; and any other items that would be considered trash.

#### Enforcement:

The provisions of this bylaw may be enforced by any Police Officer of the Town of Topsfield, by any available means in law or equity, including but not limited to enforcement by non-criminal disposition pursuant to MG.L. c. 40 § 21D. Each day a violation exists shall constitute a separate offense. For the purposes of non-criminal disposition, the following fine schedule shall apply:

First Offense: \$ 50

Second and each subsequent offense: \$ 100. (Article 31, 5/5/2009)

**CHAPTER LI**  
**STORMWATER MANAGEMENT AND EROSION CONTROL BY-LAW**

It is hereby determined that:

Land development projects and other land use conversions, and their associated changes to land cover, permanently alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, which in turn increase flooding, stream channel erosion, and sediment transport and deposition, and decrease groundwater recharge;

Land development projects and other land use conversions also contribute to increased nonpoint source pollution and degradation of receiving waters;

The impacts of construction site/alteration and post-development stormwater runoff quantity and quality can adversely affect public safety, public and private property, surface water drinking water supplies, groundwater resources, drinking water supplies, recreation, aquatic habitats, fish and other aquatic life, property values and other uses of lands and waters;

These adverse impacts can be controlled and minimized through the regulation of stormwater runoff quantity and quality from construction site/alteration, new development and redevelopment, by the use of both structural and nonstructural Best Management Practices;

Localities in the Commonwealth of Massachusetts are required to comply with a number of both State and Federal laws, regulations and permits which require a locality to address the impacts of construction site/alteration runoff, post-development stormwater runoff quality and nonpoint source pollution.

Therefore, the Town of Topsfield has established this stormwater management bylaw to provide reasonable guidance for the regulation of construction site/alteration and post-development stormwater runoff for the purpose of protecting local water resources from degradation. This bylaw regulates the construction site/alteration and post-construction stormwater controls for both new and re-development projects.

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

**51-1 PURPOSES**

a. The purposes of this Bylaw are to: 1) protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff and nonpoint source pollution associated with new development and redevelopment; 2) Protect, maintain, and enhance the public safety, environment and general welfare by establishing minimum standards and procedures to control runoff and prevent soil erosion and sedimentation resulting from construction/alteration and development.

b. It has been determined that proper management of construction site/alteration and post-development stormwater runoff will minimize damage to public and private property and infrastructure, safeguard the public health, safety, environment and general welfare of the

public, protect water and aquatic resources, and promote groundwater recharge to protect surface and groundwater drinking supplies.

This Bylaw seeks to meet that purpose through the following objectives:

1. Establish decision-making processes surrounding land development activities that protect the integrity of the watershed and preserve the health of water resources;
  2. Require that new development, redevelopment and all land conversion activities maintain the after-development runoff characteristics as equal to or less than the pre-development runoff characteristics in order to reduce flooding, stream bank erosion, siltation, nonpoint source pollution, property damage, and to maintain the integrity of stream channels and aquatic habitats;
  3. Establish minimum construction/alteration and post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality; Establish minimum design criteria for the protection of properties and aquatic resources downstream from land development and land conversion activities from damages due to increases in volume, velocity, frequency, duration, and peak flow rate of stormwater runoff; Establish minimum design criteria for measures to minimize nonpoint source pollution from stormwater runoff which would otherwise degrade water quality;
  4. Establish design and application criteria for the construction and use of structural stormwater control facilities that can be used to meet the minimum construction/alteration and post-development stormwater management standards;
  5. Encourage the use of nonstructural stormwater management, stormwater better site design practices or “low-impact development practices”, such as reducing impervious cover and the preservation of greenspace and other natural areas, to the maximum extent practicable; Coordinate site design plans, which include greenspace, with the Town’s greenspace protection plan;
  6. Establish provisions for the long-term responsibility for and maintenance of structural stormwater control facilities and nonstructural stormwater management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety;
  7. Establish provisions to ensure there is an adequate funding mechanism, including surety, for the proper review, inspection and long-term maintenance of stormwater facilities implemented as part of this Bylaw;
  8. Establish administrative procedures for the submission, review, approval or disapproval of stormwater management plans, and for the inspection of approved active projects, and long-term follow up; Establish certain administrative procedures and fees for the submission, review, approval, or disapproval of stormwater plans, and the inspection of approved projects.
- c. Nothing in this Bylaw is intended to replace the requirements of either, the Town of Topsfield Flood Plain Zoning Bylaw, the Town of Topsfield General Wetlands Protection Bylaw, or any other Bylaw that may be adopted by the Town of Topsfield. Any activity subject to the provisions of the above-cited Bylaws must comply with the specifications of each.

## 51-2 DEFINITIONS

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

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

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

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

**COMMON PLAN OF DEVELOPMENT:** A common plan of development is a contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under on plan. (Art. 39, 5/5/15)

**HOTSPOT:** Land uses or activities with higher potential pollutant loadings, inclusive of auto salvage yards, auto fueling facilities, fleet storage yards, commercial parking lots with high intensity use, road salt storage areas, commercial nurseries and landscaping, outdoor storage and loading areas of hazardous substances, or marinas. (Art. 31, 5/1/12)

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

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

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

**PERSON:** Any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to Town Bylaws, administrative agency, public or quasi-public corporation or body, the Town of *Topsfield*, and any other legal

entity, its legal representatives, agents, or assigns.

**POORLY DRAINED SOILS:** Poorly drained soils shall have the meaning as contained in the list of definitions set forth in the glossary under the heading of “drainage class” in the **Soil Survey of Essex County, Massachusetts - Northern Part** prepared by the US Department of Agriculture, Soil Conservation Service – Donald Fuller, editor, first printed 1981 and following editions. Poorly drained soils shall include all such soils listed as “moderately poorly drained, poorly drained, and very poorly drained” as well as soils that contain a fragipan layer in the section entitled Soil series and Morphology beginning on page 75 and ending on page 101 of the **Soil Survey of Essex County, Massachusetts – Northern Part**. (Art. 31, 5/1/12)

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

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

**RECHARGE:** The replenishment of underground water reserves.

**REDEVELOPMENT:** Any construction, alteration, or improvement of land that has been subject to previous development. (Art. 31, 5/1/12)

**SLOPE:** The vertical rise divided by the horizontal distance and expressed as a fraction or percentage, e.g. one-fifth (1/5) or twenty (20) percent.”

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

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

### 51-3 AUTHORITY

This Bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34, and as authorized by the residents of the Town of Topsfield at Town Meeting, dated May 3, 2005 and as amended at the May 1, 2012 Annual Town Meeting. (Art. 31, 5/1/12)

### 51-4 ADMINISTRATION

- a. The Planning Board, shall administer, implement and enforce this Bylaw. Any powers granted to or duties imposed upon the Planning Board may be delegated in writing by the

Planning Board to its employees or agents.

- b. **Stormwater Regulations.** The Planning Board may adopt, and periodically amend, rules and regulations relating to the terms, conditions, definitions, enforcement, fees (including application, inspection, and/or consultant fees), procedures and administration of this Stormwater Management Bylaw by majority vote of the Planning Board, after conducting a public hearing to receive comments on any proposed rules and regulations, or revisions thereto. Such hearing dates shall be advertised in a newspaper of general local circulation, at least fourteen (14) days prior to the hearing date. The Planning Board may promulgate rules and regulations to effectuate the purposes of this Bylaw. Failure by the Planning Board to promulgate such rules and regulations or a legal declaration of their invalidity by a court shall not act to suspend or invalidate the effect of this Bylaw.
- c. **Stormwater Management Manual.** The Planning Board will utilize the policy, criteria and information including specifications and standards of the latest edition of the Massachusetts Stormwater Management Policy, for execution of the provisions of this Bylaw. This Policy includes a list of acceptable stormwater treatment practices, including the specific design criteria for each stormwater practice. The Policy may be updated and expanded periodically, based on improvements in engineering, science, monitoring, and local maintenance experience. Unless specifically altered in the Stormwater Regulations, stormwater management practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to be protective of Massachusetts's water quality standards.
- d. **Actions by the Planning Board.** The Planning Board may take any of the following actions as a result of an application for a Stormwater Management Permit as more specifically defined as part of Stormwater Regulations promulgated as a result of this Bylaw: Approval, Approval with Conditions, Disapproval, or Disapproval without Prejudice.
- e. **Appeals of Action by the Planning Board.** A decision of the Planning Board shall be final. A decision by the Planning Board made under this Bylaw shall be reviewable in the Court.

#### 51-5 STORMWATER MANAGEMENT PERMIT REQUIREMENT

- a. **Applicability**

No person shall alter land within the Town of Topsfield including without limitations any new development or redevelopment, other activity that will alter the drainage characteristics of a parcel of land or an activity that may result in stormwater flowing from the parcel under development on to an adjacent parcel of land without obtaining a Stormwater Management Permit, unless exempt pursuant to Section 51-5(b) of this Bylaw. In addition, any alteration or redevelopment of a hotspot, or conversion of land to a hotspot shall require a Stormwater Management Permit and shall not be subject to the exemptions set forth in Section 51-5(b) of the Bylaw. (Art. 31, 5/1/12) (Art 39, 5/5/15)

- b. **Exemptions**

The following activities shall be exempt from the requirement to obtain a Stormwater Management Permit. The exemptions in b.1 and 2 below shall not be applied to projects entirely or in any part on poorly drained soils, or for projects consisting of the installation of any drain system designed to transport stormwater or groundwater beyond the boundaries of the property on which it is located. The exemptions in b.1 and b.2 shall also not apply to an activity that is part of a common plan of development that,

considered as a whole, would alter an area greater than the area permitted by b.1 and b.2 below. In applying the exemptions in b.1 and b.2 below, the area subject to alteration pursuant to such exemptions may not exceed, in the aggregate, 7,500 square feet. (Art. 31, 5/1/12) (Art. 39, 5/5/15)

1. Any activity that will alter an area of 7500 square feet or less of land where the existing or proposed slopes are both less than 15 %; (Art. 31, 5/1/12)
2. Any activity that will alter an area of 4000 square feet or less of land where the existing or proposed slopes are between 15% and 25%, inclusive; (Art. 31, 5/1/12)
3. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04 and MGL Chapter 40A Section 3;
4. Maintenance of existing landscaping, gardens or lawn areas associated with a single family dwelling; construction of patios, walkways, driveways less than the minimum square foot thresholds, swimming pools below the minimum square foot thresholds, or replacement of wells or septic systems on lots having an existing dwelling;
5. Repair or replacement of an existing roof of a single-family or multi-family dwelling;
6. The construction of any fence that will not alter existing terrain or drainage patterns;
7. Construction of utilities (gas, water, electric, telephone, etc.) other than drainage, which will not alter terrain, ground cover, or drainage patterns, the reconstruction of or resurfacing of any public way; the construction and associated grading of a street that has been approved by the Planning Board;
8. For the removal of earth products undertaken in connection with a sand, gravel or similar enterprise where such activity is allowed by zoning;
9. Emergency repairs to any utilities (gas, water, electric, telephone, etc.), stormwater management facility or practice that poses a threat to public health or safety, or as deemed necessary by the Planning Board;
10. Any work or projects for which all necessary approvals and permits have been issued before the effective date of this Bylaw.
11. Deleted (Art. 31, 5/1/12)

#### 51-6 PROCEDURES

Permit Procedures and Requirements shall be defined and included as part of any rules and regulations promulgated as permitted under Section 51-4 of this Bylaw.

#### 51-7 ENFORCEMENT

The Stormwater Coordinator, the Planning Board or an authorized agent of the Planning Board shall enforce this Bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations. Enforcement shall be further defined and included as part of any Stormwater regulations promulgated as permitted under Section 51-4 of this Bylaw. This bylaw may also be enforced by the Planning Board, its agent, or any Police Officer of the Town of Topsfield, by any available means in law or equity, including but not limited to enforcement by non-criminal disposition pursuant to M.G.L. Chapter 40, §21D. Each day a violation exists shall constitute a separate violation. When enforced through non-criminal

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

First violation:	\$25.00
Second violation:	\$50.00
Third violation:	\$100.00
Fourth and subsequent violations:	\$200.00

(Art. 29, 5/4/2010 ~ 7; Art. 31, 5/1/12)

#### 51-8 SEVERABILITY

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

(Art. 44, 5/3/2005)



## **CHAPTER L**

### **SNOW REMOVAL BY-LAW**

#### **50-1 PLOWING OR PUSHING SNOW INTO STREETS OR SIDEWALKS PROHIBITED.**

No person except an agent of the Town of Topsfield shall plow, push, throw or otherwise relocate snow or ice from private land onto a public way and/or sidewalk. According to the provisions of GLc 40 ~ 21D, any person violating this By-Law shall be deemed guilty of a misdemeanor, and shall be punished by a fine of twenty-five (\$25.00) dollars for the first offense, and fifty (\$50.00) dollars for each subsequent offense. (Art. 29, 5/3/94)

## **CHAPTER XLIX**

### **SOIL REMOVAL BY-LAW**

#### **49-1 GENERAL.**

49-1.1 Permit to Remove Required. The removal of sod, loam, soil, sand, gravel, or stone (herein referred to as material) from any land in Topsfield not in public use is hereby prohibited except as allowed by issuance of a permit under the provisions of this By-Law.

#### **49-1.2 Violations; Penalty Established.**

a. For violation of this section or Section 49-4 of this By-Law, the penalty shall be fifty (\$50.00) dollars for the first offense, one hundred (\$100.00) dollars for the second offense, and two hundred (\$200.00) dollars for each subsequent offense. Under this By-Law, each individual truckload removed will be considered a violation.

b. Topsoil will be retained on the property and re-spread by the property owner.

c. When, in the opinion of the Soil Removal Board, removal of topsoil from the property is necessary, a special permit conforming with all provisions of this By-Law may be issued, provided that such removal is to some other location within the Town.

#### **49-2 SOIL REMOVAL BOARD.**

Exclusive jurisdiction to issue permits shall be in a Board known as the Soil Removal Board (herein referred to as the Board), the membership of which shall consist of three (3) members appointed by the Board of Selectmen for a period of one (1) year each; one (1) member from the Zoning Board of Appeals; one (1) member from the Conservation Commission; and one (1) member from the Planning Board

#### **49-3 PROCEDURES.**

a. To be considered for such permit, the applicant shall present to the Soil Removal Board the following items:

1. A subdivision plan approved by the Planning Board, or other plan showing ultimate use of the land conforming with the current Zoning By-Laws. Desirability as well as technical feasibility of such use of the land shall be considered in approval or disapproval of the plan.

2. A topographic chart in five (5) foot elevation increments indicating existing contours and proposed final contours.

3. A study and report indicating the effect of the proposed material removal on water tables and the effect of the resulting changes in water runoff on the height of all encompassed, bordering and downstream surface water. Effect on both the lowest and highest water levels occurring during the year shall be considered by this study. This report shall be reviewed by the Soil Conservation Service of the Essex County Conservation District or other authority acceptable to the Board and shall be submitted to the Board along with the written recommendations of the reviewing agency, such recommendations to be made a part of the records of the Board. This requirement shall apply only when the working area, when combined with any previously worked area on the premises, exceeds one (1) acre.

4. A complete list of the names and addresses of all current abutters of the property where such removal is proposed.

5. The names of all contractors authorized by the owner to remove material from the property.

6. The proposed entrance and egress from the property and routes within the Town.

b. No permit shall be issued until the above requirements in Section 49-3 a.1-6. are met.

c. In the event that the above information is shown to be inaccurate or incomplete, the permit shall be suspended until all provisions have been met.

d. Prior to issuance of any permit, a public hearing shall be held. Before such public hearing, the applicant shall file all the above required information with the Board, which documents shall be a public record. Written notice of the public hearing shall be given each abutter, the Conservation Commission, and the Planning Board. Notice shall be advertised in the newspaper of widest circulation in Topsfield at least ten (10) days before the hearing, with expenses to be borne by the applicant.

For purposes of determining abutters under this By-Law, all contiguous land registered under names of individuals, corporations or trusts having common interest shall be considered as a single parcel. All persons owning land having at least one (1) common boundary (including roads) with such single parcel shall be considered as abutters for purposes of this Bylaw.

#### 49-4 SAFEGUARDS.

The Board shall issue such permits for a period not to exceed one (1) year only upon conditions imposed, which in its discretion and judgment in each particular case, are especially designed to prevent personal injury and to safeguard the surrounding district and the Town against possible permanent and temporary injury to values in the district during or after operations are completed or caused by methods of handling such material at the site or caused by transporting such material through the Town. As minimum requirements, permits shall require that:

a. The following buffer areas be left in their natural state on the applicant's property during the life of the permit. All areas within:

1. Three hundred (300) feet of any street line;
2. Two hundred (200) feet of any other boundary line;
3. Six hundred (600) feet of any occupied dwelling.

Reduction in the width of buffers above is allowed, provided that written consent of the affected abutters and/or occupants and the written approval of the Planning Board and/or the Conservation Commission is first obtained and filed with the Board.

Once such buffer strip has been established, no removal of trees or other natural screening within such buffer strip shall be allowed until building construction in accordance with a duly issued building permit is started.

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

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

d. All final bankings shall be graded to a slope no steeper than one (1) foot vertical to two (2) feet horizontal.

e. Following material removal, topsoil shall be spread to a minimum depth of six (6) inches and seeded in accordance with the recommendations of the appropriate Soil District Supervisor and the County Extension Director, or their successors or other authorities acceptable to the Board. Their recommendations shall be made a part of the records of the Board.

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

g. Under no circumstances and at no time shall material be removed to an elevation less than six (6) feet above the maximum water table elevation.

h. A plan showing the location of all buried trees, stumps or other material subject to subsequent compacting by decay shall be filed with the Planning Board, the Building Inspector and the Board of Health.

i. No trees, stumps or other material subject to decay shall be buried at an elevation below the maximum water table.

j. A bond shall be posted with the Town Clerk and a covenant approved by the Town Counsel, with penal sum and surety satisfactory to the Soil Removal Board, conditioned upon the faithful performance by the applicant of the conditions of the permit. Such bond shall not be less than two thousand (\$2,000.00) dollars per acre of working area, i.e., any area in condition other than its natural state or reconditioned state in accordance with c, d. and e. above. Such bond money, if forfeited, shall be used to restore the property as required by this By-Law.

k. The working area shall not exceed five (5) acres at any given time.

#### 49-5 NOTICE OF VIOLATION; HEARING; REVOCATION OF PERMIT.

a. Upon verbal or written notification of violation of any conditions of the permit or of this By-Law to any member of the Board or to any member of the Topsfield Police Department, such member shall immediately investigate such claim of violation. If, in the opinion of the member or officer so notified, this or any other violation has been committed, the member shall be obligated and empowered to order immediate termination of material excavation and all related activity pending a formal hearing.

b. The Board shall, after due hearing and proof of violation of any term of the permit or this By-Law, revoke the permit. If said violation involves removal of material from the premises, all material shall be returned to proper grade or the penalties defined in subsection 49-1.2 of this By-Law shall be levied. If the infraction involves violation of the natural buffer areas, material and loam shall be replaced to the natural buffer areas, and trees destroyed shall be replaced with suitable trees of the size, type and spacing approved by the Conservation Commission. If all corrections cannot or are not made within a reasonable time stipulated by the Board, the bond will be forfeited and the penal sum provided therein paid to the Town.

c. This bylaw may be enforced by the Soil Removal Board, its agent, or any Police Officer of the Town of Topsfield, by any available means in law or equity, including but not limited to

enforcement by non-criminal disposition pursuant to M.G.L. Chapter 40, §21D. Each day a violation exists shall constitute a separate violation. When enforced through non-criminal disposition, unless otherwise specifically provided for by bylaw, rule or regulation, the penalties shall be as follows:

First violation:	\$25.00
Second violation:	\$50.00
Third violation:	\$100.00
Fourth and subsequent violations:	\$200.00

(Art. 30, 5/4/2010)

#### 49-6 EXCEPTIONS.

a. The provisions of this By-Law do not apply to removal of sand, gravel or stone:

1. Solely for the purposes of construction of foundations for buildings and other allowable structures for which building permits have been issued and for which the plot plan required by the Town Building Code for issuance of a building permit has been filed with the Board; such plan to contain not less than to scale size and location of all new construction and all existing structures on the site, distance from lot lines and the established street grades, and which shall be drawn in accordance with an accurate boundary line survey.

2. For construction on the premises of roads for which plans have been approved by the Planning Board and for which plans have been filed with the Board.

b. At any time that the Board determines that material removal is not solely for purposes of Sections 49-6 paragraph a. or 49-6 paragraph a.2, the Board shall require that a permit, in accordance with this By-Law, be obtained for any further removal and initial deviation from the requirements of this By-Law shall be treated under Section 49-5 Notice of Violation; Hearing; Revocation of Permit.

c. When said permit involves a working area of less than one (1) acre and also the removal of less than five hundred (500) cubic yards of material, the Board may waive the requirements of Section 49-3 paragraphs a., 2. and a., 3. and/or Section 49-4 paragraph j.

#### 49-7 WAIVER

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

(Art.7, 1/25/54; Art. 2,3 & 4, 11/15/54; Art. 40, 3/20/72; Art. 25, 5/1/07)

## **CHAPTER XLVIII**

### **RIGHT TO FARM BY-LAW**

#### **48-1 Purpose and Intent:**

The Town of Topsfield recognizes and endorses the right to farm accorded to all citizens of the Commonwealth under Article 97, of the Constitution, and all state statutes and regulations hereunder including but not limited to Massachusetts General Laws Chapter 40A, Section 3, Paragraph 1; Chapter 90, Section 9; Chapter 111, Section 125A and Chapter 128 Section 1A. Topsfield has a rich agricultural heritage continued by the current operation of farms that contribute to the character and economy of the Town. This By-law encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmlands within the Town of Topsfield by allowing agricultural uses and related activities to function with minimal conflict with abutters and Town agencies. This By-law shall apply to all jurisdictional areas within the Town.

The benefits and protections of this By-law are intended to apply exclusively to those commercial, agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. Said benefits and protections do not extend to the non-commercial, personal and/or occasional accessory keeping of farm animals or agricultural activities.

#### **48-2 Definitions:**

The word "farm" shall include any parcel or contiguous parcels of land, or water bodies used for the primary purpose of commercial agriculture, or accessory thereto. The words "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, aqua cultural, floricultural, viticulture, 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 keeping and raising of poultry, swine, cattle, ratites (such as emus, ostriches and rheas) and came lids (such as llamas and camels), and other domesticated animals for food and other agricultural purposes, including bees and fur-bearing animals.

"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. conducting agriculture-related educational and farm-based recreational activities, including agric-tourism, provided that the activities are related to marketing the agricultural output or services of the farm;
- e. processing and packaging of the agricultural output of the farm and the operation of a farmer's market or farm stand including signage thereto;
- f. maintenance, repair, or storage of seasonal equipment, or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management, or sale of the agricultural products; and
- g. on-farm relocation of earth and the clearing of ground for farming operations.

#### 48-3 Right To Farm Declaration:

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

#### 48-4 Protections:

The foregoing agricultural activities must conform with applicable federal and state laws and local by-laws, rules and regulations which regulate the lawful conduct of agricultural activities and specify the rights and obligations of the agricultural community, the Town, abutters, and the citizens of Topsfield. All applicable zoning, conservation, health, and animal inspection by-laws and rules and regulations take precedence over this By-law.

The provisions of this by-law shall not apply whenever an impact results from negligence or willful or reckless misconduct in the operation of any such agricultural or farming operation, place, establishment or facility, or any of its appurtenances. (Art. 37, 5-4-2005 - Effective 8/30/2005)

## **Chapter XLI**

### **PERSONNEL BY-LAW**

(As amended under Article Fifth of the Annual May 1, 2007 Town Meeting)  
Effective Date July 01, 2007

#### **Editor's Note:**

**The document entitled "Town of Topsfield Personnel Rules, Regulations and Procedures" is on file with the Topsfield Board of Selectmen and may be viewed and/or procured in said office. See Section 7.0 as to procedures of adoption of personnel rules and regulations and Section 10.0 as to effective dates of said adoptions.**

#### 1.0 Purpose and intent

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

#### 2.0 Statutory authority

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

#### 3.0 Applicability

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

#### 4.0 Effect on prior laws and other policies

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

#### 5.0 Personnel Director

- a. In accordance with Chapter II, Article X, section 67-1d of the Town Code, the Town Administrator shall be the Town's Personnel Director and shall administer the Town's Personnel By-Law. A classification plan;
- b. A compensation plan;
- c. Development of a centralized record keeping system;
- d. Personnel rules and regulations which indicate the rights and obligations of employees;
- e. Disciplinary procedures;
- f. Establishment of a Personnel Appraisal System
- g. And other elements that are deemed necessary.



## 7.0 Adoption of personnel rules and regulations

Personnel rules and regulations defining the rights, benefits and obligations of employees subject to this chapter shall be adopted or amended as follows:

### a. Preparation of rules and regulations.

1 The Personnel Director shall prepare proposed personnel rules and regulations. Any member of the Board of Selectmen, any appointing authority or any 2 or more employees may suggest rules and regulations for consideration by the Personnel Director. The Personnel Director need not consider any proposal already considered in the preceding 6 months.

2 Any person suggesting new or amended rules and regulations shall provide the substance and reason for the rule or regulation change in writing.

### b. Public meeting.

The Personnel Director shall hold a public meeting on suggested rules and regulations. Any suggested rules and regulations or amendments to rules and regulations shall be posted in the office of the Personnel Director and on the Town Clerk's bulletin Board at least 5 business days prior to the public meeting at which such suggestions are to be considered. The Personnel Director shall submit a copy of any suggested rules or regulations to the Board of Selectmen.

### c. Personnel Director action on suggested rules and regulations.

Within a reasonable period of time after the public meeting on any suggested rule or regulation, the Personnel Director shall determine if the suggested rules or regulations shall be recommended for adoption by the Board of Selectmen.

### d. Action by the Board of Selectmen.

The Personnel Director shall transmit any recommendations for the adoption of personnel rules and regulations or amendments in writing, including the text of any proposed rules and regulations, to the Board of Selectmen. The Board of Selectmen shall consider the recommendations of the Personnel Director and may adopt or reject the recommendations; provided, however, that if the Board of Selectmen fails to act, recommended rules and regulations shall be deemed adopted upon the expiration of 45 days from the date of transmittal of the recommendations to the Board of Selectmen.

### e. Posting of rules and regulations.

The Board of Selectmen shall cause the posting of the text of adopted rules and regulations in prominent work locations, and should distribute such amended rules and regulations to all employees.

### f. Official record.

The Personnel Director shall maintain a compilation of all personnel rules and regulations adopted by the Board of Selectmen. A copy of such compilation shall also be maintained by the Town Clerk.

## 8.0 Ad Hoc Personnel Advisors

The Personnel Director may appoint, to serve at the pleasure of the Director, one or more residents of the Town qualified with certain expertise and experience relevant to personnel issues, all of whom shall serve without

compensation, to assist said Director in an advisory capacity with respect to any personnel issues that the Personnel Director deems appropriate. (Art.31, 5/3/16)

## 9.0 Severability

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

## 10.0 Effective date

- a. This chapter shall take effect on July 1, 2007.
- b. Upon the effective date of this Bylaw, the personnel rules and regulations prepared in anticipation of the passage of this Bylaw, dated March 2007, and entitled "Town of Topsfield: Personnel Rules, Regulations and Procedures" shall become effective to the extent that such rules and regulations have been approved by the Board of Selectmen. Such personnel rules and regulations shall remain in full force and effect until amended or revised in accordance with 7.0 of this Bylaw and shall supersede other personnel rules and regulations that may be in effect.

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### Editor's Note:

The document entitled "Town of Topsfield Personnel Rules, Regulations and Procedures" is on file with the Topsfield Board of Selectmen and may be viewed and/or procured in said office.

## **CHAPTER XXX**

### **NON-CRIMINAL DISPOSITION ENFORCEMENT BY-LAW**

30-1 Violations of the provisions of the Board of Health's "Regulations Restricting Youth Access to Tobacco" may be enforced as provided for in the Massachusetts General Laws, Chapter 40, Section 21D. The designated enforcement officers of those regulations shall be the agents of the Board of Health. Said agents, as an alternative to initiating criminal proceedings, may give to the offender a written notice to appear before the clerk of the district court having jurisdiction thereof at any time during office hours, not later than twenty-one days after the date of such notice. 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 required appearance. Such notice shall be signed by the enforcing person, and shall be signed by the offender, whenever practicable in acknowledgement that such notice has been received. The notice shall be served and all the procedures followed as set out in said Massachusetts General Laws, Chapter 40, Section 21D, as amended. (Art. 33, 5/6/2003)

30-2 Violations of the provisions of section R-11: Food Code of the Board of Health's Rules and Regulations may be enforced by the Health Agent by a non-criminal complaint pursuant to the provisions of Massachusetts General Laws, Chapter 40, Section 21D. Each day a violation exists shall constitute a separate violation. When enforced through non-criminal disposition, unless otherwise specifically provided for by bylaw, rule or regulation, the penalties shall be as follows:

First violation:	\$25.00
Second violation:	\$50.00
Third and subsequent violations:	\$200.00

(Art. 27, 5/4/2010 ~ 2)

## **CHAPTER XXIX**

### **JUNK DEALERS BY-LAW**

#### 29-1. LICENSING OF JUNK DEALERS.

The Board of Selectmen may issue licenses for persons to be dealers and keepers of shops for the purchase, sale, or barter of junk, old metals, or second-hand articles. They may also issue licenses for junk collectors to collect, by purchase or otherwise, junk, old metals, and second-hand articles from place to place in the Town.  
(Art. V ~É1, 3/6/39)

## **CHAPTER XXVIII**

### **HUNTING AND TRAPPING BY-LAW**

#### **28-1 HUNTING AND TRAPPING REGULATIONS.**

28-1.1 Consent Required for Hunting, Trapping or Discharge of Firearms on Public or Private Property. No person shall hunt, trap or snare game or fire or discharge any firearm on any Town property without the written consent of the Board of Selectmen or on any private property except with the written consent of the owner or legal occupant thereof; and such consent shall be carried at all times by such person and upon request, it shall be shown to any Police Officer, game warden, or to any other local or State law enforcement official or to the property owner, legal occupant, or his agent.

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

This By-Law may be enforced pursuant to GLc 40 ~ 21D by any Police Officer of the Town. The penalty for such non-criminal enforcement shall be fifty (\$50.00) dollars per violation. (Art. 14, 11/25/59; Art. 42, 3/7/60; Art. 23, 5/13/75 [Art. XI])

## **CHAPTER XXVII**

### **HISTORIC DISTRICT BY-LAW<sup>i</sup>**

#### **27-1 HISTORIC DISTRICT ESTABLISHED.**

27-1.1 Metes and Bounds Listed. There is hereby established a Historic District under the provisions of the Historic Districts Act, GLc 40C, as amended, bounded and described as follows:

Beginning at a point on the southwesterly side of High Street marked with a granite bound on the corner between #31 and #33; thence 177 feet along the southeasterly line of #31 to another stone bound; thence 209 feet along the southwesterly line of #31 to another stone bound; thence 127 feet more or less, across Town property on which is located the fire station, to the southwest corner of #23 High Street; thence 107 feet along the southwesterly line of #23 and #95 feet by #21; thence 152 feet more or less along the southwesterly line of #17; thence 80 feet more or less along the southwesterly line of #11; thence 91 feet along the southwesterly line of the Topsfield Town Library to the easterly sideline of Main Street; thence continuing to the center line of the street and following the center line northerly to a point opposite the northerly side of South Common Street; thence N. 40° West to the westerly side of Main Street and continuing 500 feet to an unmarked point at the easterly edge of Proctor Field; thence N. 12°, 130 feet to the center line of High Street Extension; thence northwesterly 200 feet more or less to the center line of Washington Street; thence northeasterly 350 feet more or less to the culvert carrying School Brook; thence northerly to the southwest corner of #7 Washington Street and continuing by the westerly sideline of #7 to the rear corner; thence easterly 100 feet by #7 and continuing about 10 feet to School Brook; thence northerly along said brook, crossing #96, #100, #104, #106 and #110 Main Street to the rear corner of #12 Normandy Row; thence northeasterly along the rear property line of #12 and continuing 100 feet along the rear of #10 and 76 feet along the rear of #8 to the southwesterly corner of #2 Normandy Row; thence northerly 157 feet along the property line between #2 and #8 to Normandy; thence crossing the street to the westerly corner of #118 Main Street and continuing northeasterly along the rear property line of #118 a distance of 212 feet to the northerly corner; thence southeasterly #30 feet to a point on the southwesterly sideline of #124 Main Street, which point is 200 feet westerly from the curved sideline of Main Street; thence generally northeasterly and northerly on a line which is 200 feet westerly from, and concentric with the curve of Main Street to an angle point in the northerly line of #132 Main Street; thence 200 feet along the property line to northeasterly corner of the lot adjacent to #4 Haverhill Street; thence crossing the street to the junction between Haverhill and Ipswich Road and running southerly 100 feet along Main Street to a point opposite the northerly corner of #129 Main Street; thence southeasterly to the sideline of Main Street and continuing 159 feet to the rear line of #129; thence 100 feet along the rear of #129 and continuing 192 feet along the rear of #127 and 450 feet more or less across #117 to the easterly corner of #111; thence southerly along the rear lines of #111 and #109 Main Street to the southeast corner of #109; thence northwesterly about 26 feet to the northeasterly corner of #103 Main Street; thence along the rear lot line of #103 about 50 feet to the southeasterly corner; thence 46 feet westerly to the rear corner of #99 Main Street; thence southerly along the rear lot line of #99 to the southeasterly corner of #99; thence easterly by #97 Main Street to the northwesterly corner of #2 Howlett Street; thence southerly 223 feet to the southwesterly corner of #2; thence easterly 87 feet to Howlett Street and continuing on the same course to the center line of said street; thence northerly along Howlett Street to a point opposite the corner between #1 and #5; thence easterly to the sideline of Howlett Street and continuing 201 feet to the northeasterly corner of the Parson Capen House property; thence southerly 219 feet by the easterly property line of the Capen House and continuing about 415 feet to a point on property of the Emerson Center, which is 200 feet from the sideline of East Common Street and 200 feet from the northeasterly sideline of High Street; thence southeasterly about 240 feet to the northerly corner of #14 High Street and continuing by the rear property line of #14 to Great Hill Brook; thence southeasterly about 330 feet across the property #26 High Street to the northerly corner of #32 High Street; thence along the property line between #32 and #4 Towne Lane;

thence southwesterly along the sideline of Towne Lane and crossing High Street to the point of beginning. (Art. 32, 5/21/74)

27-1.2 Lands to Be Considered in Historic District. Wherever only part of any building or structure is within the Historic District, according to the boundary lines as heretofore defined in this section, there shall be included within the Historic District the entire land area occupied or to be occupied by all of said building or structure, so that the whole building or structure shall be considered to be within the Historic District for the purposes of this By-Law. (Art. 32, 5/21/74)

27-1.3 Categories Not Included in Review. The Historical Commission shall have all the powers and duties of Historic District Commissions as provided by the Historic Districts Act, GLc 40C, and of subsequent amendments thereto, except that the authority of the Commission shall not extend to the review of the following categories:

a. Terraces, walks, driveways, sidewalks, and similar structures, provided that any such structure is substantially at grade level.

b. Storm doors and windows, screens, window air conditioners, lighting fixtures, antennas, and similar appurtenances.

c. The color of paint. (Art. 32, 5/21/74)

27-1.4 Adopting Rules and Regulations. The Historical Commission shall adopt rules and regulations for the conduct of its business not inconsistent with the provisions of the Historic Districts Act, GLc 40C, as amended, and may, subject to appropriation, employ clerical and technical assistants or consultants and may accept money gifts and expend same for such purposes. (Art. 32, 5/21/74)

27-1.5 Time Permitted to Review. When taking action under the provisions of Section 11 of the Historic Districts Act, GLc 40C, as amended, the Historic District Commission shall make a determination within forty-five (45) days after the filing of the application for a certificate of appropriateness, or such further time as the applicant may in writing allow. (Art. 32, 5/21/74)

27-1.6 Severability Clause. The provisions of this By-Law shall be deemed to be severable. If any of its provisions shall be held to be invalid or unconstitutional by any Court of competent jurisdiction, the remaining provisions shall continue in full force and effect. (Art. 32, 5/21/74)

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<sup>i</sup> Editor's Note: For the establishment of the Topsfield Historical Commission, see Section 2-17. For the Rules and Regulations adopted by the Historical Commission, see Chapter R:5.

## **CHAPTER XXVI**

### **DEMOLITION DELAY BY-LAW**

#### **26-1. Intent and Purpose**

26-1.1 The purpose of Topsfield's proposed Demolition Delay By-Law is to preserve, protect and document significant buildings and structures within the Town of Topsfield that are outside Local Historic Districts. Such buildings and structures reflect distinctive features of the architectural, cultural, economic, agricultural landscape or social history of the Town, and their preservation promotes the public welfare by making the Town a more attractive and desirable place to live and work.

26-1.2 The intent of the By-Law is not to permanently prevent demolition, but rather, to provide an opportunity to develop preservation solutions for properties threatened with demolition through a six month delay in issuing a demolition permit. In addition, this delay will give the Topsfield Historical Commission ("the Commission") an opportunity to document historic or important architectural resources before they are lost from Topsfield's cultural landscape.

26-1.3 The By-Law is intended to encourage and assist owners and townspeople to seek out persons who might be willing to purchase, preserve, rehabilitate restore or relocate such structures rather than demolish them, thus limiting the detrimental effect of demolition on the historical architectural resources of the Town.

26-1.4 To achieve these purposes, the Commission is empowered to advise the Building Inspector with respect to the issuance of permits for demolition of significant structures, and, where appropriate and consistent with the intent and purpose of this By-Law, to allow demolition under conditions designed to minimize the loss of distinctive features of significant structures.

#### **26-2. Definitions:**

26-2.1 "Building or Structure" - any combination of materials forming a shelter for persons, animals, or property.

26-2.2 "Demolition" – any act of pulling down, destroying, removing, razing, burning by arson, dismantling or moving a building or structure or any portion thereof, or commencing the work of moving or of total or substantial destruction of a structure or portion thereof, with the intent of completing the same;

26-2.3 "Significant Structure" – any building or structure, or portion thereof, which is not within a local historic district, and which meets one or more of the following criteria:

- a. listed in the National Register of Historic Places
- b. determined by the Massachusetts Historical Commission to be eligible for listing in said National Register;
- c. recorded on the inventoried list of historic properties in the Town of Topsfield , MA

26-2.4 "Commission" - the Topsfield Historical Commission.

26-2.5 "Preferably Preserved"-any Significant Structure that has been determined by the Commission, because of its importance to the historical and /or cultural resources of the Town, to be in the public interest to preserve.

26-2.6 "Business Day" - any day which is not a legal municipal holiday, Saturday or Sunday.



26-2.7 "Local Historic District"-a defined district, such as the existing Topsfield Common Historic District, that has been established under the Historic Districts Act, General Laws, Chapter 40C.

### 26-3. Regulated Buildings and Structures

26-3.1 The provisions of this By-Law shall apply only to any building or structure, which, in whole or in part, conforms to the definition under Section 26-2.3.

### 26-4. Procedure

26-4.1 No demolition of a Significant Structure, or any portion thereof, shall be permitted except in conformity with the provisions of this By-law. A permit for the demolition of such a structure or portion thereof shall be issued only upon compliance with the provisions of the By-Law.

26-4.2 The Commission shall maintain and keep current a List of Significant Structures that meet the criteria specified in section 26-2.3, and shall provide said List to the Building Inspector.

26-4.3 Upon receipt of an application for a demolition permit, the Building Inspector shall refer to the List of Significant Structures. If the Building Inspector determines that the application pertains to a Significant Structure, the Building Inspector shall deny the application and notify the Commission in writing of this action.

26-4.4 Upon notification of denial of a demolition permit by the Building Inspector, if the applicant wishes to proceed, the applicant shall within 60 days of denial, file an Application for Significant Structure Review ("Application for Review") with the Commission. The Application for Review shall include the following information and materials:

- a. A map showing the location of the structure or portion thereof to be demolished with reference to the lot lines and to neighboring building and structures;
- b. Photographs of all elevations;
- c. A written description of the structure or portion thereof to be demolished, sufficient to identify the nature and extent of the proposed demolition;
- d. The reason for the proposed demolition and data supporting said reason;
- e. Plans for the proposed restoration or buildings that will replace the demolished structure;
- f. Authorization for a site visit by the Commission.

26-4.5 Upon receipt of an Application for Review filing, the Commission shall, within fourteen (14) days of such filing, assess the structure or portion thereof and hold a meeting of the Commission (during a site visit or otherwise) to make a determination relative to the proposed demolition.

26-4.6 If the Commission determines that the proposed demolition of the structure or portion thereof would not be detrimental to the historical or architectural heritage or resources of the Town, the Commission shall so notify the Building Inspector and applicant of such in writing within ten (10) days of such determination. Upon receipt of such notice, the Building Inspector may, subject to the requirements of the State Building Code and any other applicable laws, by-laws, rules and regulations, issue a demolition permit for the subject structure or project.

26-4.7 If the Commission determines that the proposed demolition of the structure or portion thereof would or may be detrimental to the historical or architectural heritage or resources of the Town, the Commission shall so notify the Building Inspector and the applicant in writing within ten (10) days of such determination and the Commission shall conduct a public hearing at the applicant's expense within thirty (30) days of such determination to determine whether the structure or portion thereof should be preferably preserved. The Commission shall give public notice of said hearing by publishing notice of the time, place and purpose of the hearing in a

newspaper of general circulation in Topsfield at least five (5) business days prior to the date of such hearing and by mailing a copy of said notice: to the applicant, to the owner of the premises on which the Significant Structure is located (if other than the applicant), to the owners of all property within three hundred feet of the premises on which the Significant Structure is located as appearing on the most recent tax list, and to such other persons as the Commission shall deem entitled to notice. The Commission may allow publication of such notice on the Town's web site, in lieu of publication in a local newspaper.

The Commission shall determine at the public hearing whether the structure or portion thereof should be preferably preserved. Within (10) business days of the close of the public hearing, the Commission shall advise the applicant, the owner if other than the applicant, and the Building Inspector, in writing, of the Commission's determination. If the Commission determines that demolition of the structure or portion thereof would be detrimental to the historical or architectural heritage or resources of the Town, such structure shall be considered to be a preferably preserved structure, and no demolition permit shall be issued until six months after the close of the public hearing. If the Commission determines that demolition of the structure or portion thereof would not be detrimental, the Building Inspector may, subject to the requirements of the State Building Code and any other applicable laws, by-laws, rules and regulations, issue a demolition permit for the subject structure or project.

26-4.8 If, upon the expiration of ninety (90) days from the Application for Review filing, the Building Inspector has received no notification of final determination from the Commission, the Building Inspector may, subject to the requirements of the State Building Code and any other applicable laws, by-laws, rules and regulations, issue a demolition permit for the subject structure or project. (Art. 42, 5/7/2013)

26-4.9 During the six month delay period following the Commission's determination that a structure is to be considered preferably preserved, the Commission shall notify the Massachusetts Historical Commission, the Board of Selectmen, the Planning Board, and any other interested party in an effort to obtain assistance in obtaining preservation funding or in finding an adaptive use of the structure which will result in its preservation.

#### 26-5. Responsibilities of the Owner

26-6.2 Once a Significant Structure is determined to be a preferably preserved structure, the owner shall be responsible for properly securing the building or structure, if vacant, to the satisfaction of the Building Inspector. Should the owner fail to so secure the building or structure, a subsequent destruction of the structure at any time during the six month demolition delay period, which destruction could have been prevented by the required security measures, shall be considered a demolition in violation of this By-Law.

#### 26-6. Emergency Demolitions

26-6.1 Notwithstanding any other provisions of the By-Law, the Building Inspector may issue a demolition permit at any time in the event of imminent and substantial danger to the health or safety of the public due to deteriorating conditions. Prior to doing so, the Building Inspector shall inspect the building or structure and document, in writing, the findings and reasons requiring an emergency demolition, a copy of which shall be forwarded immediately to the Commission. Before allowing emergency demolition, the Building Inspector shall make every effort to inform the Chairperson of the Commission of his intention to allow demolition before he issues a permit for emergency demolition.

26-6.2 No provision of this By-Law is intended to conflict with or abridge any obligations or rights conferred by G.L.c.143 regarding removal or demolition of dangerous or abandoned structures. In

the event of a conflict, the applicable provisions of Chapter 143 shall control.

#### 26-7. Historic Districts Act

26-7.1 Nothing in this By-Law shall be deemed to conflict with the provisions of the Historic Districts Act, Massachusetts General Laws, Chapter 40C, with respect to requirements of notice, hearing and issuance by the Commission of a Certificate of Appropriateness, a Certificate of Non-applicability or a Certificate of Hardship prior to demolition of any building or structure in an historic district.

#### 26- 8. Enforcement and Remedies

26-8.1 The Building Inspector is specifically authorized to institute any actions, in law or in equity, as deemed necessary to obtain compliance with the requirement of this By-Law to prevent a threatened violation thereof.

26-8.2 During the six month delay period following the Commission's determination that a structure be considered preferably preserved, the Commission can advise the Building Inspector, in writing, to issue a demolition permit without waiting for the period to expire, if the Commission decides to the effect that:

- a. Commission is satisfied that there is not reasonable likelihood that either the owner or some other person or group is willing to purchase, preserve, rehabilitate or restore said structure, or
- b. Commission is satisfied that for at least six months the owner has made continuing, bona fide and reasonable efforts to locate a purchaser to preserve, rehabilitate and restore the subject structure, and that such efforts have been unsuccessful;
- c. Commission has determined that the proposed moving or demolition may be conducted in a specific manner so as not to be detrimental to the historical or architectural heritage or resources of the Town.
- d. Documentation of Significant Structures has met the requirements of the Commission.

26-8.3 Except as provided below, whenever a significant building or structure or any portion thereof has been voluntarily demolished in violation of this By-Law, for a period of two years after the date of completion of such demolition, no building permit shall be issued with respect to any premises upon which such demolition has occurred. As used herein, "premises" includes the parcel of land upon which the demolished significant structure was located.

26-8.4 Notwithstanding the foregoing, whenever the Commission shall, on its own initiative, or on application of the landowner, determine that earlier reconstruction, restoration or other remediation of any demolition in violation of this By-Law better serves the intent and purpose of this By-Law, it may, prior to the expiration of said period of two years, but no sooner than six months from the date of completion of any demolition in violation of this By-Law, authorize issuance of a building permit, upon such conditions as the Commission deems necessary or appropriate to effectuate the purposes of this By-Law, and may so notify the Building Inspector pursuant to this By-Law

#### 26- 9. Severability

26-9.1 If any section, paragraph or part of this By-Law for any reason declared invalid or unconstitutional by any court, every other section, paragraph and part shall continue in full force and effect.

(Art. 40, 5/7/02; Art. 32, 5/6/03; Art. 46, 5/4/04 Effective Date 7/21/04)

## CHAPTER XXV

### DELINQUENT TAXPAYERS: LICENSES AND PERMITS BY-LAW

#### 25-1 DENIAL, REFUSAL OR SUSPENSION OF LICENSES AND PERMITS OF DELINQUENT TAXPAYERS.

25-1.1 List of Persons Neglecting or Refusing to Pay Taxes, Assessments or Municipal Charges. The Tax Collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the Tax Collector, shall annually furnish to each Department, Board, Commission or Division, hereinafter referred to as the licensing authority that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve (12) month period, and that such a party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the Appellate Tax Board. (Art. 36, 5/2/95)

25-1.2 Denial, Refusal or Suspension of License; Hearing. The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the Tax Collector or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the Tax Collector; provided, however, that written notice is given to the party and the Tax Collector, as required by applicable provisions of law and the party is given a hearing, to be held not earlier than fourteen (14) days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The Tax Collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the Tax Collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the municipality as the date of issuance of said certificate. Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law. (Art. 36, 5/12/95)

25-1.3 Waiver of Denial, Suspension or Revocation. The Board of Selectmen may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in Section 1 of Chapter 268A in the business or activity conducted in or on said property. (Art. 36, 5/2/95)

25-1.4 Exceptions. This By-Law shall not apply to the following licenses and permits: Open burning, Section 13 of Chapter 48; bicycle permits, Section 11A of Chapter 85; sales of articles for charitable purposes, Section 33 of Chapter 101; children work permits, Section 69 of Chapter 149; clubs, associations dispensing food or beverage licenses, Section 27E of Chapter 140; dog licenses, Section 137 of Chapter 140; fishing, hunting, trapping licenses, Section 12 of Chapter 101; marriage licenses, Section 28 of Chapter 207; and theatrical events, public exhibition permits, Section 181 of Chapter 140. (Art. 36, 5/2/95)

## **CHAPTER XXIV**

### **PROCUREMENT CONTRACT BY-LAW<sup>i</sup>**

#### **24-1 AUTHORITY TO EXECUTE CONTRACTS.**

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

#### **24-2 PROCUREMENT PROCEDURES.**

- a. The Town Administrator shall serve as the Chief Procurement Officer of the Town. All procurement activities of the Town shall be under the direction of the Chief Procurement Officer.
- b. The procurement of supplies or services in excess of one thousand (\$1,000.00) dollars and all contracts related thereto shall be governed by the provisions of M.G.L. c.30B, the Uniform Procurement Act.
- c. The disposal of all surplus supplies of the Town shall be governed by the procedures set out in M.G.L. c.30B, sec. 15, subject to the prior authorization of the Board of Selectmen.
- d. The acquisition or disposition of interests in real property by the Town shall be governed by the procedures set out in M.G.L. c. 30B, sec. 16.

(Art. 50, 5/7/96; Art. 32, 5/4/99; Art. 33, 5/1/07)

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## **CHAPTER XXIII**

### **CANINE CONTROL BY-LAW**

#### **23-1 PREAMBLE.**

23-1.1 Purpose. The purpose of the Topsfield Canine Regulation By-Law, hereinafter called the "By-Law", is to:

- a. Establish a Town-wide program to register dogs owned by Topsfield residents.
- b. Establish fees for the registration of dogs and to set fines for violations of the By-Law.
- c. Establish rules and regulations for the control of dog complaints caused by nuisance.
- d. Authorize a Town Agent to enforce the provisions of the "By-Law".

23-1.2 Authority. The "By-Law" has been adopted pursuant to the provisions of GLc 140 ~ 147A.

#### **23-2 PROCEDURE.**

23-2.1 Registration of Dogs. Notwithstanding the provisions of GLc 140 ~ 137 or any other provision of law to the contrary, the registering, numbering, describing and licensing of dogs kept in the Town shall be conducted in the Office of the Town Clerk.

23-2.2 Manner of Display. The owner or keeper of a dog registered in Topsfield shall cause it to wear around its neck or body, a collar or harness to which shall be securely attached a tag in a form as prescribed by the Town Clerk and available at the Town Clerk's office.

23-2.3 Fees Established. Notwithstanding the provisions of Section 139 of Chapter 140 or any other provision of law to the contrary, the annual fees to be charged by the Town for the issuance of licenses for all dogs six (6) months old or older, shall be:

All Dogs Neutered or Spayed (male or female)	Fifteen (\$15.00) dollars, per registered dog
All Dogs Not Neutered or Spayed (male or female)	Twenty (\$20.00) dollars, per registered dog
Kennel (four (4) or more dogs)	Two hundred (\$200.00) dollars, maximum fifty (50) tags.

Any owner or keeper of a dog, owned or kept in Topsfield as of January 1 of each year, who fails to register that dog on or before January 31 of each year shall pay a late fee of twenty-five (\$25.00) dollars in addition to any other fees provided for in this By-Law, for each such dog not registered in accordance with the provisions of this section.

In the event any dog over six (6) months old becomes owned or kept in Topsfield after January 1 of each year, the owner or keeper shall register such dog within thirty (30) days of the date the dog became so owned or kept, or pay the late fee as provided for in this section.

No dog shall be licensed for the current year until all fees and fines from the previous year have been paid.

23-2.4 Fees to Be Paid into Town Treasury. Notwithstanding the provisions of Section 147 of said Chapter 140 or any other provision of law to the contrary, all money received from the issuance of dog licenses by the Town, or recovered as fines or penalties by the Town under the provisions of Chapter 140 relating to dogs, shall be paid into the treasury of the Town and shall not thereafter be paid over by the Town Treasurer to Essex County.

23-2.5 Damages Paid from Town Treasury. Notwithstanding the provisions of Section 147 of said Chapter 140 or any other provision of law to the contrary, whoever suffers loss by the worrying, maiming

or killing of his livestock or fowl by dogs outside the premises of the owners or keepers of such dogs, shall, after investigation as provided in Section 161 of Chapter 140, be paid from the Town Treasury as provided in Section 161 of Chapter 140.

### 23-3 DOG COMPLAINTS FOR NUISANCE.

23-3.1 Definition of Nuisance. Animal behavior which constitutes a nuisance includes, but is not limited to, the following: molesting passerby or passing vehicles (including bicycles), attacking persons or domestic animals, trespassing on school grounds or other public property, damaging public or private property, barking, whining, or howling in an excessive, continuous, or untimely fashion.

23-3.2 Duties and Powers of Animal Control Officer. The Animal Control Officer shall attend to all complaints, and other matters pertaining to dogs, and shall take whatever legal action is authorized by law. The Animal Control Officer shall be empowered to enforce this By-Law and no person shall interfere with or hinder, molest or abuse any Animal Control Officer in the exercise of such powers.

23-3.3 Abandoned and Abused Dogs. The Animal Control Officer shall confine any animal found to be without adequate care, or found in unsanitary or unsafe conditions or that has been abused, abandoned, or neglected. Any such animal shall be confined for not less than three (3) days.

23-3.4 Impounded Dogs. Impounded dogs shall be kept for ten (10) days unless reclaimed by their owners. Dogs not claimed by their owners within ten (10) days or placed in suitable new homes, may be humanely euthanized by the Animal Control Officer or by an agency delegated by him to exercise that authority.

23-3.5 Quarantined Dogs. Any dog which bites a person shall be quarantined for ten (10) days if ordered by the Animal Control Officer. During quarantine, the dog shall be securely confined and kept from contact with any other animals. At the discretion of the Animal Control Officer, the quarantine may be on the premises of the owner. If the Animal Control Officer requires other confinement, the owner shall surrender the animal for the quarantine period to an animal shelter or shall, at his own expense, place it in a veterinary hospital.

23-3.6 Female Dogs in Heat. If the Animal Control Officer determines that a female animal, in heat, even when confined to the property of the owner or keeper, is attracting other animals to the area, which condition causes disturbance or damage to neighboring property or public areas, the Animal Control Officer may require the owner or keeper to place and keep the animal while in heat in a kennel or to remove it from the area so that the nuisance is abated.

23-3.7 Uncontrolled Dogs. The Animal Control Officer is authorized to require owners or keepers of dogs to prevent such dogs from running at large in schools, school playgrounds, parks or public recreational areas. The Animal Control Officer is further authorized to require owners or keepers of dogs to restrain their dogs from running at large when it has been determined by the Animal Control Officer that the dog is an annoyance, is dangerous, is known to cause damage in the neighborhood, or further is on the property of an owner who does not wish the dog on his or her property.

23-3.8 Barking Dogs. If the Animal Control Officer determines that an animal is a nuisance due to excessive barking, whining or howling in a continuous or untimely fashion, the Animal Control Officer is authorized to order the owner or keeper to house the animal.

23-3.9 Fee and Fine Enforcement. All pound fees, pickup fees and fines including the licensing fee shall be paid by the owner or keeper before release of the dog or dogs.

23-3.10 Pick-Up Fees. The owner of any stray dog picked up by the Animal Control Officer shall be charged a twenty-five (\$25.00) dollar fee.

23-3.11 Appeal of Order. The owner or keeper of a dog, about which the Animal Control Officer has issued an order, under the above sections of the By-Law, who wishes to appeal the order, may make such an appeal in writing to the Board of Selectmen within ten (10) days of the issuance of the order. In the event of such an appeal the Board of Selectmen will hold a public hearing.

#### 23-4 ENFORCEMENT; PENALTY.

23-4.1 Violation; Fines. Any person violating any provision of the By-Law, other than those provisions of subsection 23-2.3 relating to the deadline for registering dogs, shall be deemed guilty of a misdemeanor and shall be punished by a fine of twenty-five (\$25.00) dollars for the first offense and fifty (\$50.00) dollars for each subsequent offense. If any violation be continuing, each day's violation shall be deemed a separate violation. Complaints will be sought in District Court according to GLc 140 ~ 173A. Under the provisions of this By-Law, the Town Clerk is authorized to accept payment of fines for violations, sought in the District Court.

23-4.2 Enforcement Officer. The Animal Control Officer and/or Police are hereby authorized to issue a Notice of Violation to an owner or keeper who has violated any provision of the By-Law.

23-4.3 Enforcement Authority. Notwithstanding the provisions of this By-Law, all other aspects of Chapter 140, Sections 135A through 175 shall still be in effect.

(Art. 10, 11/17/87; Art.46, 5/2/90; Art. 25, 5/6/92); Art. 41, 5/4/93; Art. 52, 5/7/96; Art. 25, 5/6/2008; Art. 46, 5/7/13; Art. 37, 5/6/14)



## CHAPTER XXI

### ALARM SYSTEM BY-LAW

#### 21-1 ALARM SYSTEMS.

21-1.1 Permit for Alarm Required. As of July 1, 1995, no alarm system or equipment designed to summon the Police Department shall be installed without first obtaining an alarm permit signed by the Police Chief or his designee. As of July 1, 1995, no alarm system or equipment designed to summon the Fire Department shall be installed without first obtaining an alarm permit signed by the Fire Chief or his designee. Owners of existing alarm systems must obtain a permit within three (3) months of the effective date of this By-Law. The Police Chief and the Fire Chief shall prescribe an application form for alarm permits and any other rules or regulations as may be necessary for the implementation of this By-Law. The fee for each alarm permit shall be twenty-five (\$25.00) dollars. (Art. 41, 5/2/95)

21-1.2 Disconnection, Removal or Alteration; Notification Required. Whenever an alarm system or equipment is disconnected, removed, or substantially altered, the owner or user thereof shall notify the Police Department or the Fire Department in writing so that an appropriate notation may be made on the permit. (Art. 41, 5/2/95)

21-1.3 Mandatory Disconnection of Automatic Dialing Devices from Police Department or Fire Department Telephones.

a. No automatic dialing device shall be interconnected to any telephone numbers at the Police Department or Fire Department after July 1, 1995. Within three (3) months after the effective date of this By-Law, August 2, 1995, all automatic dialing devices interconnected to any telephone numbers at the Police Department or Fire Department shall be disconnected therefrom.

b. Any person using an automatic dialing device may have the device interconnected to a telephone line transmitted directly to:

1. A central station;
2. An answering service; or
3. Any privately-owned or privately-operated facility or terminal. (Art. 41, 5/2/95)

21-1.4 Automatic Shut-Off of Horn or Bell Required. All alarm systems installed after May 2, 1995, which use an audible horn or bell, shall be equipped with a device that will shut off the horn or bell within ten (10) minutes after activation of the alarm system. All existing alarms using an audible horn or bell shall be equipped with such a device within three (3) months after installation. (Art. 41, 5/2/95)

21-1.5 Filing of Names of Persons Authorized to Enter Protected Premises. Each alarm user shall submit to the Emergency Center the names, addresses, or telephone numbers of two (2) persons who can be reached at any time, day or night, who are authorized to gain access to the protected premises for the purpose of silencing and resetting the alarm system. It shall be the alarm system users responsibility to keep this information up-to-date. (Art. 41, 5/2/95)

21-1.6 Testing Equipment. All alarm users must notify the Emergency Center in advance of any testing of the equipment. Failure to do so may constitute a false alarm, and therefore be subject to a fee assessment.

False Alarms in a Fiscal Year	Fee
4-6	\$ 25.00 each
7-10	50.00 each
More than 10	100.00 each

False alarms caused by faulty telephone service, electrical storms, or power outages through no fault of the owner, will be excused. Determination that a false alarm has been transmitted will be the responsibility of the Police Chief, Fire Chief, or their duly appointed duty officer. (Art. 41, 5/2/95)

21-1.7 Suspension or Revocation of Alarm Permit. The Police Chief or the Fire Chief may suspend or revoke an alarm permit for just cause in accordance with the following procedures:

a. The Chief or his designee shall issue to the permit holder a written notice, by certified mail, of his intent to suspend or revoke the alarm permit. Notice will include the date of the intended suspension or revocation, the reasons for the suspension or revocation and notice that the permit holder is entitled to a hearing upon written request.

b. Upon receipt of a notice of suspension or revocation, the permit holder may, within five (5) working days of receipt, submit a written request for a hearing before the Police Chief, the Fire Chief, or a designee thereof. At the hearing, the permit holder shall have the right to present evidence, cross-examine witnesses and be represented by counsel. The hearing shall be informal and shall not be subject to the rules of evidence or formal courtroom procedure. After the hearing, the hearing officer may issue a written order of suspension or revocation for a given period of time. He may also withdraw any previous order or suspension or revocation.

c. During the appeal period, the alarm system may remain in operation.

d. An alarm owner or user whose permit has been suspended or revoked may reapply for a new permit after the suspension period is over. (Art. 41, 5/2/95)

## **APPENDIX ZA:1**

### **ZONING GUIDELINES\***

#### **GUIDELINES AND PERFORMANCE STANDARDS FOR ACTIVITIES SUBJECT TO THE PROVISIONS OF THE TOPSFIELD ZONING BY-LAW.**

##### **ZA:1-1. PREAMBLE.**

These Guidelines and Performance Standards hereinafter called "the guidelines" have been adopted by vote of the Permit Granting and the Special Permit Granting Authorities hereinafter interchangeable called "the authority" at a joint meeting on 01/19/1993 pursuant to the provisions of Sections 9.07 and 9.08 of Article IX of the Topsfield Zoning By-Law.

The guidelines address the nine (9) standards for review contained in Section 9.07 of the above-mentioned Article.

The guidelines are intended to supplement the procedures and requirements set forth in Article IX of the Topsfield Zoning By-Law. In the event that the guidelines or any portion thereof are found to be in conflict with any provision of Article IX, the latter shall govern.

##### **ZA:1-2. DEFINITIONS.**

Terms used in the guidelines shall have the same meanings as listed in Article I of the Topsfield Zoning By-Law. Terms used herein that are not defined in the above Article are defined in the text wherein they are used or they are defined in the Rules and Regulations, Statutes, or By-Laws cited relative hereto.

##### **ZA:1-3. STANDARDS.**

**ZA:1-3.1 Compliance With All Standards Required; Exception.** In the following the performance standards relative to each of the nine (9) review criteria of Section 9.07 are set forth. Applications for Site Plan Review that do not meet these standards and any of the nine (9) criteria set forth in Section 9.07 shall contain a written request for a waiver by the authority of each of the standards and/or criteria that are not met in the proposed site plan.

**ZA:1-3.2 Legal.** Site plans submitted for review shall contain a list of all permits, licenses, and approvals required under Federal, State and local statutes, rules and regulations, and By-Laws for the use, construction and operations on, and occupancy of the premises. Said list shall state when applications for these required approvals, licenses, and/or permits were or will be made and when they were granted, or when they are expected to be obtained. Copies of applications or permits shall be appended to the list.

**ZA:1-3.3 Traffic.** In addition to those items that must be submitted, a traffic study, when required, shall contain a traffic impact analysis that projects the total traffic generated by the proposed project, the division of that excess traffic on the adjoining roads, the peak hours of said traffic generated by the project, and the ability of these roads or ways to absorb said excess traffic. In addition the impact of said excess traffic on the intersections nearest to the proposed project shall be estimated. Wherever possible a truck entrance shall be designed to have a deceleration lane. The authority shall not approve projects that require any vehicle to back into or out of an entrance from a public way.

Provisions shall be made to ensure that pedestrian traffic generated by the project is separated from vehicular traffic via curbed sidewalks and designated cross-walks.

**ZA:1-3.4 Parking.** Parking space facilities shall conform with the requirements contained in Article IV, Section 4.12 of the Topsfield Zoning By-Law entitled Parking. Where appropriate for the proper operation of the site, on-site cargo docks shall be provided to deliver and dispatch goods used or manufactured in the project. Said docks shall be located on the site such that vehicles using them do not intrude upon adjacent ways or interfere with traffic thereon.

**ZA:1-3.5 Town Services.** The site plan review application shall contain a review of the site plan and a written determination by the Police Chief, the Fire Chief, the Superintendent of the Water Department, and the Highway Superintendent that the services required by the proposed project can be provided by the respective department without requiring any increase in staffing or service capacity.

Emergency access for fire prevention vehicles and ambulances shall be provided, and said access, shown on the site plan, shall be approved in writing by the Topsfield Fire Chief.

**ZA:1-3.6 Pollution Control.** All subsurface septic disposal facilities shall be constructed in accordance with the requirements of 310 CMR, 15.00 and the Topsfield Board of Health Supplemental Rules and Regulations to 310 CMR, 15.00. All stormwater control and drainage installations shall be installed in accordance with the relevant requirements of The Rules and Regulations Governing the Subdivision of Land in the Town of Topsfield, Massachusetts. In any event calculations shall show that the off-site surface water run-off rate has not increased beyond that of the pre-development state except in those cases where that increase caused by the proposed project can be disposed of in streams or waterways that have substantial excess capacity to absorb said run-off.

Underground fuel storage tanks required on-site shall be installed in accordance with applicable constructions and performance standards contained in 527 CMR, 9.00 and the Topsfield Underground Petroleum Tank By-Law.

**ZA:1-3.7 Nuisances.** Noise at ground level from permanent installations such as air conditioning units shall not exceed three (3) decibels (dB) above ambient noise level when measured at a time when said ambient noise is least. Said ambient noise measurements shall be taken at the lot boundaries of the site at ground level elevation.

Smoke, dust, fumes, odors, and vapors from the proposed project shall not be vented into the air in sufficient quantity to be unhealthful, irritating, inflammable or explosive, toxic, or noxious even when wind driven across the lot line.

Outdoor lighting shall in general conform with that specified in Section ZA:1-3.4 Light from any proposed building or parking lot on the site in the proposed project shall not directly or indirectly illuminate any building located on lots contiguous with the site. Said lighting shall not be directed at and focused on adjacent ways such that it interferes with the vision of motorists thereon. Nor shall it be directed at adjoining lots.

**ZA:1-3.8 Existing Vegetation.** Wherever possible existing trees, shrubs, and other vegetation of note shall be preserved either by design or by transplantation to another locus on the site.

**ZA:1-3.9 Amenities.** Perimeter vegetative buffers and screens shall comply with the requirements of Article IV, Section 4.05, the Topsfield Zoning By-Law. Plantings interior to the proposed project not subject to the above said requirements shall be selected to provide sufficient species diversity to preclude a substantial loss of plants in the event that disease or drought eliminates any one of the selected species.

**ZA:1-3.10 Town Character.** The maximum building area occupancy on-site and setback dimensions shall not exceed that and those listed in the Table of Dimensional and Density Regulations of the Zoning By-Law under the "BP" entry. The dimensions and placement of signs advertising the location and the nature of the commercial activity on the site shall comply with the applicable provisions of the Topsfield Sign By-Law. Landscaping shall comply with the requirements set forth in subsections ZA:1-3.8 and ZA:1-3.9 above.

The architectural design of buildings proposed for the site shall be such as to integrate their stylistic elements – i.e.: exterior decorations, elevations, and choice of siding and roofing material, with those of the prevailing buildings in the surrounding neighborhood. The buildings shall be designed such that from any view point

exterior to the site their appearance is harmonious with the prevailing buildings in the immediate vicinity of the site and are visually integrated with the surrounding topography (terrain).

Wherever possible, on-site buildings, structures or other man-made features with historical significance or of such interest shall be preserved or restored where required. Evidence of said significance or interest shall be furnished by the Topsfield Historical District Commission.

**Editor's Note:**

\*The Zoning Guidelines and Performance Standards herein before were adopted on January 19, 1993 at a joint meeting of the Planning Board and Zoning Board of Appeals.

## **ARTICLE XVI**

### **GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATIONS**

#### **16.01 Purpose**

The purpose of this bylaw is to provide the standards for new Ground-Mounted Solar Photovoltaic Installations relative to the placement, design, construction, operation, monitoring, modification and removal of such installations that address public health, welfare or safety, and to minimize impacts on scenic, natural and historic resources.

#### **16.02 Applicability**

This bylaw applies to Ground-Mounted Solar Photovoltaic Installations and physical modifications that materially alter the type, configuration, or size of these installations or related equipment.

#### **16.03 Definitions**

- A. Solar Photovoltaic Installation: A solar photovoltaic system including all panels and appurtenant structures that is structurally mounted on the ground and is not roof-mounted.
- B. Solar Photovoltaic Installation - Large Scale: A Solar Photovoltaic Installation which occupies an area greater than five-hundred (500) square feet as measured within the perimeter of the installation.

#### **16.04 General Requirements**

The following requirements are common to all Solar Photovoltaic Installations to be sited in designated locations.

- A. Compliance with Laws, Ordinances and Regulations: The construction and operation of all Solar Photovoltaic Installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a Solar Photovoltaic Installation shall be constructed in accordance with the State Building Code.
- B. Special Permit with Site Plan Review: All Solar Photovoltaic Installations shall be subject to site plan review as described in Article IX of the Topsfield Zoning Bylaw. In addition, Solar Photovoltaic Installation - Large Scale shall require a special permit, pursuant to Article V of the Topsfield Zoning Bylaw, by the Planning Board as special permit granting authority prior to construction, installation or modification as provided in this section.

Required Documents: Pursuant to the special permit and site plan review process, the applicant shall provide the following documents in addition to those required under Article IX:

1. A site plan showing:

- a. The Solar Photovoltaic Installation showing the proposed layout of the system and any potential shading from nearby structures. For Special Permit Applications, drawings shall be signed by a Professional Engineer licensed in Massachusetts
  - b. One or three line electrical diagram detailing the Solar Photovoltaic Installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over-current devices;
  - c. Documentation of the major system components to be used, including the panels, mounting system, rated name plate capacity, inverter and interconnection details;
  - d. Name, address, and contact information for proposed system installer and operator;
  - e. Name, address, phone number and signature of the applicant, as well as all co-applicants if any;
  - f. The name, contact information and signature of property owner or co-owner, project developers and co-developers, lessors and agents representing the project applicant.
2. Documentation of actual or prospective access and control of the project site (see also Section 16.04 D);
  3. Proof of liability insurance acceptable to the Planning Board.

The Planning Board may waive documentary requirements as it deems appropriate.

- C. Operation & Maintenance Plan: The applicant for a Solar Photovoltaic Installation – Large Scale shall submit a plan for the operation and maintenance of the Solar Photovoltaic Installation, which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation.
- D. Utility Notification: No Solar Photovoltaic Installation shall be constructed until evidence has been given to the Planning Board that the utility company that operates the electrical grid where the installation is to be located has been informed of the Solar Photovoltaic Installation owner or operator's intent to install an interconnected generator and an interconnection agreement and power purchase agreement (where appropriate) has been signed by the utility. Off-grid systems shall be exempt from this requirement.
- E. Dimension and Density Requirements:

1. Setback and Yard Requirements:

- a. No Solar Photovoltaic Installation shall be installed in a front yard or within thirty feet of the line of any street or way.
- b. Solar Photovoltaic Installations shall comply with the Table of Dimensional and Density Regulations with respect to side yard, rear yard and minimum open space, except that Solar Photovoltaic Installations – Large Scale shall have a required side setback of fifty

(50) feet and a required rear setback of fifty (50) feet. The Planning Board may reduce the side and rear setbacks but not to less than those required in the Table of Dimensional and Density Regulations.

2. Height Requirements. Solar Photovoltaic Installations must be no higher than twelve (12) feet.

F. Design Standards:

1. Lighting. Lighting shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the Solar Photovoltaic Installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.
2. Signage. A sign for all Solar Photovoltaic Installations – Large Scale consistent with the Town's sign bylaw shall be required to identify the owner and provide the business name for the company (ies) that own and operate the installation, their business address, the name of a contact person, and a 24-hour emergency contact phone number.
3. Utility Connections. Reasonable efforts, as determined by the Planning Board, shall be made to place cabling and utility connections from the Solar Photovoltaic Installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider.
4. Conditions. All appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Structures shall be screened from view by vegetation or fencing.

G. Safety and Environmental Standards:

1. Emergency Services. The Solar Photovoltaic Installation – Large scale owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Topsfield Fire Chief. The owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the Solar Photovoltaic Installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.
2. Land Clearing, Soil Erosion and Habitat Impacts. Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the Solar Photovoltaic Installation and in accordance with applicable laws, regulations, and bylaws including but not limited to the Conservation Bylaw, the Stormwater Management and Erosion Control Bylaw and the Soil Removal Bylaw.

- H. Maintenance: The Solar Photovoltaic Installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security and safety measures. Site access for Solar



Photovoltaic Installation – Large Scale shall be maintained to a level acceptable to the Topsfield Fire Chief.

I. Modifications: All material modifications to a Solar Photovoltaic Installation made after issuance of the required building permit shall require approval by the Planning Board.

J. Abandonment or Decommissioning:

1. Removal Requirements. Any Solar Photovoltaic Installation which has reached the end of its useful life or has been abandoned consistent with Section 16.04 L. 2. of this bylaw shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

G. Physical removal of all Solar Photovoltaic Installations, structures, equipment, security barriers and transmission lines from the site.

H. Disposal of all solid and hazardous waste shall be in accordance with local, state, and federal regulations.

I. Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or designated below-grade foundations in place in order to minimize erosion and disruption to vegetation.

2. Abandonment: Absent notice to the Planning Board as provided above of a proposed date of decommissioning or written notice requesting an extension due to extenuating circumstances, the Solar Photovoltaic Installation shall be considered abandoned when it fails to operate or its operations are discontinued for more than one year without the written consent of the Planning Board; or if the Building Inspector has determined that the installation is a hazard to public safety and the conditions have not been corrected within six (6) months.

The Town retains the right, after the receipt of an appropriate court order to enter and remove an abandoned or hazardous Solar Photovoltaic Installation that is not removed by the property owner within six (6) months from the date of abandonment, as described above, or the proposed date of decommissioning. As a condition of approval, an applicant shall agree to allow entry to remove an abandoned installation. The costs for the removal will be charged to the property owner in accordance with the provisions of M.G.L. 139, Section 3A as a tax lien on the property.

#### 16.05 Severability

All the clauses of this bylaw are distinct and severable, and if any clause shall be deemed illegal, void, or unenforceable, it shall not affect the validity, legality, or enforceability of any other clause or portion of this bylaw. (Art. 28, 5/3/2011; Art. 44, 5/7/2014)

## **ARTICLE XV**

### **WIND ENERGY CONVERSION SYSTEM – SMALL SCALE**

#### **15.01 Purpose**

The purpose of this by-law is to accommodate small scale wind energy conversion systems in appropriate locations to reduce the on-site consumption of utility supplied electricity, to furnish wind-generated energy to the grid or to furnish electric power to an "off the grid" system, while respecting the scenic and rural character of the Town and minimizing adverse visual, safety and environmental impacts of the wind energy system.

#### **15.02 Applicability**

The installation, operation and decommissioning of any WECS-SS system in the Town shall comply with this by-law. Wind energy conversion systems with rated nameplate capacity of more than 30 kilowatts (kW) are prohibited in the Town of Topsfield.

#### **15.03 Definitions**

- A. Wind Energy Conversion System-Small Scale ("WECS-SS"): A wind energy conversion system typically consists of a wind turbine, generator, foundation, tower, support facilities, fencing and other safety equipment, power lines, transformers, associated interconnection equipment and related control and conversion equipment. A WECS-SS has a rated nameplate capacity of not more than thirty (30) kilowatts (kW).
- B. Height: The height of a wind turbine is the maximum vertical distance of the highest component of the system above the existing average grade within ten (10) feet of the centerline of the structure.
- C. Special Permit: A permit granted by the Special Permit Granting Authority for the installation of a WECS-SS.
- D. Wind Turbine: A device that converts kinetic wind energy into rotational energy that drives an electrical generator. A wind turbine typically consists of a tower, nacelle body, and a rotor.
- E. Rated Nameplate Capacity: The maximum rated output of electric power specified by an equipment manufacturer on the nameplate of a piece of equipment or wind turbine system.
- F. Tower: The structure on which the wind turbine is mounted.
- G. Off-grid: A stand-alone generating system not connected to or in any way dependent on the public utility grid.
- H. Wind Monitoring or Meteorological Tower ("MET tower"): A temporary tower used to gather wind data necessary for site evaluation and development of a wind energy project. In addition a MET tower can be equipped to record temperature, solar radiation and air pressure if necessary, but is not used for the purpose of generating electricity.

#### **15.04 Special Permit Requirements**

- A. Special Permit. All applications for such permits shall be filed with the Special Permit Granting Authority in accordance with Article V, Section 5.04.

- B. Site Plan. Eight copies and one electronic file of the site plan must be submitted to the Special Permit Granting Authority, in accordance with Town of Topsfield Zoning By-laws, Article IX, Section 9.06, Submission Requirements and any other applicable by-laws, except that beyond ten feet of the centerline of the tower ten foot contours are acceptable.
- C. Certification: The proposed wind turbine must be approved by a small wind certification program recognized by the American Wind Energy Association or other entity acceptable to the Special Permit Granting Authority.
- D. Engineered Drawing Requirement: A Special Permit application for a WECS-SS shall be accompanied by standard drawings, certified by a professional engineer, of the wind turbine structure, the tower, base, footings, and/or foundation as provided by the manufacturer. Wet stamps shall not be required.
- E. Height: The height of any WECS-SS shall be no greater than 120 feet. The Special Permit Granting Authority may allow this height to be exceeded as part of the Special Permit process if the Applicant can demonstrate that the additional height is needed to ensure technical and economic feasibility and that the additional benefits of the higher tower outweigh any increased adverse impacts. However, in no case shall the total height of the WECS-SS exceed 150 ft.
- F. Dimensional and Density Provisions:
  - 1. A horizontal axis wind turbine may not be sited within one and one-half times (1.5x) the height of the wind turbine from the nearest abutting property line as measured from the centerline of the tower. For a vertical axis turbine, the setback shall be one and one-tenth times (1.1x) the height.
  - 2. A wind turbine may not be sited within a distance equal to one times (1x) the height of the wind turbine from critical infrastructure, or private or public ways.
  - 3. A setback from a lot line of the lot on which the system is installed shall not be required if the owner(s) of the abutting lot (which may be the same as the Applicant) consents to a setback less than that set forth in F.1 above. Such consent shall be in writing and shall be included with the application. If the Special Permit Granting Authority determines that the setback diminution and the consent are reasonable, based upon the characteristics of the tower and lots, the setback diminution and consent may be approved. If approval is granted, the consent shall be recorded as a restrictive covenant on the abutting property before the Special Permit is released to the Applicant.
  - 4. Setbacks distances of the wind turbine may be reduced by the Special Permit Granting Authority based on site-specific criteria if the project is consistent with Section 15.04 O. Special Permit Approval Criteria and only after review of substantial evidence, including but not limited to detailed engineering reports or product engineering certification, which demonstrate that safety concerns have been minimized and that setbacks have been complied with to the maximum extent practicable. Setbacks for structures other than the wind turbine shall comply with the by-laws of the Town of Topsfield.
  - 5. No part of the WECS-SS support structure, including guy wire anchors, may extend closer to the property boundaries than the standard structure setbacks for the zoning district in which the land is located.

6. WECS-SS may not be installed in a front yard or on the street-facing end of a building which borders the front yard unless the Special Permit Granting Authority determines that the system is a sufficient distance from the street to mitigate the visual impact.
  7. There shall be no more than one (1) horizontal axis system or two vertical axis systems per lot. On lots greater than ten (10) acres, the Special Permit Granting Authority may permit additional units taking into consideration Section 15.04 O. Special Permit Approval Criteria.
- G. Noise: The operation of the WECS-SS shall conform with the provisions of the Department of Environmental Protection's, Division of Air Quality Noise Regulations (310 CMR 7.10) and its Noise Pollution Policy or superseding applicable state standards.
  - H. Prevention of Tower Access: Climbing access to the tower shall be limited by one of the following methods: by placing climbing apparatus no lower than twelve (12) feet from the ground, or by placing shielding over climbing apparatus or access, or by installation of a fence with a locked gate that touches the ground with a minimum height of 8 feet.
  - I. Compliance as required by the following:
    1. Regulations of the Federal Communications Commission (FCC)
    2. Massachusetts Uniform Building Code
    3. Regulations of the Federal Aeronautical Administration (FAA)
    4. National Electric Code
    5. Regulations of the Federal Energy Regulatory Commission (FERC)
  - J. Utility Notification: No WECS-SS shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator and an interconnection agreement has been approved by the utility. Off-grid systems shall be exempt from this requirement.
  - K. Site Control: At the time of application for a special permit, the Applicant shall submit documentation of actual or prospective control of the project site sufficient to allow for installation and use of the proposed facility. Documentation shall also include proof of control over setback areas and access roads.
  - L. Temporary Meteorological Tower (MET tower): A MET tower shall be permitted under the same standards as a WECS-SS, except that the requirements apply to a temporary structure. A permit for a temporary MET tower shall be valid for a maximum of one year after which an extension may be granted by the Special Permit Granting Authority upon demonstration of continued need. Small anemometers installed directly on buildings shall not require a Special Permit but may require a building permit.
  - M. Exterior Lighting: A wind turbine shall be lighted only if required by the Federal Aviation Administration. Lighting of other parts of the wind energy facility, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be shielded from abutting properties as approved by the Special Permit Granting Authority.
  - N. Support Towers: Monopole towers shall be used as the support structure for Wind Turbines; this requirement may be waived by the Special Permit Granting Authority for good cause at the discretion of the Special Permit Granting Authority.
  - O. Special Permit Approval Criteria: In addition to meeting the conditions for Special Permits in Article V, Section 5.04, any Special Permit granted for a WECS-SS shall meet the following conditions:

1. The specific site is an appropriate location for such use including but not limited to consideration of noise, flicker, shadow and visual impact;
2. The use will not pose a significant adverse impact to the health and safety of the neighborhood;
3. The proposed WECS-SS will pose no hazard to persons or property;
4. Adequate and appropriate infrastructure will be provided for the proper operation of the WECS-SS.

The Special Permit may include reasonable conditions, addressing among others, safeguards and limitations and requirements for the Applicant to implement measures to reasonably protect the neighborhood. The Special Permit may require the Applicant to implement all reasonable measures to mitigate unforeseen adverse impacts of the wind energy conversion system should they occur.

- P. As-Built Plan: The system shall not commence operation until an "As-Built" plan and a certificate of compliance have been submitted to the Special Permit Granting Authority and the Inspector of Buildings representing that the system has been constructed substantially in compliance with the plan approved by the Special Permit Granting Authority. Said certificate and plan shall be signed and stamped by a registered professional engineer licensed in the Commonwealth of Massachusetts.
- Q. Abandonment And Decommission: A WECS-SS or a MET tower will be considered to be abandoned if it is not operated for its intended purpose for a period of one year, or considered hazardous by the Inspector of Buildings. Once a WECS-SS or MET tower is designated as abandoned or hazardous, the owner shall mitigate the hazardous condition within thirty days or shall immediately physically remove the installation, which shall include, but not be limited to:
1. Removal of WECS-SS, any equipment shelters and security barriers from the subject property;
  2. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations;
  3. Re-vegetation of the site of the WECS-SS to its natural condition. The Inspector of Buildings may allow the owner to leave below-grade foundations and landscaping in order to minimize erosion and disruption to vegetation.

The Town retains the right, after the receipt of an appropriate court order to enter and remove an abandoned or hazardous WECS-SS or MET tower that is not removed by the property owner within six (6) months from the date of abandonment. All WECS-SS and MET tower removal and associated costs will be charged to the property owner in accordance with the provisions of M.G.L. 139, Section 3A as a tax lien on the property.

- R. Severability: All the clauses of this by-law are distinct and severable, and if any clause shall be deemed illegal, void, or unenforceable, it shall not affect the validity, legality, or enforceability of any other clause or portion of this by-law.
- (Art.31, 5/04/2010)

## **ARTICLE XIV**

### **SCENIC OVERLAY ZONE**

#### **14.1 Purpose**

The purpose of the Scenic Overlay Zone is to preserve the landscape of Topsfield and maintain the scenic and rural character of the southern entryway to the Town.

#### **14.2 Description of District**

The Scenic Overlay Zone is delineated by the Ipswich River on the north, by the town line of the Town of Topsfield on the south and by boundary lines running parallel to Route 1 located 1000 feet from the centerline of Route 1 on the east and west. The Scenic Overlay Zone is shown on the Official Zoning Maps of the Town of Topsfield and is identified by the abbreviation SOZ.

#### **14.3 Scope of Authority**

The Scenic Overlay Zone is an overlay district superimposed on the Town of Topsfield's zoning districts. This overlay district shall apply to all new construction, reconstruction or expansion of existing buildings and to new or expanded uses of a property located within the Scenic Overlay zone, except for single-family building additions.

#### **14.4 Uses in the Scenic Overlay Zone**

Uses within the Scenic Overlay Zone shall be limited to those permitted in the underlying ORA zoning district. Uses that are prohibited in the underlying zoning district are not permitted in the Scenic Overlay Zone. Uses that are permitted in the underlying ORA District are defined in Article III, 3.02 and 3.04 Table of Use Regulations of the Topsfield Zoning By-law and elsewhere in the Topsfield Zoning By-laws.

#### **14.5 Development Standards**

A. Projects located within the Scenic Overlay Zone shall be designed to preserve and complement the visual context of the natural area. The purpose of this By-law is accomplished by locating development so as to lessen its visual impact, preserving open space, preserving existing trees, providing additional landscaping, and screening of mechanical equipment, accessory facilities and parking facilities.

B. All use of lots subject to this chapter shall conform to the following:

1. Minimum Setback – The setback of buildings on lots with frontage on Route 1 shall at a minimum be 100'.
2. Site Mitigation – Any damage, loss or disturbance to the natural vegetation and grading that result from construction activity shall be mitigated by restoration of disturbed areas within the 100 foot minimum setback from Route 1 to its original state.
3. All parking shall be screened from Route 1.
4. All garbage collection areas, dumpsters and mechanical equipment must be screened from view.
5. All healthy trees over twelve inches in diameter that are within the setback area shall be retained unless they are located within a new utility easement, roadway, or Town-required construction easement.
6. If the façade of the building is visible from Route 1, two rows of trees, one deciduous and one evergreen, shall be planted along the length of the building so as to screen the building.

Upon application, the granting authority, as defined in Section 9.05, and acting pursuant to its authority and in accordance with the site plan review procedure set forth in that section, may allow for new grading and screening other than that required by condition B.2, or allow trees to be cut as otherwise prohibited by B.6, above, but only upon the applicant's demonstration that it is impractical or impossible to satisfy such conditions, and then only to the extent that such allowances satisfy the intent of this Article, as set forth in Section 14.4, above.

C. The use of lots subject to this Article that are also subject to site plan review shall satisfy the following standards in addition to those set forth in Section 9.07:

1. All construction shall be located to the extent possible behind natural elevations and vegetated areas of the property so that it is not visible from Route 1.
2. To the extent that it is feasible, development shall be integrated into the existing landscape through the use of building placement, landform treatment and visually compatible existing or new screening. All site improvement shall be laid out and constructed to minimize environmental and other impacts on protected resources.
3. All efforts shall be made to preserve the natural grading, vegetation, and any other unique features of the property.
4. Projects located within the Scenic Overlay District shall be designed to complement the visual content of the natural area. Architectural, site and landscape design techniques shall be used to protect the natural scenic views across, through, or to the site.

D. The use of lots subject to this Article that also require a special permit shall satisfy the standards set forth in Section C above, as part of the Conditions and Safeguards applicable to special permit uses pursuant to Section 5.04.B.

#### 14.6 Severability

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

(Art. 45, 5/4/2005)

## **ARTICLE XIII**

### **SIGN REGULATIONS**

#### **13.1 Purpose**

This Article has been adopted by the Town of Topsfield to accomplish the following purposes:

- e. To preserve and enhance the natural, scenic, historical, cultural, and aesthetic qualities of the Town of Topsfield.
- f. To support economic development and business vitality through efficient communication.
- g. To encourage the posting of signs that, by their location and design, complement the buildings and sites they occupy.
- h. To ensure the safety and general welfare of motorists and pedestrians.
- i. To protect property values by maintaining an attractive and harmonious community.

#### **13.2 Definitions**

A. Sign - Any letter, word, symbol, drawing, picture, design, device, article or object that conveys any message regardless of the nature of the material and manner of composition or construction. The following devices shall not be considered "signs" within the context of this Article:

- 1. Plaques and markers approved by the Historic District Commission.
- 2. Flags and insignia of governmental jurisdictions except when displayed for commercial purposes.
- 3. On premise devices guiding and directing traffic and parking which bear no advertising.
- 4. Legal notices or informational devices required by public agencies.
- 5. Standard gasoline pumps bearing thereon in usual size and form, the name, type and price of gasoline.

B. Temporary Sign – A commercial or non-commercial sign relating to any event, activity or business operation which is not of a continuing or regularly recurring nature. Examples include, but are not limited to, sales, special events, political campaigns, seasonal businesses or changes in the nature of an operation. Banners, flags, pennants and portable "A" frame and similar signs shall be considered temporary signs.

C. Sign Area - the area of the smallest horizontally or vertically oriented rectangle which could enclose all the display area of the sign, exclusive of structural members not bearing advertising matter.

#### **13.3 Special Permit Granting Authority**

A. For purposes of this Article, the Topsfield Board of Selectmen shall be the Special Permit Granting Authority.

- 1. The Special Permit Granting Authority shall have the authority to:
  - a. Hear and decide appeals.
  - b. Review and render decisions on applications for special permits for a sign.
- 2. The Special Permit Granting Authority shall adopt rules and regulations including, but not limited to, fees, procedures, methods, appeals, and removal of delinquent signs and shall make them available at the Town Clerk's Office.

#### **13.4 General Regulations**

A. Permits. No sign shall be erected, enlarged, or structurally altered without a sign permit issued by the Inspector of Buildings, unless specifically exempted from this requirement by specific sections of this



Article. Permits shall be issued only for signs conforming to this Article. Permit applications shall be accompanied by two prints of scale drawings of the sign, supporting structure, source of illumination, and location. Each application with respect to a sign within an Historic District must be accompanied by a certificate of appropriateness from the Historic Districts Commission. A copy of any relevant Special Permit shall also accompany the application.

The Inspector of Buildings shall issue a permit for the erection and maintenance of a sign or signs or deny the issuance thereof within thirty (30) days of the date on which the application for a permit was received. In the event that said permit has been denied, the Inspector of Buildings shall state the reason for said denial. If the Inspector of Buildings fails to take the appropriate action within the above stated period the permit shall be deemed to have been issued, and the Town Clerk shall issue a certificate of constructive approval of the application

B. Materials and Maintenance. Permanent signs shall be constructed of durable materials and shall, together with their structural elements, be maintained in a safe and neat condition to the satisfaction of the Inspector of Buildings.

C. Illumination. No internally lighted sign or sign using luminous letters and/or symbols shall be permitted. No sign shall be lighted, except by a white, continuous, stationary light, shielded and directed solely at the sign. Lights must be of sufficiently low intensity and brightness so as not to affect the safe vision of operators of vehicles moving within the premises or on adjacent public or private ways. No sign shall be illuminated in any residential district between the hours of 11:00 p.m. and 7:00 a.m. unless an establishment is open to the public during these hours. Temporary signs shall not be illuminated. The provisions of this Section shall apply not only to exterior signs, but also to interior signs that are designed or placed to show through windows of buildings.

D. Legally Existing Prior Nonconforming Signs.

1. Such signs may continue to be used and maintained hereafter and may be repaired from time to time unless abandoned.
2. Such signs shall not be enlarged, redesigned or altered in any way unless brought into conformity.
3. No such sign may be removed and replaced by a new nonconforming sign without a special permit.

Any such sign which has been destroyed or damaged to such an extent that the cost of restoration would exceed one third of the replacement value of the sign at the time of the destruction or damage, shall not be repaired, rebuilt or altered unless in conformity with this Article. If a damaged nonconforming sign shall not have been repaired or properly maintained within 60 days after notice to that effect has been given by the Inspector of Buildings, it shall be considered to be abandoned.

5. Any such sign on an abandoned establishment and any sign that advertises or calls attention to any products, businesses or activities which are no longer carried on or sold on the premises will be considered abandoned.

E. Prohibitions.

- f. No sign shall project above the roofline of a building.
2. No sign other than traffic control and route signs authorized by public agencies shall be placed within a public right of way.
3. Billboards, animated or revolving signs, and mobile signs (signs attached to motor vehicles, trailers, or other movable objects regularly or recurrently located for fixed display) are not allowed. No sign shall be affixed to any fence, tree, utility pole or traffic sign within the public right of way or to light posts, flag poles, columns, utility poles or other sign posts on their premises.
4. No sign either permanent or temporary shall be erected such as to impair the visibility of vehicles on the road or traffic control signs.
5. No sign shall project over any public right-of-way or other public property.

F. Off-Premises Signs. Signs advertising a business, service or product at another location shall not be erected except upon the issuance of a special permit by the Special Permit Granting Authority in

accordance with these General Regulations. Said signs must serve a reasonable public purpose and be of such size, location and design so as to be consistent with the purpose cited in Section 13.1.

G. Temporary Signs. Temporary signs shall be allowed provided that they comply with the following requirements:

f. Unless otherwise specified in this Article, temporary signs shall comply with all applicable requirements for permanent signs, including issuance of a sign permit.

g. Temporary signs that do not require a permit.

a. Temporary real estate and contractors' signs as described below in Section 13.5, A, 1, b and c.

b. Banners, flags, pennants and portable "A" frame signs associated with a commercial event such as grand openings, sales or closings may be displayed without a permit for no more than fourteen (14) days at a time and no more than thirty (30) days in the aggregate in any calendar year.

c. Temporary signs for the purpose of non-commercial sales, promotions, drives, campaigns or other events of a civic, philanthropic, or educational nature, or any other temporary signs of a non-commercial nature relating to an event, do not require a permit. Such signs shall not exceed 6 square feet. They shall not be posted for more than sixty (60) days prior to the date of event being advertised, promoted, or opposed, and shall be removed promptly when the information they contain is no longer relevant and no later than sixty (60) days after the conclusion of said event.

H. Service stations may display one (1) attached sign no larger than 6 sq. ft and one (1) free standing sign no larger than 9 sq. ft. offering inspectional services.

I. Abandoned signs shall be removed within thirty days after being so ordered by the Inspector of Buildings.

### 13.5 Permitted Sign

A. Residential Districts. No part of any sign shall be more than eight (8) feet above ground level or, unless attached to a building, within ten (10) feet of any street line.

1. The following signs shall not require a permit:

a. One (1) sign per house, either attached or free standing, indicating only the name of the owner or occupant, street number and permitted uses or occupations engaged in thereon. Such sign shall not exceed two (2) square feet.

b. One (1) temporary real estate sign advertising the sale, rental or lease of the premises on which the sign is located. Such sign shall not exceed (6) square feet in area.

c. One (1) temporary sign not larger than fifteen (15) square feet indicating the name and address of the parties involved in the construction on the premises, to be removed within thirty days of issuance of certificate of occupancy.

d. Private Sales of automobiles or other personal items. Only one (1) sign is permitted and shall not exceed two (2) square feet. Such signs may be displayed for thirty (30) days. Signs which advertise yard sales or similar events are permitted for a period of three days. Signs for private sales may not be affixed to utility poles or public property.

e. Decorative banners and governmental flags.

2. Signs in residential areas which require a permit. Any sign other than the signs listed in Section 13.5.A.1, above, shall require a Special Permit from the Special Permit Granting Authority.

B. Business Districts: Business Park District (BP), Business Highway District (BH), Business District Highway North (BHN), and Business Village District (BV).

1. The following signs shall not require a permit:
  - a. Signs permitted without permits in Residential Districts except that temporary real estate signs may be as large as nine (9) square feet.
  - b. Window signs that cover no more than 20% of the available window space and are not illuminated by other than standard fixtures on the building except in the Business Park District.
2. The following regulations shall apply to signs in Business Districts requiring permits.
  - a. Any business complex comprising three or more buildings on a single lot may erect one freestanding sign for each street on which the development fronts containing the name or other identification of the complex.
  - c. Buildings having four (4) or more occupants may erect a single sign, either attached or freestanding, identifying either the premises or those occupants. Additionally, each occupant may erect one attached sign.
  - d. In buildings having fewer than four (4) occupants each occupant may have two (2) signs provided that one (1) of these signs is free standing.
  - e. All permitted signs in the Business Districts shall comply with the Table of Dimensional Regulations below:
3. The following signs shall require Special Permits from the Special Permit Granting Authority:
  - a. All signs other than those listed above.

#### **Town of Topsfield**

**Table of Dimensional Regulations  
Maximum Dimensions**

<b>District</b>	<b>Free-standing Sign Per Complex of 3 or More Buildings</b>	<b>Attached or Free-Standing Sign Per Building with 4 or More Occupants</b>	<b>Attached Sign Per Occupant</b>	<b>Free-standing Sign Per Occupant</b>
<b>Business Village</b>	25 sq. ft. in area 8 ft. in height	10% of front elevation up to a maximum of 15 sq. ft.	10% of front elevation of occupant's premises up to a maximum of 25 sq. ft.	10% of front elevation of occupant's premises up to a maximum of 15 sq. ft. 8 ft. in height
<b>Business Highway</b> <b>Business Highway North</b>	25 sq. ft. in area 15 ft. in height 15ft. setback from property line or right of way.	10% of front elevation up to a maximum of 25 sq. ft. 15ft. setback from property line or right of way.	10% of front elevation of occupant's premises up to a maximum of 50 sq. ft.	10% of front elevation of occupant's premises up to a maximum of 25 sq. ft. 8 ft. in height
<b>Business Park</b>	25sq. ft. in area 8 ft. in height	Special Permit	3 sq. ft.	Maximum of 8 sq. ft. Special Permit Required

#### **13.6 Non-Conforming Sign**

The Special Permit Granting Authority may grant a special permit for a sign not in compliance with the provisions of this Article, provided that a determination has been made that the sign is or will be in harmony with the interests cited in section 1. To be granted a special permit, the applicant shall establish

that hardship exists, a reasonable public benefit is derived from the erection, replacement or maintenance of the sign and that the general purposes of this Article are not defeated. In granting such permits, the Special Permit Granting Authority shall specify the size and location of the sign and impose such other terms, restrictions, and conditions as it may deem to be in the public interest.

### 13.7 Severability

If any section of this Article is found to be in conflict with any statutes of the Commonwealth, such finding shall not affect the validity of the remainder of the Article nor the lawful administration thereof.

(Art. 23, 5/6/86; Art. 45, 5/2/95; Art. 34, 5/6/03; Art. 28, 5/5/04)

#### **Editor's Note:**

Sign By-Law Rules and Regulations and Sign Special Permit Application were adopted by the Board of Selectmen on December 13, 2004. Said Application, Rules & Regulations are available at the Office of the Board of Selectmen and can be found in Chapter 7 of the Topsfield Town Code Rules & Regulations.

## **ARTICLE XII**

### **WIRELESS TELECOMMUNICATIONS FACILITY BYLAW**

#### **12.01 Definitions.**

- A. AGL: Above ground level.
- B. Antenna: A electronic equipment the surface from which wireless radio signals are sent and received by a wireless telecommunications facility.
- C. Collocation: The placement of antennas by more than one FCC licensed carrier on a tower or other structure from which to transmit or receive radio signal.
- D. FCC licensed carrier: A company licensed and regulated by the Federal Communications Commission that provides wireless telecommunications services. For the purposes of this bylaw, a FCC licensed carrier is not a public utility.
- E. Ground Equipment: Equipment shelters, radio cabinets, power and telephone cabinets, backup emergency power and other associated equipment (not including Towers) located on the ground.
- F. Major Wireless Telecommunications Facility: A tower, antennas, cables, radio, electronic and associated equipment used by FCC licensed carriers for the purposes of transmitting and receiving voice and data via radio waves.
- G. Minor Wireless Telecommunications Facility: Antennas, cables, radio, electronic and associated equipment mounted wholly within existing structures and used by FCC licensed carriers for the purposes of transmitting and receiving voice and data via radio waves. Minor Wireless Telecommunications Facilities require no new tower to be constructed.
- H. Monopole: Vertical single pole structure capable of holding antennas either within its interior or on its exterior.

#### **12.02 Use.**

- A. Major Wireless Telecommunications Facilities shall be allowed by Special Permit pursuant to Article V and subject to Site Plan Review pursuant to Article IX in those areas within the Town of Topsfield that fall outside the circle of a certain geographic area that has a radius equal to 8,000 feet and with a center at the intersection of the south and east boundaries of Pemberton Lane.
- B. Minor Wireless Telecommunications Facilities shall be allowed by Special Permit pursuant to Article V and subject to Site Plan Review pursuant to Article IX throughout the Town of Topsfield.

#### **12.03 Purpose and Intent.**

To preserve the visual landscape of the community, and preserve and protect the interests and the inhabitants of the Town of Topsfield. To that end, collocation of antennas and equipment associated with wireless telecommunications shall be encouraged on existing lawful structures and the construction of new towers is discouraged.

#### **12.04 Major Wireless Telecommunications Facilities (Major WTF).**

- A. Design Criteria:

1. All Major WTFs shall be sited, screened and finished to blend in with the surroundings in such a manner that aesthetically minimizes the visibility and adverse impact of the Major WTF with the surrounding landscape. Existing on-site vegetation shall be preserved to the maximum extent possible.
2. Major WTFs shall in all cases be a monopole design. No lattice towers will be allowed. Monopoles shall be "steath" in that they shall have antennas that are either interior mounted or exterior flush mounted, with strong preference given for "tree" monopoles.
3. Major WTFs shall be no higher than 100 feet AGL; if however, the applicant has, including itself if the applicant is a FCC licensed carrier, two or more FCC licensed carriers who are coapplicants, or who have expressed written interest in collocating on the proposed Major WTF, then the facility shall be no higher than 120 AGL.
4. No Major WTF shall be lighted unless required by the FAA.
5. All Major WTF shall be designed and built to accommodate the maximum number of users technologically practical.
6. A Major WTF shall not be erected nearer to any property line than a distance equal to the vertical height of the Major WTF (inclusive of any appurtenant devices)
7. All network interconnections to the Major WTF shall be by land lines.
8. The tower and all ground equipment associated with the Major WTF shall be surrounded by an 8 foot high security fence and kept locked at all times. If the fence and ground equipment are visible from a public way, the fence shall be constructed of wood and shall be painted or surrounded by plantings to help the facility blend in with the surroundings.
9. There shall be one generator per Major WTF for backup emergency power. Such generator shall be fueled by liquid propane and not by diesel fuel.
10. There shall be no signage posted at a Major WTF except those required by the FCC or as otherwise required by law.
11. Access roads leading to any Major WTF shall be constructed of improved gravel or grass paving blocks.

**B. Special Submittal/Other Requirements:**

1. New Major WTFs shall be considered by the ZBA only upon a finding by the ZBA that there is no existing structure that can be used as a Minor WTF or that there is no existing or approved Major WTFs that is available, that can physically accommodate and/or that can provide sufficient radio signal to the area sought to be covered by the proposed Major WTF.
2. A balloon of the color and size customary in the industry shall be flown for four hours each on two successive Saturdays as further directed by ZBA - to simulate the height at which the Major WTF is proposed. Visual computer simulations of how the Major MTF will look from 360 degree views from all prominent vantage points shall be presented at the public hearing.
3. A removal bond shall be posted by the applicant in an amount sufficient to cover all costs of removal of the Major WTF. A Major WTF that has no FCC licensed carriers transmitting/receiving from the Major WTF for a period of one year, shall be dismantled.

**C. Lawfully Existing Major Wireless Telecommunications Facilities:**

1. A lawfully existing Major WTF may be replaced, but such replacement facility shall be by a Special Permit and shall not be any greater in height nor substantially greater in mass than the existing Major WTF.
2. Lawfully existing Major WTF may be permitted by a Special Permit a one-time increase in height of twenty feet if the applicant sufficiently demonstrates that the height increase will prevent the need for additional Major WTFs from being built and that the need for the height increase is required by a carrier.
3. Collocation on an existing Major WTF shall be by Special Permit.
4. Wireless Communication Facilities lawfully in existence prior to the enactment of this By-Law may be altered, changed, extended or rebuilt subject to a Special Permit by the Zoning Board of Appeals, provided any alteration, change, extension or reconstruction subject to Section 12.0 of this By-Law.

12.05. Minor Wireless Telecommunications Facilities (Minor WTF).

1. Minor WTFs shall be preferred over new Major WTFs.
2. All equipment associated with the Minor WTF shall be either camouflaged from view from the public way.
3. Subject to the height requirements and exceptions in the Zoning Bylaw, the height of an existing structure used as a Minor WCF may be increased in height by 25' to accommodate said Minor WTF.

(Art. 35, 5/1/2001)

## **ARTICLE XI**

### **GROUNDWATER PROTECTION DISTRICT**

#### **1.0 Purpose.**

The purpose of the Groundwater Protection Districts Bylaw is to preserve and protect the groundwater of the Town of Topsfield, the Town's sole source of potable water, against degradation through either planned or unplanned disposal of wastes or hazardous material that may result in the contamination of the Town's well water. The Groundwater Protection Districts established hereunder delineate the areas in which groundwater is drawn into the Town's well fields. Since these areas are particularly sensitive to contamination, the Bylaw restricts certain uses and activities therein to safeguard the quality and healthfulness of the Town's drinking water.

#### **2.0 Scope of Authority.**

A Groundwater Protection District (GPD) is an overlay district superimposed on the Town of Topsfield's zoning districts. This overlay district shall apply to all new construction, reconstruction or expansion of existing buildings and new or expanded uses of a property located within the GPD. Activities or uses within the GPD shall be limited to those permitted in the district as well as the underlying zoning district. Uses that are prohibited in the underlying zoning district are not permitted in the GPD.

#### **3.0 Definitions.**

Groundwater Protection District - A zoning district defined to overlay the zoning districts of the Town of Topsfield, Massachusetts. The GPD includes both Zone I and Zone II areas. The GPD's are delineated on the Groundwater Protection Districts Plan.

Impervious Surface - Material or structure on, above, or below ground that does not allow precipitation or surface water to permeate into the soil below the material or structure.

Mining - The removal or relocation of geologic materials such as topsoil, sand, gravel, metallic ores, or bedrock.

Recharge Areas - Areas that collect precipitation or surface water and carry it to aquifers. Recharge Areas include areas designated as Zone I, and Zone II.

Special Permit Granting Authority (SPGA) - The Topsfield Planning Board Pursuant to Art. V, sec. 5.02B of the Topsfield Zoning Bylaw, hereinafter called the Zoning Bylaw.

Toxic or Hazardous Material - Any substance or mixture of physical, chemical, or infectious characteristics posing a significant, actual, or potential hazard to human health if such substance or mixture were discharged onto land or into surface - or groundwater of the Town of Topsfield. Toxic or hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive materials, infectious wastes, acids, alkalis and all substances defined as Toxic or Hazardous under G.L.C. 21C and 21E and 310 CMR 30.00. Toxic and hazardous materials also include such products as solvents, oil based paints, thinners, fertilizers and pesticides in quantities greater than is customary for normal household or lawful agricultural uses.

Zone I – The protective radius required around a public water supply well or well field. The zone I radius for a public water system with an approved yield of 100,000 gallons per day (gpd) is 400 ft for a well and 250 ft for a well field.



Zone II – The area of an aquifer that contributes water to a well or well field under the most severe pumping and recharge conditions that realistically can be anticipated defined to be 180 days of pumping water at the approved yield limit with no recharge from precipitation. The Zone II boundary is characterized by the intersection of the normal groundwater level with the geohydrological gradient of the groundwater in the vicinity of the well or well field.

#### 4.0 Establishment and Delineation of Groundwater Protection District.

For the purpose of this By-Law there are hereby established within the Town of Topsfield groundwater protection districts which are delineated on the Groundwater Protection District Plan. This plan, as amended from time to time by Town Meeting vote, is hereby made part of the Groundwater Protection District By-Law and is on file in the office of the Town Clerk.

#### 4.1 District Boundary Disputes.

Where the location of the GPD boundary in relation to a particular parcel is in dispute, an appeal may be made to the Topsfield Zoning Board of Appeals pursuant to G.L.C 40A, sec's 8 and 15. Any application for an Appeal Hearing for this purpose shall be accompanied by adequate documentation and shall be filed with the Town Clerk in accordance with the Topsfield Zoning Board of Appeals Rules and Regulations.

#### 5.0 Severability.

A determination that any portion or provision of this Bylaw is invalid shall not invalidate any other portion or provision thereof, nor shall it invalidate any special permit previously issues there under.

#### 6.0 Use Regulation.

In the Groundwater Protection District the following regulations shall apply:

#### 6.1 Permitted Uses

The following uses are permitted within the Groundwater Protection District provided that any permits, orders, and approvals required by local, state, or federal laws or regulations are obtained:

1. All uses customary and incidental to maintaining and using a residential dwelling.
2. Conservation of soil, water, plants and wildlife.
3. All outdoor passive recreation and sports where these are permitted in the underlying zoning districts.
4. Foot, bicycle and/or horse paths and bridges.
5. Normal operation and maintenance of existing water bodies and dams, splash boards and other water control, supply and conservation devices;
6. Maintenance, repair, and enlargement of any existing structure, subject to Section 6.2 (prohibited uses) and Section 6.3 (Special Permit uses).
7. Residential development, subject to Section 6.2 (prohibited uses) and Section 6.3 (Special Permit uses).
8. All agricultural uses exempted from local zoning regulations under the provisions of G.L.C. 40A, Sec. 3.

9. Construction, maintenance, repair, and enlargement of drinking water supply related facilities such as, but not limited to; wells, pipelines, aqueducts, and tunnels.
10. Storage of liquid petroleum products for the following purposes:
  - a. Normal household uses.
  - b. Fuel supplies for emergency electrical generators required by law.
  - c. Fuel supplies for water treatment works for ground or surface water approved under 310 CMR 32.05. All petroleum product storage tanks shall be free standing within a building or outside in a covered container on an impervious platform surrounded by a containment dike constructed in accordance with all applicable provisions of 310 CMR 22.21 (2)(b)5 as most recently amended.
11. Storage of hazardous waste materials for the following purposes:
  - a. Waste oil retention and reuse facility required or permitted by law.
  - b. Very small quantity generator as defined by 310 CMR 30.00.
  - c. Water remediation facility approved under 314 CMR 5.00.
12. Maintenance and repair or replacement of existing waste water treatment works provided however, these are not replaced by works of greater design capacity.
13. The replacement of an existing subsurface sewage disposal system with a waste water treatment works of equal design capacity.
14. Water treatment works approved by the Mass. DEP.
15. Storage of sludge and septage, provided however, such storage is in compliance with the provisions of 310 CMR 32.30 and 32.31.
16. Storage of deicing materials provided however, these are stored within a structure designed to prevent the generation and escape of contaminated leachates into the soil.
17. Storage of animal manure as permitted by the Topsfield Board of Health. Provided however, that all such manure is stored in a container or covered shed in accordance with all applicable provisions of 310 CMR 22.21 (2)(b)4 as most recently amended.
18. Storage of liquid hazardous materials provided however, these are stored in free standing tanks within a building or outside on an impervious platform surrounded by a containment dike capable of holding the volume of the tank or tanks.
19. Storage of commercial fertilizers and soil conditioners within a structure designed to prevent the generation and escape of contaminated leachates into the soil.
20. The removal of earth products for the purpose of building foundations as provided under Art. IIV, sec. 7.01 of the Zoning Bylaw and the construction of roads and septic systems.

## 6.2 Prohibited Uses

The following uses are prohibited in the Groundwater Protection Districts:

1. Landfills and open dumps as defined in 310 CMR 19.006;
2. Storage of liquid petroleum products for purposes other than those listed in section 6.1, paragraph 10.

3. Landfilling of sludge or septage as defined in 310 CMR 32.05;
4. Individual sewage disposal systems that are designed in accordance with 310 CMR 15.00 to receive more than 110 gallons per day of sewage per quarter acre of land under one ownership, except for repair and replacement with a system of equal capacity.
5. Earth removal, consisting of the removal of soil, loam, sand, gravel or any other earth material (including mining activities) to within six (6) feet of the seasonal high groundwater as determined by a soil evaluator certified pursuant to 310 CMR 15.017, or to within four (4) feet of the historical groundwater level pursuant to the provisions of 310 CMR 22.21 (2)(b)6 as most recently amended – whichever of these is higher at the sites.
6. Automobile graveyards and junkyards, as defined in MGL c140B, s.1.
7. Waste water treatment works that are subject to 314 CMR 5.00 including privately owned sewage treatment facilities except as permitted under sec. 6.1, paragraphs 12 and 13.
8. Industrial and commercial uses which discharge process wastewater on-site.
9. The use of septic system cleaners which contain toxic or hazardous chemicals.

### 6.3 Uses and Activities Requiring a Special Permit.

The following uses and activities are permitted only upon the issuance of a Special Permit by the Special Permit Granting Authority (SPGA) under such conditions as it may require:

1. The application of herbicides, pesticides, insecticides, fungicides, and rodenticides for non-domestic and non-agricultural purposes as applied in accordance with state and federal standards.
2. The application of fertilizers and soil conditioners for non-domestic and non-agricultural purposes.
3. Activities and processes that involve the storage and use of toxic and hazardous materials in quantities greater than those associated with normal household use or within the limits defined by 310 CMR 30.00 where such activities or processes are permitted in the underlying zoning district
4. The construction of dams or other water control structures, ponds, pools, or changes to natural water bodies or watercourses for the purpose of recreational, agricultural, or drainage improvements inclusive of alterations to the normal operation and maintenance of existing water bodies, dams, splash boards, and other water control, supply, and conservation structures. Such structures approved by the Topsfield Planning Board pursuant to the provisions of the Rules and Regulations Governing the Subdivision of Land in the Town of Topsfield are exempted from this provision.
5. Any use that will render impervious more than 2,500 square feet or 15% of any lot whichever is less pursuant to all applicable provisions of 310 CMR 22.21 (2) (b) 7 as most recently amended.
6. Excavations for purposes other than those itemized in sec. 6.1, para. 20, except those made for the repair and maintenance of the Town's water supply and wells serving residential dwellings as permitted by the Topsfield Board of Health.

### 7.0 Procedures for Issuance of Special Permits.

Art. V, sec. 5.02 B of the Zoning Bylaw establishes the Topsfield Planning Board as the Special Permit Granting Authority (SPGA). All applications for a Special Permit shall be submitted to the SPGA in accordance with the provisions of Art. V, sec. 5.04A of the Zoning Bylaw and any rules and regulations that the SPGA may adopt under the provisions of this Bylaw. In addition, the applicant shall submit 4 copies of the application and any relevant supporting material to the Town Clerk for distribution to the following boards, and agents: Board of Health, Conservation Commission, Board of Water Commissioners, and Town Engineer. All applications shall be accompanied by a site plan drawn by a registered professional engineer. The SPGA may waive said plan requirement by vote of its members at a regular or advertised meeting.

#### 7.1 Action by the Special Permit Granting Authority.

The SPGA shall hold a Public Hearing on the application as provided in Art. V, sec. 5.04. of the Zoning Bylaw. Respondent boards and agents have thirty-five (35) days upon the date of receipt of the application by the Town Clerk to submit written comments and/or findings relative to the application to the SPGA.

The SPGA shall make a decision on the application within ninety (90) days of the closing date of the public hearing. Where no such decision has been made in the absence of any extensions for time agreed upon by the SPGA and the applicant, the application shall be granted constructive approval as provided under Art. V, sec. 5.04, par. A-4.

The SPGA shall make written findings on which a decision for the approval or denial of an application is based. A true copy of said findings, the vote, and the decision by the SPGA shall be filed with the Town Clerk no later than ten (10) days after the date at which the action was taken.

#### 7.2 Rules and Regulations.

The SPGA may make rules and regulations relative to the special permit procedure. These may set submission material standards, formulate special permit forms to be filled out, and set notice requirements. All such rules and regulations shall be consistent with the Zoning Bylaw and the subdivision rules and regulations. A true copy of the rules and regulations and any subsequent amendments adopted by the SPGA shall be submitted to the Town Clerk's office no later than ten (10) days after the date of adoption of said rules or amendments thereto.

#### 8.0 Standards for Special Permit uses in the Groundwater Protection District.

The following sections list information that shall be submitted with the Special Permit application to enable the SPGA to render a decision on the Special Permit applications:

##### 1. Applications for storage and use of chemicals.

A complete list of chemicals, pesticides, herbicides, fertilizers, fuels and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use shall be submitted to the SPGA with each application. For activities using or storing such hazardous materials, a hazardous materials management plan shall be prepared and filed with the Hazardous Materials Coordinator, Fire Chief, and Board of Health. The plan shall include:

- a. Provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism, including spill containment and clean-up procedures.
- b. Provisions for indoor, secure storage of hazardous material and wastes with impervious floor surfaces and dikes surrounding any storage area for liquid chemicals.

c. Evidence of compliance with the Regulations of the Massachusetts Hazardous Waste Management Act 310 CMR 30.00, inclusive of an EPA identification number from the Massachusetts Department of Environmental Protection.

d. Proposed down-gradient locations(s) for groundwater monitoring wells, where the SPGA or respondent boards or agents deem the proposed storage and use of chemicals poses a potential groundwater threat.

2. Applications for the construction of dams, ponds, and water control structures.

Where these are not part of a subdivision approval process, the application shall include the following items:

a. Geohydrological analyses of the effect of the proposed project on the groundwater table.

b. Analyses of the effect of the project upon surface water run-off and distribution of such. The analyses shall include estimates of any changes in surface water infiltration rates and/or times of concentration of run-off in the vicinity of the project.

c. Estimates of the ability of the proposed project to affect the infiltration of surface water contaminants inclusive of chemical and biological wastes into the ground water.

3. Applications for rendering impervious a parcel of land.

Applications for a Special Permit to render more than 5,000 square feet or 25% of a lot impervious, inclusive of the paving of surfaces and the construction of dwellings shall provide the following items:

a. Plans showing grading to control run-off from the structure or paved surface inclusive of the location of infiltration into the ground and the time of concentration for a 100 year frequency storm. The storm water control system shall be designed such that neighboring lots are unaffected by the proposed project.

b. Plans showing control devices for the interception of surface water contaminants inclusive of oil separators and other such devices in the design of the storm water control system.

4. Applications for excavations.

Applications for deep excavations shall provide the following items:

a. A plan showing the excavation depth and the maximum annual groundwater elevation.

b. An analysis of the geo-hydrological effect that the proposed excavation has on the groundwater elevation within a 300 ft radius of the excavation.

c. A plan showing the finished project inclusive of man-made structures, devices installed in the excavation pit, proposed septic systems, and all paved areas within a radius of 100 ft of the site.

#### 9.0 Violations of Groundwater Protection District By-Law.

Written notice of any violations of this bylaw shall be given by the Building Inspector and/or the Board of Health Agent to the responsible person as soon as possible after detection of a violation or a continuing violation. Notice to the assessed owner of the property shall be deemed notice to the responsible person. Such notice shall specify the requirement or restriction of the bylaw that has been violated and

the nature of the violation, and may also identify the actions necessary to remove or remedy the violations and preventative measures required for avoiding future violations and a schedule of compliance. Copies of such notice shall be submitted to the Building Inspector, the Board of Health, Conservation Commission, Town Engineer and the Water Department. The cost of containment, clean-up, or other action of compliance shall be borne by the owner and/or operator of the premises.

Situations that require remedial action to prevent adverse impact to the water resources in the Groundwater Protection District, the Town of Topsfield, the Building Inspector, the Board of Health, Town Engineer or any of their agents may order the owner or operator of the premises to remedy the violation. If said owner and/or operator does not comply with said order the Town of Topsfield, the Building Inspector, the Board of Health, Town Engineer or any of their agents, if authorized to enter upon such premises under the terms of the special permit or otherwise, may act to remedy the violation of the owner and operator of the premise.

#### 10.0 Fines for violations of the Bylaw.

Fines for violations of the Groundwater Protection District Bylaw shall be levied in accordance with the provisions of Art. V, Sec. 5.06 of the Zoning Bylaw.  
(Art. 6, 9/21/99; Art.35, 5/4/99)

## **ARTICLE IX**

### **SITE PLAN REVIEW**

#### **9.01 Purpose.**

This section is enacted to protect the health, safety, convenience and general welfare of the inhabitants of the Town and is intended to regulate the development of structures and sites in a manner which considers the following concerns and, where necessary requires modification of development proposals to eliminate or minimize potential problems and nuisances. The principal areas of concern are:

- a) The balancing of landowners' rights to use their land, with the corresponding rights of abutting and neighboring landowners to live without undue disturbances (e.g. noise, smoke, fumes, dust, odor, glare, stormwater runoff, etc.);
- b) The convenience and safety of vehicular and pedestrian movement within the site, and in relation to adjacent areas or roads;
- c) The adequacy of waste disposal methods and protection from pollution of surface and groundwater; and
- d) The protection of historic and natural environmental features on the site under review, and in adjacent areas.

#### **9.02 Granting Authority.**

As used herein "Granting Authority" shall mean the Permit Granting Authority if the underlying use requires from the Granting Authority a Special Permit, a finding pursuant to Article III, 3.05 of these regulations, a variance, or any other relief required to be granted by the permit granting authority and in all other instances shall mean the Special Permit Granting Authority.

#### **9.03 Projects Requiring Site Plan Review.**

No permit for the construction, exterior alteration, relocation, occupancy, or change in use of any building shall be given and no existing use shall be established or expanded in floor area except in conformity with a site plan approved by the Granting Authority. Site Plan Review shall also be required for the resumption of any use discontinued or not used for more than two (2) years, or for the expansion of any existing use. "Expansion" shall include a floor space increase of twenty-five (25) percent or more within any ten (10) year period, or the introduction of new materials or processes not previously associated with the existing use. Required approval includes proposals for commercial, industrial, office, multiple-dwelling residential developments, municipal, institutional, utility, fraternal or recreational purposes.

#### **9.04 Exemptions from Site Plan Review.**

Site Plan Review shall not be required for:

- a) The construction or enlargement of any single family or two family dwelling, or building accessory to such use;
- b) The construction or alteration of any building used exclusively for agriculture, horticulture, or floriculture;

- c) Construction or alteration providing for not more than five hundred (500) square feet total floor area after construction.
- d) Customary home occupations as defined in the Zoning By-Law.

#### 9.05 Procedure.

a. An Applicant for Site Plan Review under this section shall file with the Town Clerk copies of the site plan documents in accordance with Section 4.11 Submittal Distribution Requirements and Formats for a Definitive Plan in the Rules and Regulations Governing the Subdivisions of Land in the Town of Topsfield. The Clerk's copy of the site plan application shall be kept on file by the Town Clerk.

b. The Granting Authority is authorized to retain a registered professional surveyor, engineer, architect, landscape architect, or other professional consultant such as an attorney to advise the Granting Authority on any or all aspects of the site plan. The cost of this advice shall be borne by the Applicant. The Applicant shall furnish a deposit to the Granting Authority, within ten days after the execution of an outside consultant agreement in accordance with M.G.L. Chapter 41, Section 53G, sufficient to cover all of the Granting Authority's anticipated expenses connected with the public hearing and review of the plans.

c. The Boards shall have up to thirty (30) days to submit recommendations in writing to the Granting Authority concerning:

- i) The adequacy of the data and procedures used by the applicant to determine the impacts of the proposed development;
- ii) The effects of the projected impacts of the proposed development; and
- iii) The recommended conditions or remedial measures to accommodate or mitigate the expected impacts of the proposed development.

Failure of an agency to report within the allotted time shall be interpreted as non-opposition to the submitted site plan.

d. The Granting Authority shall hold a public hearing and shall take final action within the appropriate time periods as provided in Massachusetts General Laws, Chapter 40A, Sections 9 and 11. The Granting Authority's final action, rendered in writing shall consist of either:

- i) Approval of the site plan based upon a determination that the proposed plan will constitute a suitable development and is in compliance with the standards set forth in this By-Law;
- ii) Disapproval of the site plan based upon a determination that the proposed project does not meet the standards for review set forth in this By-Law; or
- iii) Approval of the site plan subject to any conditions, modifications and restrictions as required by the Granting Authority which will ensure that the project meets the Standards for Review.

#### 9.06 Submission Requirements.

The site plan shall include the following data, details, and supporting plans. The number of pages submitted will depend on the proposal's size and complexity. All of the requirements must be met in each plan, with notations explaining the reasons for any omissions.



Site plans shall be prepared by a registered professional surveyor, engineer, architect, or landscape architect at a scale of one (1) inch equals twenty (20) feet, on standard 24" x 36" sheet, with continuation on 8 1/2" x 11" sheets as necessary for written information.

Items required for submission include:

1. Name of the project, boundaries, and locus maps showing site's location in Town, date, north arrow and scale of the plan.
2. Name and address of the owner of record, developer, and seal of the surveyor, engineer, architect or landscape architect.
3. Names and addresses of all owners of record of abutting parcels and those within three hundred (300) feet of the property line.
4. All existing lot lines, easements, and rights of way. Include area in acres of square feet, abutting land uses, and the location and use of structures within three hundred (300) feet of the site.
5. The location and use of all existing and proposed buildings and structures within the development. Include all dimensions of height and floor area, and show all exterior entrances, and all anticipated future additions and alterations.
6. The location of all present and proposed public and private ways, parking areas, driveways, sidewalks, ramps, curbs, fences, paths, landscaping, walls, and fences. Location, type, and screening details for all waste disposal containers shall also be shown.
7. The location, height, intensity, and bulb type (e.g. fluorescent, sodium incandescent) of all external lighting fixtures. The direction of illumination and methods to eliminate glare onto adjoining properties must also be shown.
8. The location, height, size, materials, and design of all proposed signage.
9. The location of all present and proposed utility systems including:
  - sewage or septic system;
  - water supply system;
  - telephone, cable, and electrical systems; and
  - storm drainage system including existing and proposed drain lines, culverts, catch basins, headwalls, endwalls, hydrants, manholes, and drainage swales.

The Planning Board may also request soil logs, percolation test and storm runoff calculations for large or environmentally-sensitive developments.

10. Plans to prevent the pollution of surface or groundwater, erosion of soil both during and after construction, excessive run-off, excessive raising or lowering of the water table, and flooding of other properties, as applicable.
11. Existing and proposed topography at a two (2) foot contour interval. All elevations shall refer to the nearest United States Coastal and Geodetic Bench Mark. If any portion of the parcel is within the one hundred (100) year flood plain, the area will be shown, and the base flood elevations given. Indicate areas within the proposed site and within fifty

(50) feet of the proposed site, where ground removal or filing is required and give its approximate volume in cubic yards.

12. A landscape plan showing all existing natural land features, trees, forest cover and water sources, and all proposed changes to these features including size and type of plant material. Water sources will include ponds, lakes, brooks, streams, wetlands, floodplains, and drainage retention areas.

13. Zoning district boundaries within three hundred (300) feet of the site's perimeter shall be drawn and identified on the plan.

14. Traffic flow patterns within the site, entrances and exits, loading and unloading areas, curb cuts on the site and within one hundred (100) feet of the site.

The Granting Authority may require a detailed traffic study for large developments or for those in heavy traffic areas to include:

- a) The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour traffic levels;
- b) The projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed use of the site;
- c) The impact of this traffic upon existing abutting public and private ways in relation to existing road capacities. Existing and proposed daily and peak hour traffic levels as well as road capacity levels shall also be given.

15. For new construction or alterations to any existing building, a table containing the following information must be included:

- a) Area of building to be used for a particular use such as retail operation, office, storage, etc;
- b) Maximum number of employees
- c) Maximum seating capacity, where applicable; and
- d) Number of parking spaces existing and required for the intended use.

16. Elevation plans at a scale of 1/4"=1' for all exterior facades of the proposed structure(s) and/or existing facades, plus addition(s) showing design features and indicating the type and color of materials to be used.

17. The Granting Authority shall have the right to waive or modify any of the above requirements upon its own motion or upon the request of the applicant and shall further have the right to request additional or further information or submissions if it determines that such items are necessary or appropriate for the Granting Authority to make its decision consistent with the stated intent and purposes of this Article.

(Art. 36, 5/2/90; Art. 21, 5/21/93; Art. 35, 5/2/95; Art. 30, 5/4/2004)

#### 9.07 Standards for Review.

The Granting Authority shall review the site plan and supporting documents, taking into consideration the reasonable fulfillment of the objectives listed below. Detailed design guidelines and

performance standards<sup>1</sup> shall be adopted by the Granting Authority to guide decisions with respect to these objectives, and to help ensure consistency in the review of all applications.

1. Legal. Conformance with the provisions of the By-Laws of the Town, the General Laws of Massachusetts, and all applicable rules and regulations of State and Federal agencies.
2. Traffic. Convenience and safety of both vehicular and pedestrian movement within the site and in relationship to adjoining ways and properties.
3. Parking. Provisions for the off-street loading and unloading of vehicles incidental to the normal operation of the establishment, adequate parking, adequate lighting, and internal traffic control.
4. Town Services. Reasonable demands placed on Town services and infrastructure.
5. Pollution Control. Adequacy of methods for sewage and refuse disposal, and the protection from pollution of both surface waters and groundwater. This includes minimizing soil erosion both during and after construction.
6. Nuisances. Protection of abutting properties and Town amenities from any undue disturbance caused by excessive or unreasonable noise, smoke, vapors, fumes, dust, odors, glare, stormwater runoff, etc.
7. Existing Vegetation. Minimizing the area over which existing vegetation is to be removed. Where tree removal is required, special attention shall be given to planting of replacement trees.
8. Amenities. The applicant's efforts to integrate the proposed development into the existing landscape through design features such as vegetative buffers, roadside plantings, and the retention of open space and agricultural land.
7. Town Character. The building setbacks, area and location of parking, architectural compatibility, signage, and landscaping of the development, and how these features harmonize with the surrounding townscape and the natural landscape. (Art. 36, 5/2/90)

#### 9.08 Enforcement.

1. The Granting Authority may require the posting of a bond or other similar performance guarantee to ensure compliance with the plan and stated conditions of approval. It may suspend any permit or license when work is not performed as required.
2. Any Special Permit issued under this section shall lapse within one (1) year if a substantial use thereof has not commenced, except for good cause. The time required to pursue and await determination of a judicial appeal pursuant to Chapter 40A of the General Laws shall be included within the one (1) year time limit.
3. The Granting Authority may periodically amend or add rules and regulations relating to the procedures and administration of this By-Law, by majority vote of the combined

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<sup>1</sup>**Editor's Note:** See Appendix ZA:1, Zoning Guidelines.

Granting Authorities, after conducting a public hearing to receive comments on proposed revisions. Such hearing shall be advertised once in a newspaper of general local circulation, at least seven (7) days prior to the hearing date.

(Art. 36, 5/2/90)

## **ARTICLE VIII**

### **IPSWICH RIVER PROTECTION DISTRICT**

The land located in the District as hereinafter described and defined is deemed to be an area which requires preservation and protection for the health, safety and welfare of the Town of Topsfield. The area is important to the public good for purposes of flood control, the preservation of clean air and water supplies, and the preservation of scenic and natural wildlife habitat areas.  
(Art. 23, 5/5/81)

#### **8.01 Ipswich River Protection District Description.**

The Ipswich River Protection District shall be comprised of that land situated in an area bounded on each side by a line parallel to and distant two hundred (200) feet from the bank of the Ipswich River, as the same may be located from time to time. In areas where the bank is not a clearly-defined feature the boundary line shall be the water's edge measured at a time when flow over Willowdale Dam approximates one hundred million (100,000,000) gallons per day.  
(Art. 23, 5/5/81; Art. 46, 5/6/87)

#### **8.02 Permitted Uses.**

Except as hereinafter provided in this Article, the following uses only are permitted in the Ipswich River Protection District.

- A. Farming, including forestry, nursery and truck gardening and the pasturing of livestock, but not the erection of permanent structures for use in connection with the above.
- B. Conservation of water, plants, and wildlife, including the raising and management of wildlife.
- C. Taking of water for irrigation, farming or agriculture.
- D. Recreation, including play areas, nature study, golf, boating, fishing, and hunting, where legally permitted, in the underlying district.
- E. Land within the Ipswich River Protection District owned in common with adjacent land not in the District may be counted as part of a lot when determining the area, width, yards or coverage of such lot. No part of any sewage disposal system shall be permitted in the Ipswich River Protection District.
- F. The removal or deposit of earth products, as part of a flood control or other conservation program.
- G. Shelters in connection with wildlife conservation and management or agriculture.

(Art. 23, 5/5/81)

#### **8.03 Buildings or Structures.**

No building or structure for human habitation, or for any occupation, except as expressly permitted by other provisions in the Article shall hereafter be erected, altered, enlarged or moved in this District.  
(Art. 23, 5/5/81)

#### 8.04 Special Permits.

If it is proven to the satisfaction of the Permit Granting Authority that any land in the Ipswich River Protection District is suitable for uses permitted in the underlying district as described in this By-Law, and that such use will not increase the danger to the health or safety of the residents of Topsfield and is not contrary to the purposes of this District, the Permit Granting Authority may grant a special permit for such use of said land. (Art. 23, 5/5/81)

#### 8.05 Invalidity, Severability.

The Ipswich River Protection District shall be deemed to be an overlay district and the land within the District shall be subject to all provisions relating to the underlying district as said districts are defined and described in Article II hereof, except insofar as said provisions are inconsistent with the purposes of this District. The provisions of this Article VIII are severable and shall survive the invalidity of any portion or portions of this Article.  
(Art. 23, 5/5/81)

## **ARTICLE VII**

### **SPECIAL REGULATIONS**

#### **7.01 Site Preparation.**

No building permit shall be issued for any structure that requires the excavation of sod, soil, sand, gravel, stone, or any other like materials in an amount in excess of one hundred twenty (120) percent of the foundation of said structure.

Where a variance from the above has been granted by the Permit Granting Authority, the excavation and removal of said material shall be subject to the provisions of the Topsfield Soil Removal By-Law.

(Art. 46, 5/9/78; Art. 23, 5/5/81)

#### **7.02 Soil Transport Within Approved Subdivision.**

Within an approved subdivision soil, sod, sand, gravel, and any other like material may be moved within said subdivision for the sole purpose of constructing ways, septic systems, and laying utility lines.

The removal of sand, sod, stone, gravel, and any other like material from a subdivision shall be in compliance with the Topsfield Soil Removal By-Law.

#### **7.03 Temporary Accessory Apartment Special Permit By-Law.**

##### **1. Purpose**

1.1 This section permits the owner of an existing, or a proposed, single family detached dwelling to construct one additional dwelling unit for occupancy by family members who have some dependency for special housing needs due to age, mental or physical health, personal care requirements, or economic factors, or by paid or unpaid individuals, including but not limited to nurses, nurse's aids, homemakers, nannies or au pairs, who occupy the family accessory apartment to facilitate providing direct care to a family member of the owner that resides in the dwelling. The primary purpose shall be to maximize privacy, dignity, and independent living among family members preserving domestic family bonds as well as the single-family residential character of the neighborhood. Such a purpose is incidental and subordinate to the primary use of the dwelling as a single-family dwelling. A primary purpose of generating income from the additional dwelling unit is not permissible in the single-family zoning district; however, nothing shall prevent payments from the occupant to the owner. Due to the necessary family relationships among the owners of the main dwelling and the occupants of family accessory apartment, the use to be granted hereunder is personal to the owner. The permitted use is temporary to provide adequate monitoring by the special permit granting authority that the owner has continuously complied with the purpose procedures, requirements, and conditions as herein provided.

##### **2. Procedure**

2.1 The Planning Board, as the Special Permit granting authority of the Town of Topsfield, shall grant a Special Permit for a period of three years upon a finding by said Board that the purpose, procedure and requirements of this section have been fulfilled.

2.2 The Application for Special Permit shall:

2.21. Be signed by 100% of the record title ownership interest of a single family detached dwelling and shall include a copy of the deed to the applicant.

2.2.2. State the name and ages of all occupants of the main dwelling and separately identify the names and ages of the proposed occupants of the family accessory apartment and the family relationship between each owner and each proposed occupant.

2.2.3. State the factual basis upon which the aforesaid purpose has been fulfilled.

2.2.4. Include a floor plan of the family accessory apartment, the main dwelling where it is to be located and all elevations where exterior modifications are proposed. All plans shall be drawn to scale and identify the existing structure and proposed modifications to create the family accessory apartment.

2.2.5. Include written verification by the Board of Health that the sewage disposal system shall have sufficient capacity to accommodate the increased proposed use within the rules and regulations of the Board of Health.

### 3. Requirements

3.1 The single family detached dwelling may be located in the Inner Residential and Agricultural District, the Outlying Residential and Agricultural District, or as nonconforming single-family residence use within any district.

3.2 A family member shall include mother, father, stepmother, stepfather, mother-in-law, father-in-law, child, stepchild, son-in-law, daughter-in-law, brother, sister, stepbrother, stepsister, grandmother, grandfather, grandchild, aunt, uncle, niece or nephew.

3.3. At least one owner shall reside in the main dwelling as a principal place of residence.

3.4. One occupant of the family accessory apartment shall be a family member with one owner of the main dwelling unless the occupant shall provide personal care to a family member of at least one owner of the main dwelling or to an occupant of the family accessory apartment.

3.5. The occupants of the family accessory apartment shall be family members of each other unless the occupants shall provide personal care to a family member of at least one owner of the main dwelling or to an occupant of the family accessory apartment.

3.6. Each occupant of the family accessory apartment shall provide personal care to a family member of at least one owner of the main dwelling or to an occupant of the family accessory apartment who is a family member to an owner of the main dwelling.

3.7. There shall be no more than two adult occupants or one adult occupant and two unemancipated children in the family accessory apartment.

3.8. There shall be no more than one family accessory apartment in any single family detached dwelling.

3.9. Modifications of the exterior of the dwelling shall be completed in a manner that maintains the appearance of the dwelling as a single-family dwelling.

3.10. No separate entry to the family accessory apartment shall be permitted unless from existing entries, from within the main dwelling, from the back or from the side of the main dwelling.

3.11. The family accessory apartment shall not contain more than two bedrooms, and shall not contain in excess of seven hundred fifty square feet, which may be exceeded by 5% due to peculiarities of the layout of the main dwelling.

3.12. The family accessory apartment shall be located within or attached to the main dwelling.

3.13. The family accessory apartment must be capable of being discontinued as a separate dwelling unit without demolition of any structural component of the main dwelling.



3.14. All parking shall be onsite.

3.15. There shall be interior access between the family accessory apartment and the main dwelling unit, which may be locked from either side.

3.16. Electricity, water and gas shall be provided by a single service to both the family accessory apartment and the main dwelling.

3.17. There shall be one mailing address of the property.

3.18. The Planning Board may impose conditions upon the grant of the Special Permit.

3.19. The owner shall record the Special Permit at the registry of deeds and provide to the Planning Board the recorded title reference.

3.20. The Special Permit shall be exclusive and personal to the owner of the main dwelling and shall not run with the land to fulfill the purpose of providing care to an owner or a family member of an owner.

3.21. The owner shall promptly notify the Planning Board of any change in the use of the family accessory apartment.

3.22. No Building Permit shall be issued until the Special Permit shall be duly recorded.

3.23. There shall be no modification of the dwelling until a Building Permit has been issued.

3.24. The Building Permit shall be revoked upon determination by the Building Inspector that any condition imposed by the Planning Board has not been fulfilled.

3.25. There shall be no occupancy of the family accessory apartment until the Building Inspector has issued a certificate of occupancy that the main dwelling and family accessory apartment shall be in compliance with all applicable health and building codes.

3.26. Owners of existing dwellings with an unpermitted family accessory apartment shall have one year of amnesty from the effective date of this section to obtain a Special Permit.

3.27. By filing the Application for Special Permit for a family accessory unit, all owners consent to an inspection without a warrant upon reasonable notice by the Building Inspector to ensure compliance with all terms of this section and conditions imposed upon the grant of the Special Permit.

3.28. All other provisions of the bylaws, rules and regulations of the Town of Topsfield shall apply.

3.29. All care givers and all care receivers must reside in either the main dwelling or the family accessory apartment.

#### 4. Termination

4.1. The Special Permit shall terminate immediately upon any of the following events:

4.1.1. Three years from the date of the grant of the Special Permit.

4.1.2. Two years from the date of the grant of the Special Permit if a substantial use thereof has not commenced, or in the case of a permit for construction, if construction has not commenced within one year from the date of the grant of the Special Permit.

4.1.3. Any transfer of title to the premises, except a mortgage.

4.1.4. One year after the birth of a child to two adult occupants.

4.1.5. Violation of any term or condition of the Special Permit that the owner fails to cure, upon two weeks written notice mailed to the applicant and to the occupants at the dwelling address by certified mail, return receipt requested.

5. Extension

5.1. The Special Permit may be extended for successive periods of three years, upon written request to the Planning Board by the applicants without further notice and hearing.

6. Duty of Owner Upon Termination

6.1. The owner shall discontinue the use of the family accessory apartment as a separate dwelling unit.

6.2. The kitchen facilities of the family accessory apartment shall be removed unless determined to be incidental and subordinate as an accessory use of a single-family dwelling.

6.3. Any additional exterior entrance constructed to provide access to the family accessory apartment shall be permanently closed.

6.4. The owner shall permit an inspection by the Building Inspector without a warrant.

6.5. The owner shall record a Notice of Termination at the registry of deeds and deliver a copy with the recorded title reference to the Planning Board.

7. Enforcement

7.1. Enforcement of this section shall be by the Zoning Enforcement Officer in accordance with the enforcement provisions of the Topsfield Zoning By-Laws.

8. Severability

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

(Art. 33, 5/1/2001)

7.04 Medical Marijuana Treatment Center

A. A Medical Marijuana Treatment Center which is also known as a Registered Marijuana Dispensary, shall be permitted in the Business Park District by Special Permit and shall be subject to Site Plan Review in accordance with Article IX of the Topsfield Zoning Bylaws.

B. The Zoning Board of Appeals shall be the Special Permit granting authority for a Medical Marijuana Treatment Center.

C. Medical Marijuana Treatment Centers shall be licensed and operated in accordance with 105 CMR 725.000, as may be amended from time to time.

D. Procedure:

1. Application: In addition to the materials required under Article IX, Site Plan Review, the applicant shall include:

a. A copy of its registration as an Medical Marijuana Treatment Center from the Massachusetts Department of Public Health (DPH);

b. A detailed floor plan of the premises of the proposed Medical Marijuana Treatment Center that identifies the square footage available and describes the functional areas of the Medical Marijuana Treatment Center, including areas for any preparation of marijuana-infused products;

c. A description of the security measures, including employee security policies, approved by the DPH for the Medical Marijuana Treatment Center;

- d. A copy of the emergency procedures approved by the DPH for the Medical Marijuana Treatment Center;
- e. A copy of the policies and procedures for patient or personal caregiver home-delivery approved by the DPH for the Medical Marijuana Treatment Center;
- f. A copy of the policies and procedures for the transfer, acquisition, or sale of marijuana between Medical Marijuana Treatment Centers approved by the DPH;
- g. A copy of proposed waste disposal procedures; and
- h. A description of any waivers from the DPH regulations issued for the Medical Marijuana Treatment Center.

2. The Special Permit Granting Authority shall refer copies of the application to the Town's Inspectional Services Department, Fire Department, Police Department, Board of Health, the Conservation Commission, and the Highway Department. These boards/departments shall review the application and shall submit their written recommendations. Failure to make recommendations within thirty-five (35) days of referral of the application shall be deemed lack of opposition.

3. After notice and public hearing and consideration of application materials, consultant reviews, public comments, and the recommendations of other town boards and departments, the Special Permit Granting Authority may act upon such a permit.

**E. Special Permit Conditions on the Medical Marijuana Treatment Center:**

The Special Permit Granting Authority shall impose conditions reasonable and appropriate to improve site design, traffic flow and public safety, protect water quality, air quality, and significant environmental resources, preserve the character of the surrounding area and otherwise serve the purpose of this section. In addition to any specific conditions applicable to the applicant's Medical Marijuana Treatment Center, the Special Permit Granting Authority shall include the following conditions in any special permit granted under this Bylaw:

- 1. Hours of operation, including dispatch of home deliveries.
- 2. The permit holder shall file a copy of any Incident Report required under 105 CMR 725.110(F) with the Zoning Enforcement Officer and the Chief of Police within 24 hours of creation of the incident report by the Medical Marijuana Treatment Center. Such reports may be redacted as necessary to comply with any applicable state or federal laws and regulations.
- 3. The permit holder shall file a copy of any cease and desist order, summary cease and desist order, quarantine order, summary suspension order, order limiting sales, notice of a hearing, or final action issued by the DPH or the Division of Administrative Law Appeals, as applicable, regarding the Medical Marijuana Treatment Center with the Zoning Enforcement Officer and the Chief of Police within 48 hours of receipt by Medical Marijuana Treatment Center.
- 4. The permit holder shall provide to the Zoning Enforcement Officer and the Chief of Police, the name, telephone number and electronic mail address of a contact person in the event that such person needs to be contacted after regular business hours to address an urgent issue. Such contact information shall be kept updated by the permit holder.
- 5. The special permit shall expire within five years of its issuance or sooner if so limited by the Special Permit Granting Authority. If the permit holder wishes to renew the special permit, an application to renew the special permit must be submitted at least 120 days prior to the expiration of the special permit.

6. The special permit shall be limited to the current applicant and shall lapse (a) if the permit holder ceases operating the Medical Marijuana Treatment Center, (b) the applicant transfers the right to operate the Treatment Center without the prior consent of the Special Permit granting authority or (c) if the majority interest in or control of the applicant is transferred without the prior consent of the Special Permit Granting Authority.

7. The special permit shall lapse upon the expiration or termination of the applicant's registration by the DPH.

8. The permit holder shall notify the Zoning Enforcement Officer and the Chief of Police in writing within 48 hours of the cessation of operation of the Medical Marijuana Treatment Center or the expiration or termination of the permit holder's registration with the DPH.

**G. Prohibition Against Nuisances:**

No use shall be allowed in the Business Park District which creates a nuisance to abutters or to the surrounding area, or which creates any hazard, including but not limited to, fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive noise or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.

**H. Severability:**

The provisions of this Bylaw are severable. If any provision, paragraph, sentence, or clause of the Bylaw or the application thereof to any person, establishment, or circumstance(s) shall be held invalid, such invalidity shall not affect the other provisions or application of this Bylaw."

(Art. 41, 5/06/2014)

**ARTICLE VI**  
**FLOODPLAIN DISTRICT**

**6.01 Purpose**

The land located in the Floodplain District as hereinafter described and defined is deemed to be subject to seasonal or periodic flooding. The purposes of the Floodplain District are to protect the public health, safety, and general welfare, to protect human life and property from the hazards of periodic flooding, to preserve the natural flood control characteristics, and the flood storage capacity of the floodplain.

**6.02 Description of District**

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Topsfield designated as Zone A or AE on the Essex County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Essex County FIRM that are wholly or partially within the Town of Topsfield are panel numbers 25009C0261F, 25009C0262F, 25009C0263F, 25009C0264F, 25009C0266F, 25009C0267F, 25009C0268F, 25009C0269F, 25009C0401F, 25009C0402F, and 25009C0406F dated July 3, 2012. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Essex County Flood Insurance Study (FIS) report dated July 3, 2012. The FIRM and FIS report are incorporated herein by reference into the Town's Zoning Map approved by the Town Meeting on May 1, 2012 and are on file with the Town Clerk.

**6.03 Uses in the Floodplain District.**

A. The following uses only are permitted in the Floodplain District:

1. Farming, including forestry, nursery and truck gardening and the pasturing of livestock, but not the erection of permanent structures for use in connection with the above.
2. Conservation of water, plants, and wildlife, including the raising and management of wildlife.
3. Taking of water for irrigation, farming or agriculture.
4. Recreation, including play areas, nature study, golf, boating, fishing, and hunting, where legally permitted in the underlying basic District.
5. With the written approval of the Board of Appeals, which shall have found that the proposed use is not contrary to the purpose of this District.
6. The removal or deposit of earth products, as part of a flood control or other conservation program or in connection with the building of a driveway, or road provided that the Board of Appeals find such driveway or road does not interfere with natural drainage or result in any increase in flood levels during the 100-year flood in so far as such removal is in compliance with the Topsfield Soil Removal By-Law Chapter XLIX.
7. The discharge of stormwater run-off into a stream.
8. Shelters in connection with wildlife conservation and management or agriculture.
9. Boathouses and docks not accessory to a dwelling and having the same area requirements as the underlying basic District. (Art. 48, 5/9/78; Art. 6, 5/6/80; Art. 20, 5/4/93)

B. The Floodplain District is established as an overlay district to all other districts. All development in the district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws, with all other relevant Federal, State and Topsfield laws and regulations without limit, and with the following:

1. Sections of the Massachusetts State Building Code (780 CMR) which address floodplain and coastal high hazard areas;

2. Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
3. Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);
4. Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);
5. 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;
6. Topsfield Town Code, Chapter LXII - General Wetlands Bylaw, and associated regulations.

C. In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

D. In Zone AE, along watercourses within the Town of Topsfield that have a regulatory floodway designated on the Essex County FIRM encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

E. All subdivision proposals must be designed to assure that: a) such proposals minimize flood damage; b) all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and c) adequate drainage is provided to reduce exposure to flood hazards.

F. The boundaries of the Floodplain District and the one hundred (100) year base flood elevations shall be provided with all proposals for development of land located within a Zone AE or Zone A which are submitted to the Board of Appeals in support of an application for a permit. The actual Floodplain District boundaries shall reflect the approved base flood elevations and the actual topography of the site.

G. If for any reason the restrictions or requirements contained in this Article VI shall be or become invalid or inoperative as to any land in the Floodplain District, then such land shall be subject to the Zoning uses and requirements of the basic underlying District in which such land is located.

H. If any land in the Floodplain District is proven to the satisfaction of the Board of Appeals as being in fact not subject to flooding or not unsuitable because of drainage conditions for uses permitted in the underlying basic district as described in this By-Law, and that such land use will not increase the danger to the health or safety of the occupants thereof, the Board of Appeals may grant a special permit for such uses of said land as are permitted in the underlying basic district. The underlying basic districts are the districts described in Article II of the Topsfield Zoning By-Law and any amendments thereto.

I. Density and Dimension Requirements (Required Lot Area, Width, Yards, Coverage, Height) shall be as defined in the underlying basic district. Land within the Floodplain District and in the same ownership as an adjoining lot in the underlying basic District may be counted as part of such lot when determining the area, width, yards or coverage of such lot provided that no structure except one permitted in this section, is erected in the Floodplain District nor is any sewage disposal area constructed in the Floodplain District.

#### 6.04 Prohibited Uses in the Floodplain District

In the Floodplain District, no building structure for human habitation or for any occupation, except as expressly permitted by other provisions of Section 6.03, shall hereafter be erected, altered, enlarged or moved.

#### 6.05 Removal of Earth Products

In the Floodplain District, no earth products shall be removed or deposited except under the provisions of Section 6.03.

#### 6.06 Notification of Watercourse Alteration

In a riverine situation, the Conservation Commission shall notify the following of any alteration or relocation of a watercourse:

1. Adjacent Communities
2. NFIP Program Specialist  
Massachusetts Department of Conservation and Recreation  
251 Causeway Street, Suite 600-700  
Boston, MA 02114-2104
3. NFIP Program Specialist  
Federal Emergency Management Agency, Region I  
99 High Street, 6th Floor  
Boston, MA 02110

(Art. 48, 5/9/78; Art. 6, 5/6/80; Art. 20, 5/4/93; Art. 26, 5/3/94; Art. 32, 5/1/12)

## **ARTICLE V**

### **ADMINISTRATION AND ENFORCEMENT**

#### **5.01 Enforcement Officer and Duties.**

This By-Law shall be administered and enforced by the Inspector of Buildings of the Town of Topsfield. Duties of the Topsfield Inspector of Buildings under this By-Law shall include the receiving of applications, certificates of compliance, action on violations, and any other lawful actions necessary to assure conformance with this By-Law. The Inspector of Buildings shall withhold a permit including any required certificate of occupancy for this construction, alteration, or moving of any building or structure if the building or structure as constructed, altered or moved would be in violation of this By-Law; and no permit or license shall be granted for a new use of a building, structure, or land which use would be in violation of this By-Law. (Art. 47, 5/9/78; Art. 23, 5/5/81; Art. 25, 5/4/82)

Whoever violates any of the provisions of this By-Law, including the terms and conditions of any special permit or variance granted hereunder, shall, unless other provision is expressly made, forfeit and pay a fine of not more than three hundred (\$300.00) dollars per violation. Each day such a violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. In the discretion of the Inspector of Buildings as enforcing person, the provisions of this By-Law, including the terms and conditions of any special permit or variance granted hereunder, may be enforced by the non-criminal disposition method provided by General Laws Chapter 40, Section 21D in accordance with Section 5.06B.  
(Art. 37, 5/2/95; Art. 29, 5/5/2009)

#### **5.02 Permit Granting Authority and Special Permit Granting Authority.**

A. Permit Granting Authority. The Zoning Board of Appeals, hereinafter called "The Board", shall be the Permit Granting Authority pursuant to the Zoning Act.

1. Membership. There shall be a Zoning Board of Appeals of five (5) members and four (4) associates who may sit in the place of absent members upon designation by the Chairman or in his absence, the acting Chairman.
2. Appointment. Members of The Board in office at the effective date of this By-Law shall continue in office. Hereafter as terms expire or vacancies occur, the Board of Selectmen shall make appointments pursuant to the Zoning Act. The term for members shall be five (5) years. Associates shall be appointed by the Board of Selectmen and shall serve a term of one (1) year.
3. Powers. The Board of Appeals shall have the following powers:
  - a. To hear and decide appeals.
  - b. To hear and decide applications for special permits not specifically reserved to the Planning Board by subsection B of this section.
  - c. To hear and decide petitions for variance.
4. Adoption of Rules. The Board shall adopt rules to govern its proceedings pursuant to the Zoning Act and shall file a copy of such rules in the Office of the Town Clerk.
5. Appeals. Appeals to The Board shall be taken in accordance with the rules of The Board and the Zoning Act. No appeal or petition from the terms of this By-Law with respect to a particular parcel of land or the building thereon and no application for a special permit which has been unfavorably acted upon by the Board of Appeals shall be



considered on its merit by said Board within two (2) years after the date of such action except in accordance with the Zoning Act.

6. Public Hearing. The Board of Appeals shall fix a reasonable time for the hearing of any appeal or other matter referred to it or any petition for a variance or application for a special permit, and shall cause the notice of the time and place of such hearing thereof and of the subject matter, sufficient for identification, to be published in a newspaper of general circulation in the Town once in each of two (2) successive weeks, the first publication to be not less than fourteen (14) days before the day of the hearing and by posting such notice in a conspicuous place in the Town Hall for a period of not less than fourteen (14) days before the day of such hearing. Notice shall also be sent by mail, postage prepaid, to the petitioner and to owners of land directly opposite on any public or private street or way and owners of land within three hundred (300) feet of the property line all as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town, and to the Planning Board, and, if pertinent, to the Planning Board of the adjoining city or town. The publication of notice required by this section shall contain the following printed in bold face type:

- a. Name of the petitioner.
- b. Location of the area or premises that is the subject of the petition.
- c. The date and place of the Public Hearing.
- d. The subject matter of the Public Hearing.
- e. The nature of the action or the relief requested, if any.

No such hearing shall be held on any day on which a State or municipal election, caucus or primary is held. At the hearing, any party whether entitled to notice thereof or not may appear in person or by agent or by attorney.

7. Zoning Administrator. The Board of Appeals may appoint a Zoning Administrator pursuant to the Zoning Act. The Board shall delegate such powers and duties as deemed appropriate with concurring vote of at least four (4) of the five (5) members of The Board.

B. Special Permit Granting Authority. The Topsfield Planning Board shall be the Special Permit Granting Authority pursuant to the Zoning Act. In this capacity the Planning Board shall be responsible for hearing and deciding upon applications for special permits for the following:

1. Uses in the Business Park District requiring special permits in accordance with Section 3.06 and the Table of Use Regulations.<sup>1</sup>

- a. The installation and maintenance of wind energy conversion systems.

1. Special Permit and Site Plan Approval for multifamily residences for the elderly in an Elderly Housing District.

3. The Board of Selectmen may appoint one town resident as an associate member of the Planning Board for a one year term, who shall be eligible to participate solely in matters in which the Planning Board is acting as the Special Permit Granting Authority, in accordance with M.G.L. Chapter 40A, § 9. The Chairman of the Planning Board, or the Acting Chairman, in the event of the absence of the Chairman, may designate the associate member to sit on the Planning Board for the purposes of acting on a special

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<sup>1</sup>**Editor's Note:** The Table of Use Regulations can be found following Article III of this Zoning By-Law.

permit application, in the case of absence, inability to act, or conflict of interest, on the part of any member of the Planning Board or in the event of a vacancy on the Planning Board.”,

(Art. 49, 5/9/78; Art. 23, 5/5/981; Art. 25, 5/4/82; Art. 43, 5/2/90; Art. 27, 5/5/2009)

#### 5.03 Previously Approved Permits.

The status of previously approved permits shall be as determined by the Zoning Act.

#### 5.04 Special Permits.

##### A. Application Procedure.

1. For uses permitted by Special Exception in the Table of Use Regulations and for all other actions regulated by this By-Law, which require a special permit from the Permit Granting Authority or the Special Permit Granting Authority, application for a special permit shall be filed in eight (8) copies on forms provided by the Authorities. The Authorities may require additional information as necessary to adequately judge the merits of the request.
2. Application shall be distributed immediately by the applicant to the Town Clerk and to such other municipal boards as the Granting Authorities may direct.
3. A Public Hearing shall be held within sixty-five (65) days after the filing of the special permit application as provided for in Section 5.02A,6.
4. The Granting Authorities shall make a decision on the special permit within ninety (90) days following the Public Hearing. Failure to take final action upon an application for a special permit within said ninety (90) days shall be deemed to be a grant of the permit applied for.
5. The decision of the Granting Authority shall be filed with the Town Clerk along with detailed reasons therefor and all plans as finally approved. Certified copies shall be sent to the Inspector of Buildings and to the applicant in accordance with the Zoning Act. Issuance of a special permit does not constitute issuance of a Building Permit, which must be obtained by filing an application with the Inspector of Buildings.
6. A special permit granted under this By-Law shall lapse within one (1) year of the date of approval if a substantial use has not sooner commenced except for good cause or in the case of permit for construction has not begun by such date except for good cause.

B. Conditions and Safeguards. The Board of Appeals and the Planning Board shall not grant any special permit unless necessary conditions including, but not limited to, the following are met:

1. The use requested is listed in the Table of Use Regulations (Article III) as a special permit in the District for which application is made or is so designated elsewhere in this By-Law.
2. The requested use is not detrimental to the public convenience or welfare.
3. The requested use will not create undue traffic congestion or unduly impair pedestrian safety.
4. The requested use will not overload any public water, drainage, or sewer system, or any other municipal system to such an extent that the requested use or any developed

use in the immediate area or in any other area of the town will be unduly subjected to hazards affecting health, safety or the general welfare.

5. The requested use will not impair the integrity or character of the district or adjoining zones, nor be detrimental to the health, safety or welfare.

C. Additional Conditions. The Granting Authority shall also impose in addition to any applicable conditions in this By-Law such conditions and safeguards as it finds reasonably appropriate to protect the neighborhood, or otherwise serve the purposes of this By-Law, including but not limited to, the following.

1. Requirement of screening, buffers or planting strips, fences or walls.
2. Limitations of number or density of occupants, times or nature of operation size, scale, or other characteristics of the use or facility.
3. Regulation of the number, design and location of access drives or circulation facilities.
4. Requirements of off-street parking, loading or other features beyond the minimum otherwise required by this By-Law.
5. Requirement of front, side or rear yards greater than the minimum otherwise prescribed by this By-Law.

Such conditions shall be imposed in writing and the applicant may be required to post bond or other security for compliance with said conditions in an amount satisfactory to the Board.  
(Art. 49, 5/9/78; Art. 23, 5/5/81; Art. 30, 5/3/88)

5.05 Deleted by vote at the May 5, 1981 Town Meeting.

5.06 Violations.

A. Notice of Violation. The Inspector of Buildings shall serve a written notice of VIOLATION of ORDER to any owner or person responsible for the erection, construction, reconstruction, conversion or alteration of a structure or change in use, increase in intensity, or extension or displacement of use of any structure or lot thereto; or in violation of a permit or certificate issued under the provisions of this By-Law, and such notice or order shall direct the immediate discontinuance of the unlawful action, use or condition and the abatement of the violation. Any owner who has been served with a notice shall stop work immediately, except that in ceasing any work or other activity he shall not leave any structure or lot in such a condition as to be a hazard or menace to the public safety, health, and general welfare.

If the Inspector of Buildings is requested in writing to enforce this By-Law against any person allegedly in violation of the same, and the Inspector of Buildings declines to act, he shall notify the party requesting such enforcement in writing stating the reasons therefor, within fourteen (14) days of receipt of such request.

B. Penalties. If the notice of VIOLATION of ORDER is not complied with within thirty (30) days, the Selectmen shall institute the appropriate action or proceeding at law or in equity to prevent any unlawful action, use or condition and to restrain, correct, or abate such action.

Criminal Complaint - Whoever violates any provision of this By-Law may be penalized by indictment or on complaint brought in the District Court. Except as may otherwise be provided by law, and as the District Court may see fit to impose, the maximum penalty for any violation of these provisions shall be two hundred (\$200.00) dollars for each offense.

Non-Criminal Disposition - In addition to the procedures for enforcement as described above, the provisions of this By-Law may also be enforced, by the Inspector of Buildings, by a non-criminal complaint pursuant to the provisions of Massachusetts General Laws, Chapter 40, Section 21D. Each day on which

a violation exists shall be deemed to be a separate offense. The penalty for violation of any provision of this By-Law shall be twenty-five (\$25.00) dollars for the first offense; fifty (\$50.00) dollars for the second offense; one hundred (\$100.00) dollars for the third offense and two hundred (\$200.00) dollars for the fourth and each subsequent offense.

(Art. 45, 5/9/78; Art. 23, 5/5/81; Art. 46, 5/3/88)

#### 5.07 By-Law Construction.

This By-Law shall not interfere with or annul any other Town By-Law, rule or regulation which is more restrictive, except where this By-Law is more restrictive, it shall control.

(Art. 45, 5/9/78; Art. 23, 5/5/81)

#### 5.08 Validity and Separability.

The invalidity of one (1) or more sections, subsections, sentences, clauses or provisions of this By-Law shall not invalidate or impair this By-Law as a whole or any other part hereof.

(Art. 45, 5/9/78; Art. 23, 5/5/81)

## **ARTICLE IV**

### **DIMENSIONAL AND DENSITY REGULATIONS**

#### **4.01 Applicability of Dimensional and Density Regulations.**

The regulations for each district pertaining to minimum lot area, minimum lot frontage, minimum lot depth, minimum front yard depth, minimum side yard depth, minimum rear yard depth, maximum number of stories, maximum building area, and minimum open space shall be specified in this section and set forth in the Table of Dimensional and Density Regulations and subject to the further provisions of this By-Law.

(Art. 46, 5/9/78; Art. 23, 5/5/81)

#### **4.02 Table of Dimensional and Density Regulations.**

See table at the end of this Article IV plus attached notes, which is declared to be a part of this By-Law.

#### **4.03 Reduction of Lot Areas.**

The lot yard areas, or open space required for any new building or use may not include any part of a lot that is required by any other building or use to comply with any provisions of this By-Law, nor may these areas include any part of a lot across which easements have been granted except those for the maintenance utilities and drainage systems, nor may these areas include any property of which the ownership has been transferred subsequent to the effective date of this By-Law, if such property was a part of the area required for compliance with the dimensional regulations applicable to the lot from which such transfer was made.

(Art. 46, 5/9/78; Art. 23, 5/5/81)

#### **4.04 Deleted by vote at the May 5, 1981 Town Meeting.**

#### **4.05 Buffer Strips.**

In all cases where a lot with a nonresidential use, except agriculture, horticulture, floriculture, noncommercial forestry or home farm products stand, is adjacent to (including across a public way) a lot with a residential use or an unused lot in a residential district, a buffer strip shall be required on the lot with the nonresidential use at the time of occupancy of such lot along each lot line abutting such residential lot. Such buffer strips shall conform to the following standards:

A. The buffer strip shall be fifty (50) feet wide.

B. The buffer strip shall contain a screen of evergreens no less than six (6) feet in height and ten (10) feet in width, or it shall contain a dense man-made screen, or a combination of the above two (2) screens.

C. Where man-made screens are erected, these shall be designed to present an attractive facade which shall reflect the general architectural style of the premises.

D. Whichever screen is proposed, it shall be so located on the buffer strip and be of such dimensions as to effectively protect surrounding premises from exterior lights, noise, vehicular traffic, scattered refuse, dust, and smoke.

The fifty (50) foot requirement of Section 4.05A may be reduced to ten (10) feet with the approval of the Permit Granting Authority.

Access across buffer strips shall be subject to review and approval of the Permit Granting Authority.  
(Art. 46, 5/9/78; Art. 23, 5/5/81)

#### 4.06 Accessory Buildings.

In any District, a detached accessory building shall conform to the following provisions:

Business District Highway (B-H)  
Business District Highway North (B-H-N)  
Business District Village (B-V)  
Business Park District (B-P)  
Central Residential District (C-R)  
Inner Residential and Agricultural District (I-R-A)  
Outlying Residential and Agricultural District (O-R-A)

It shall not occupy more than ten (10) percent for O-R-A, I-R-A, and residential uses in the B-P District and twenty (20) percent for C-R District of the required rear yard; it shall not be located within the required front area; it shall not be less than ten (10) feet from any other lot line; it shall not exceed twenty (20) feet in height. An accessory building attached to the principal shall be considered as an integral part thereof and shall be subject to front, side and rear yard requirements applicable to the principal building. Accessory buildings in the Business Districts may be located on the lot so as not to violate the minimum open space requirements set forth in the Table of Dimensional and Density Regulations. An accessory in-ground swimming pool in any district shall be enclosed by an impassable four (4) foot high fence with a self-latching gate or an equivalent enclosure or means of protection from access to the pool. No permanent swimming pool shall be located within any required front yard nor within ten (10) feet from any side or rear lot line. (Art. 45, 5/9/78; Art. 23, 5/5/81; Art. 39, 5/6/2008)

#### 4.07 Other General Dimensional and Density Provisions.

In addition to the regulations in Section 4.01 through 4.06, the following regulations shall apply:

A. Existing residential uses in the Business District shall be subject to the dimensional and density regulations of the nearest residential district as determined by the Inspector of Buildings.

B. Except for planned development, community facilities, and public utilities, and developments in the Business Park District, Business District Highway, and Business District Highway North only one principal structure shall be permitted on a lot unless a special permit is granted by the Permit Granting Authority.

C. A corner lot shall have minimum street yards with depths which shall be the same as required front yard depths for the adjoining lots.

D. At each end of a through lot, there shall be a setback depth required, which is equal to the front yard depth required for the district in which each street frontage is located.

E. Projections into required yards or other required open spaces are permitted subject to the following:

1. Balcony or bay windows, limited in total length to one-half the length of the building - not more than two (2) feet.
2. Open terrace or steps or stoop, under four (4) feet in height - up to one-half the required yard setback.

3. Steps or stoop over four (4) feet in height, windowsill, chimney, roof eave, fire escape, fire tower, storm enclosure or similar architectural features - not more than two (2) feet.

F. The provisions of this By-Law governing the height of buildings shall not apply to chimneys, elevator bulkheads, skylights, ventilators, cooling towers, electronic equipment, elevator shafts, and other necessary appurtenances sally carried above roofs, nor to domes, towers, stacks or spires, if not used for human occupancy and which occupy not more than twenty (20) percent of the ground floor area of the building, nor to ornamental towers, observation towers, radio broadcasting towers, towers or structures supporting wind energy conversion systems, television and radio antennas, and other like structures, which do not occupy more than twenty (20) percent of the lot area; or buildings of private schools not conducted for profit that are primarily used for school purposes, provided, however, that the height of all structures exempted by this paragraph shall not be more than four (4) times the distance between the nearest lot line and the point directly below the specific structure and further provided the excepted appurtenances are not located within the flight paths of an airport as defined by Federal Aviation Agency regulations.

G. Where the existing development along a street amounts to more than fifty (50) percent of the street frontage, and where said development has an average setback less than required by this By-Law, then any vacant lot setback may be reduced to said average of the existing development.

H. The lot width between the street line and the rear building line shall not be less than eighty (80) percent of the minimum lot frontage required for such lot under the Table 7 Dimensional and Density Regulations of this By-Law. (Art. 42, 5/7/97)

I. No lot shall be laid out which is irregular in shape. A lot is substantially irregular in shape if the area of the lot is less than thirty five (35) percent of the area of a square lot of the same perimeter. The aforementioned percentage standards may be applied to the entire lot, or at the discretion of the Planning Board to the minimum lot area which conforms to all other requirements.

(Art. 43, 5/7/97)

J. Every land use for which a building permit or other permit is required shall be on a lot having the required frontage and vehicular access over the required frontage to a portion of the said lot to within fifty feet of the structure for which the permit is required. (Art. 36. 5/4/99) No private street or driveway to residential dwellings or to commercial or industrial districts shall be permitted through residentially zoned or developed property, provided however that the Planning Board, acting as Special Permit Granting Authority, may grant a Special Permit to allow for a common drive or access upon satisfaction of the following conditions:

1. No more than three (3) lots shall share a common driveway.
2. Each lot must meet all dimensional requirements for a lot in the district in which the land is located.
3. The applicant shall, on a separate topographic site plan, demonstrate that each individual lot to be served by the common driveway meets all of the legal requirements for access without the use of a common driveway or access.
4. The Special Permit Granting Authority shall make a finding that the topography, sight lines along the street on which the lots are located or the location of access to the lot(s) or a combination of such factors dictate the public safety, preservation of open space, preservation of wetlands or the public good will be better served by a deviation from the public policy against common driveways.

5. The applicant must demonstrate that public utilities such as water, electricity, telephone, cable television and gas are adequately provided for each lot either by direct access to the lot from the street or through a recorded set of easements.

6. Provision must be made to insure that the common drive or way will be adequate for the number of dwellings or lots to be served in terms of width, construction and provision for police and fire protection. All such common drives or ways shall conform with the specific requirements for: (1) maximum grade at an intersection with a public way, (2) minimum angle of intersection with a public way, and (3) maximum length at a dead-end street as listed in Table 1 entitled Geometric Design Standards of Article 5 of the Rules and Regulations Governing the Subdivision of Land in the Town of Topsfield, as most recently amended.

7. The applicant must demonstrate that construction of a common drive or access will not adversely affect abutting off-site property, roadways or wetlands with regard to water runoff and drainage. This shall be accomplished with a topographic site plan, submitted with the application and prepared by a registered professional engineer, showing existing and proposed grading and storm water control. Where such conditions indicate the potential for flooding, as defined above, the applicant shall also submit with the application, and engineered calculations deemed necessary by the Planning Board or the Town Engineer.

8. The applicant shall provide a topographic site plan, submitted with the application showing: (1) the parcels of land to be served by the common drive or access, (2) the extent of the common drive or access, (3) public ways, on to which the common drive or access is to intersect, shown with elevations in sufficient length so as to demonstrate proposed lines of site, (4) other public way intersections within two hundred (200) feet each way of the proposed intersection, (5) wetland boundaries within proposed lots.

9. The special permit shall require and the applicant shall record simultaneously with the permit a declaration of covenants and easements which provides for a method of maintenance of the drive, and which shall provide that the Town may enforce the obligations of the parties in the event of failure of the parties to adequately maintain the drive. (Art. 25, 5/4/94)

K. No required yard abutting a public street shall be used for a period in excess of six (6) consecutive days for the storage or display or abandonment of merchandise, lumber, building material equipment or salvageable secondhand items or any type of junk scrap, trash, rubble or discarded or abandoned equipment. Material for use in construction activity currently occurring on the same lot is exempt from this paragraph. (Art. 45, 5/9/78; Art. 23, 5/5/81; Art. 25, 5/4/82; Art. 43, 5/7/96)

#### 4.08 Minimum Buildable Area.

A. Each lot in the Outlying Residential and Agricultural and the Inner Residential and Agricultural Districts shall have a minimum of thirty thousand (30,000) contiguous square feet of buildable area, and each lot in the Central Residential District shall have a buildable minimum of twenty thousand (20,000) contiguous square feet of buildable area. (Art. 18, 5/5/1981)

B. Buildable area shall be comprised of acreage not including any part of a street or any part of any watercourse, water body, vernal pool, bank, and bordering or isolated vegetated wetland as defined by the Massachusetts Wetlands Protection Act Regulations 310 CMR 10.00, et. Seq., or the Topsfield Wetlands General Bylaw. (Art. 39, 4.08 – B. 5/3/2005)

C. For lots created after May 6, 2014, in the Outlying Residential and Agricultural District and in the Inner Residential and Agricultural District, each lot's buildable area shall be capable of



containing a 100 foot diameter circle within which there is not more than 5% of buffer zone as defined by the Massachusetts Wetlands Protection Act Regulations 310 CMR 10.00, et. seq. or the Topsfield Wetlands General Bylaw.

D. On subdivision plans or on plot plans the Planning Board may require those plans to show buildable areas as required in Section 4.08 A. and C., and the proposed locations of buildings.  
(Art. 23, 5/5/81; Art. 23, 5/4/82; Art. 40, 5/4/2005; Art. 43, 5/7/2014)

#### 4.09 Open Space Development Plan.

A. Purpose and Intent. The purposes of this Open Space Development Plan By-law are the following:

1. To allow for greater flexibility in the design of residential developments in the Inner Residential and Agricultural District and Outlying Residential and Agricultural District;
2. To encourage, for conservation and recreation purposes, the permanent preservation of open space, agricultural land, woodland, wildlife habitat, other natural resources including aquifers, water bodies and wetlands, recreational, historical and archeological resources;
3. To encourage a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features, than a conventional or grid subdivision;
4. To minimize the total amount of disturbance on the site of residential developments;
5. To further the goals and policies of the Topsfield Open Space Plan; and
6. To facilitate the construction and maintenance of housing, streets, utilities, and public services in a more economic and efficient manner while protecting open space.

B. All Applicants submitting a conventional Preliminary Plan or a conventional Definitive Plan for which no Preliminary Plan has been submitted to the Planning Board for a tract of land of at least ten (10) acres in the Inner Residential and Agricultural District or Outlying Residential and Agricultural District shall simultaneously therewith submit a Preliminary or Definitive Open Space Development Plan. Said Open Space Development Plan shall be complete, and prepared by the Applicant in good faith with no less degree of professionalism than was utilized in the preparation of the conventional Plan. The Planning Board shall review the conventional Plan and the Open Space Development Plan-in the best interest of the Town of Topsfield, having reasonably considered such factors as safety, convenience of the roadways, conservation of natural resources, preservation of natural features, the character and peculiar uses of the District and the purpose and intent of the Open Space Development By-law.

C. The Planning Board may approve according to the Subdivision Control Procedures authorized in Section 81L of Chapter 41 of the General Laws a Preliminary or Definitive Plan of a tract of land meeting the applicability requirements set forth in Subsection B., above in which some or all of the individual lots do not conform to the lot area or frontage requirement of Sections 4.01 and 4.02 of this by-law provided that the Planning Board finds that the proposed plan is in harmony with the purpose and intent of this Open Space Development By-law, provides for the public interest, will provide permanent open space, will lead to efficient land use and to economy in the provision of town and public utility services, and will increase the amenities, attractiveness and recreation potential of the neighborhood and provided further that the following requirements are satisfied:

1. The total area, excluding roadways, in such proposed subdivision is not less than the product of the total number of lots times the minimum lot size for the zoning district in which the subdivision is located, and in no case shall an individual lot have less than one-half (1/2) of the required lot size for the zoning district in which the subdivision is located.

2. Each lot shall have a minimum street frontage of eighty (80) feet except that a lot on the turning circle of a dead end may have a frontage of not less than fifty (50) feet, provided that in all lots the distance between side lot lines shall be at least one hundred (100) feet at the front most point of the dwelling in Inner Residential and Agricultural District and one hundred and thirty (130) feet at the front most point of the dwelling in the Outlying Residential and Agricultural District. Each lot shall have a minimum buildable area of 15,000 sq. ft. in the Inner Residential and Agricultural District and 20,000sq. ft. in the Outlying Residential and Agricultural District. Each lot shall also meet all other dimensional requirements set forth in this Article IV.

3. The number of lots on the plan does not exceed the number of lots upon which dwellings could have been constructed on the total land area of the tract without this—open— space development provision, determined based on the conventional Preliminary Plan or Definitive Plan. For the determination of the number of lots, the conventional plan shall show the maximum number of lots that could be placed upon the site under a conventional subdivision process according to the Town's Subdivision Control Rules and Regulations and all other applicable By-laws, rules and regulations of the Town of Topsfield, including without limitation the applicability of the Topsfield Wetlands By-law. The Applicant shall have the burden of proof with regard to the maximum number of lots. The Planning Board may request further information related to the proposed number of lots, including but not limited to an approved wetland and resource delineation. In determining the number of lots which could have been constructed from a conventional plan, the Planning Board may consider economic and practical factors in addition to technical compliance, including but not limited to the regularity of lot shapes.

4. Provisions shall be made so that at least fifty (50) percent of the land area of the tract, exclusive of land set aside for roadways shall be—open, or undeveloped—land and shall conform to the following:

a. No more than fifty (50) percent of the designated open space may be comprised of wetlands or Riverfront Area as defined by the Massachusetts Wetlands Protection Act, M.G.L. c. 131, s. 40, and regulations adopted thereunder, as amended. The Planning Board may allow a reduction of this ratio if it furthers the purposes and intent of this Open Space Development Plan By-law.

b. The open space shall be suitable for and protected and maintained for wildlife habitat, conservation, historic preservation (landscapes and/or structures), outdoor education, passive or active recreation, park purposes, agriculture, horticulture, forestry, or any combination of these uses. In its discretion the Planning Board may permit up to five (5) percent of the open space that is not subject to the Topsfield Wetlands By-law to be impervious surface.

5. Provisions shall be made so that the open space shall be owned in one of the following ways, as determined by the Planning Board:

a. In common by owners of the lots in the tract.

b. By a—corporation, trust or association or similar corporate body whose shareholders or members shall include all owners of the lots in the tract.

c. By the Town of Topsfield.

d. By an independent conservation entity approved by the Planning Board for open space land ownership. If ownership is to be by either a. or b. above, the developer shall include in the deed to such owner or owners beneficial rights in the open space and shall grant a perpetual open space restriction to the Town of Topsfield to insure that it will remain in an open state and not, for example, be used for residential purposes or accessory uses. Such restriction shall be in the form and substance prescribed by the Planning Board, and may contain such additional restrictions on the use of the open space as the Planning Board deems appropriate. If owned by the Town of Topsfield or an independent conservation entity, the open space shall be available for use by the general public, unless the Applicant can provide compelling evidence to the Planning Board

demonstrating to the Planning Board's satisfaction that such access is not feasible in whole or in part.

6. A restriction shall be filed in the Registry of Deeds restriction index, committing the open space to the uses determined in accordance with Subsection C.4.b. above and permitting erection of no structures except small structures, platforms, bridges and pathways incidental to such uses.

7. The open-space shall be in one contiguous parcel except where divided by streets and each lot shall have a boundary common with the Open Space or access by a right-of-way or easement. In the case of access by right-of-way or easement, the Planning Board shall determine whether said access is adequate and sufficient to meet the intent of this By-Law. Where practicable the open space should be used as a buffer from existing roads and between lots and be contiguous with existing open space in adjoining subdivisions.

8. In order to maintain and protect the open space, the Planning Board may request a reasonable endowment from the Applicant for the care and custody of the open space. The amount of the endowment shall be proportionate to the open space area and amount of public use, and shall be a one-time payment, the terms of which shall be conditioned in the conditions of approval of the subdivision.

9. All lots shall be suitable for building and should be found to take best advantage of natural terrain.

D. Further Changes. Said subdivision plan when approved and recorded shall be considered a supplementary part of the Zoning By-Law, and thereafter no land therein shall be sold and no lot line within such tract shall be changed in such a way as to increase the extent of nonconformity permitted by the general provisions of this Open Space Development Plan By-Law.

(Art. 43. 5/9/1978; Art. 33. 5/5/1981; Art. 40, 5/7/1998; Art.26, 5/1/2007)

#### 4.10 Business Park District Conditions.

For the Business Park District the following conditions shall apply in addition to those shown in the Table of Dimensional and Density Regulations or required elsewhere in this By-Law:

A. The tract shall be in single or consolidated ownership at the time of application for special permit.

B. A site plan for the tract shall be submitted along with the application for special permit and shall be subject to the approval of the Permit Granting Authority. (Art.32, 5/1/16)

C. Uses may be in one continuous building, or groupings of buildings. Different ownership may be allowed by the Permit Granting Authority where such groupings are consistent with the safety of the users and are consistent with the overall intent of this section. (Art.32, 5/1/16)

D. The gross floor area of the building(s) shall not exceed twenty-five (25) percent of the total lot area. The gross floor area of the building(s) shall not exceed fifty (50) percent of the buildable area.

E. The tract or development shall be served by common parking areas and by common exit and entrance. The number of parking spaces provided shall be adequate and consistent with usage requirements.

F. In the Business Park District there shall be a buffer strip no less than one hundred (100) feet in width along each boundary which adjoins a residential property or abuts a residential district. The buffer strip shall be proportioned as follows:

1. The portion of the buffer strip within fifty (50) feet of the residential district or lot boundary shall conform to Section 4.05 hereof.

2. The remaining fifty (50) feet of space shall be open space containing no permanent structure, and such space may be used for off-street parking or other permitted open uses.

G. A common architectural theme shall be reflected in the building by means of building materials, architectural style and color coordination.

H. The designated leaching areas for on-lot septic systems shall meet the minimum requirement of the Board of Health of the Town of Topsfield and Title 5 of the State Environmental Code.

I. Ten (10) percent of the site shall be developed in the form of mall, court, or park either with walkways, shade trees and appropriate amenities for the users of the development.

J. The development shall be served by a public water system or private water system approved by the Permit Granting Authority and adequate in terms of fire protection and domestic use. (Art.32, 5/1/16)

K. Uses contained within the development or contained within one building shall be compatible in terms of, among others, use and vehicular traffic.  
(Art. 45, 5/9/78; Art. 18, 5/5/81)

#### 4.11 Deleted by vote at the May 4, 2010 Town Meeting.

#### 4.12 Parking

A. General Requirements. All off street parking areas and loading areas, other than those provided for dwellings, but including drives and other access ways, shall be treated with bituminous or other impervious surfacing material; and shall be provided where necessary with appropriate bumper and wheel guards. Illuminations shall be so arranged as to deflect light away from adjoining lots and abutting streets; and screening shall be provided where required by this By-Law.

B. Off Street Parking Areas. Off street parking spaces shall be i) located on the premises or ii) on a site within five hundred (500) feet of the premises which is accessible by foot from the premises and of which the user has a legal right to use for parking. Off street parking spaces should be provided in at least the ratio specified below in Section 4.12C. Off street parking must be provided to service the net increase in parking demand created by new construction, additions or change of use, provided nevertheless that the Permit Granting Authority may grant a special permit reducing the required number of spaces upon a finding that due to the nature of the proposed use, the number of spaces provided is adequate to service the use.

#### C. Minimum Parking Requirements:

1. Dwelling unit (two or more bedrooms): 2 spaces
2. Dwelling unit (fewer than 2 bedrooms): 1 space
3. Retail sales and service: 1 space per 250 sq. ft. gross floor area exclusive of storage area but not fewer than 3 spaces per separate enterprise
4. Business or Professional Offices: 1 space per 300 sq. ft. gross floor area

5. Restaurants:

a. Restaurant, Full Service:

- i. 1 space per 5 seats with a minimum of 12 spaces in the Business District Village
- ii. 1 space per 3 seats with a minimum of 20 spaces in the Business District Highway, Business District Highway North and the Business Park District

b. Restaurant, Limited Service:

- i. 1 space per 100 square feet of gross floor area with a minimum of 8 spaces in the Business District Village
- ii. 1 space per 100 square feet of gross floor area with a minimum of 20 spaces in the Business District Highway, Business District Highway North and the Business Park District

c. Restaurant, Snack and Non-Alcoholic Beverage:

- i. 1 space per 100 square feet of gross floor area with a minimum of 8 spaces in the Business District Village
- ii. 1 space per 100 square feet of gross floor area with a minimum of 20 spaces in the Business District Highway, Business District Highway North and the Business Park District

d. Restaurant, Retail Specialty Foods

- i. The minimum parking requirements applicable to the primary business to which such establishment is related

6. Church or similar place of assembly: 1 space per 3 persons of rated capacity.

7. Schools:

- a. For children in pre-school through grade 8: 1 space per employee plus 1 space per classroom.
- b. For students of High School age: 1 space per employee and 1 space per 3 students.

8. Schools for adults and Fitness and Recreational Facilities: 1.5 spaces per 100 sq. ft. but no less than 10 spaces.

9. All other uses including nonresidential uses accessory to a residential use: 1 space per 350 sq. ft.

D. Parking Setback. No parking shall be located in the required front yard (setback).

E. Backing Restrictions. Parking areas with five (5) or more spaces or reached from State-numbered highways shall be designed and located so that their use does not involve vehicles backing onto a public way.

F. Severability. All the clauses of this bylaw are distinct and severable, and if any clause shall be deemed illegal, void, or unenforceable, it shall not affect the validity, legality, or enforceability of any other clause or portion of this bylaw. (Art. 38, 5/2/90; Art. 34, 5/4/-2004; Art. 41, 5/05/2015)

**TOWN OF TOPSFIELD**  
**TABLE OF DIMENSIONAL AND DENSITY REGULATIONS**

District	Use	Minimum lot area Sq. ft.	Minimum lot Frontage ft.	Minimum lot Depth ft.	Minimum yards			Maximum Height ft.	Maximum Stories No.	Maximum Building area %	Minimum Open Space <sup>(1)</sup> %
					Front ft.	Side ft.	Rear ft.				
O-R-A	Any permitted use	87,120 <sup>(5)</sup>	200 <sup>(5)</sup>	200	20	20	40	35	2½	15	50
I-R-A	Any permitted use	40,000 <sup>(5)</sup>	150 <sup>(5)</sup>	150	20	15	40	35	2½	25	50
C-R	Any permitted use	20,000	100	120	20	10	30	35	2½	40	40
B-V	Any permitted use	20,000	100	100	40	30 <sup>(2)</sup>	30 <sup>(2)</sup>	35	2½	40	30
BHN	Any permitted use	20,000	100	100	40	30 <sup>(2)</sup>	30 <sup>(2)</sup>	35	2½	40	30
B-H	Any permitted use	40,000	200	175	75	40 <sup>(3)</sup>	40 <sup>(3)</sup>	35	2 ½	40	30
B-P	Any permitted use	87,500	350	250	75	50 <sup>(4)</sup>	50 <sup>(4)</sup>	45	3	25	25

- EHD See Standards Section 3.16 for Dimensional and Density Regulations.
1. See Section 1.52 for definition of Open Space
  2. Except where adjacent to residential use or district in which case the yard will increase to 50 feet.
  3. Except where adjacent to residential use or district in which case the yard will increase to 100 feet.
  4. Except for O-R-A uses permitted under Section 3.06.
  5. Unless as provided for in an Open Space Development Plan under Article 4.09.

(Art. 46, 5/9/78; Art. 23, 5/5/81; Art. 40, 5/4/2005; Art. 26, 5/1/2007; Art. 36, 5/6/2008)

**ARTICLE III**  
**USE REGULATIONS**

**3.01 Applicability of Use Regulations.**

Except as provided in the Zoning Act or in this By-Law, no building, structure, or land shall be used except for the purposes permitted in the district and as described in the section. Any use not listed shall be construed as prohibited.

(Art. 45, 5/9/78; Art. 23, 5/5/81)

**3.02 Permitted Uses.**

The following Table of Use Regulations designates for each zoning district the uses permitted by right (P), the uses that may be permitted by a special permit in the district in accordance with Article V (S), the uses not permitted (NP), and uses that are not applicable (NA). In the Business Village Mixed Use Zone mixed uses shall be allowed provided that each principal use is separately allowed in the bylaw for the Business Village District.

(Art. 45, 5/9/78; Art. 23, 5/5/81; Art. 25, 5/4/82; Art. 41, 5/7/85; Art. 37, 5/2/90; Art. 34, 5/1/2001; Art. 31, 5/4/2004; Art. 41, 5/4/2005; Art. 41, 5/6/2008; Art. 32, 5/4/2010; Art. 27 & 29, 5/3/2011; Art. 33, 5/1/2012; Art. 43, 5/7/2013; Art. 42, 5/6/2014)

**Table of Use Regulations  
Overlay Districts**

<b>Elderly Housing District</b>	Permitted in all zones by Special Permit. See Article III, 3.16
<b>Groundwater Protection District</b>	See Article XI for delineation and permitted uses.
<b>Flood Plain District</b>	See Article VI for delineation and permitted uses.

**Zones**

<b>Residential</b>	<b>ORA =</b> Outlying Residential and Agricultural	<b>Mixed Use</b>	<b>BV= Business Village</b>
	<b>IRA =</b> Inner Residential and Agricultural		<b>BH = Business District Highway</b> <b>BHN = Business District Highway North</b>
	<b>CR =</b> Central Residential	<b>Commercial</b>	<b>BP = Business Park</b>

Abbreviations: P = Permitted, P\* = Permitted only within Mixed Use, S = Special Permit, NP = Not Permitted, NA = Not Applicable

<b>Permitted Uses</b>		<b>ORA</b>	<b>IRA</b>	<b>CR</b>	<b>BV</b>	<b>BH</b>	<b>BP</b>	<b>BHN</b>
<b>1. Residential</b>								
1.1	Single Family Dwelling	P	P	P	P	P	P	P
1.2	Two Family Dwelling	NP	NP	NP	S	P*	NP	P*
1.3	Multi-Family Dwelling	NP	NP	NP	S	P*	NP	P*
1.4	Multi-Family Residence for the Elderly	See Elderly Housing Overlay District above.						
1.5	Lodging and Boarding houses	S	S	S	S	NP	S	NP
1.6	Temporary Accessory Apartments	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P

<b>2. Community Facilities</b>		<b>ORA</b>	<b>IRA</b>	<b>CR</b>	<b>BV</b>	<b>BH</b>	<b>BP</b>	<b>BHN</b>
2.1	House of Worship	P	P	P	P	P	P	P
2.2	Non-Profit School	P	P	P	P	P	P	P
2.3	For Profit School	NP	NP	NP	S	S	S	S
2.4	Town building except Public Works Garage and Fire Station	P	P	P	P	P	P	P
2.5	Town Public Works Garage and Fire Station	S	S	S	S	P	S	NP
2.6	Publicly-owned recreational facilities	P	P	P	P	P	P	P
2.7	Privately-owned recreational facilities	S	S	NP	NP	NP	S	NP
2.8	Library or Museum	P	P	P	P	P	P	P



	<b>Community Facilities (Continued)</b>	<b>ORA</b>	<b>IRA</b>	<b>CR</b>	<b>BV</b>	<b>BH</b>	<b>BP</b>	<b>BHN</b>
2.9	Cemetery	S	S	NP	NP	NP	S	NP
2.10	Day Camp for children	S	S	S	S	NP	S	NP
2.11	Public Utilities	S	S	S	S	S	S	S
2.12	Civic and Social Organizations	S	S	S	S	S	S	S
2.13	Communications and telephone towers	See Article XII for restrictions and regulations.						
2.14	Hospital	S	S	NP	NP	S	S	S
2.15	Medical Clinic	NP	NP	NP	S	S	S	S
2.16	Nursing and Community Care Facilities	S	S	S	S	S	S	S
2.17	Conference and Event Facility	S	S	S	S	S	S	S
2.18	Medical Marijuana Treatment Center	NP	NP	NP	NP	NP	S	NP

<b>3. Agriculture</b>		<b>ORA</b>	<b>IRA</b>	<b>CR</b>	<b>BV</b>	<b>BH</b>	<b>BP</b>	<b>BHN</b>
3.1	Agricultural, horticultural, viticultural and floricultural production	P	P	P	P	P	P	P
3.2	Non-commercial forestry	P	P	P	P	P	P	P
3.3	Commercial forestry (excluding milling)	S	S	NP	NP	S	S	S
3.4	Farm Stand (on property of less than 5 acres)	P	P	S <sup>2</sup>	S <sup>2</sup>	S <sup>2</sup>	P	S <sup>2</sup>
3.5	Farm Stand (on property of more than 5 acres)	P <sup>2</sup>	P <sup>2</sup>	P <sup>2</sup>	P <sup>2</sup>	P <sup>2</sup>	P <sup>2</sup>	P <sup>2</sup>
3.6	Farmers Markets	S	S	P	P	P	S	P
3.7	Home farm products stand	P	P	P	P	P	P	P
3.8	Raising of livestock for commercial use	S	S	S	NP	NP	S	NP
3.9	Commercial stables	P	P	P <sup>5</sup>	P <sup>5</sup>	P <sup>5</sup>	P <sup>5</sup>	P <sup>5</sup>

<b>4. Retail and Service</b>		<b>ORA</b>	<b>IRA</b>	<b>CR</b>	<b>BV</b>	<b>BH</b>	<b>BP</b>	<b>BHN</b>
4.01	Retail establishment selling principally convenience goods	NP	NP	NP	P	NP	NP	NP
4.02	Retail establishment selling general merchandise	NP	NP	NP	P	NP	NP	S
4.03	Hardware store	NP	NP	NP	P	S	NP	S
4.04	Retail establishment selling foods	NP	NP	NP	P	S	NP	S
4.05	Retail establishment selling sporting goods	NP	NP	NP	P	S	NP	S
4.06	Pharmacy (Drug Store)	NP	NP	NP	P	S	NP	S
4.07	Optical Goods Store	NP	NP	NP	P	S	S	S
4.08	Cosmetics, beauty supply and perfume store	NP	NP	NP	P	S	S	S

	<b>Retail and Service (Continued)</b>	<b>ORA</b>	<b>IRA</b>	<b>CR</b>	<b>BV</b>	<b>BH</b>	<b>BP</b>	<b>BHN</b>
4.09	Retail establishment selling hand-crafts	NP	NP	NP	P	S	S	S
4.10	Retail establishment selling motor vehicles	NP	NP	NP	NP	S	NP	NP
4.11	Dry-cleaning and laundry establishment (except coin operated)	NP	NP	NP	P	S	NP	S
4.12A	Restaurant, Full Service	NP	NP	NP	S	S	S	S
4.12B	Restaurant, Limited Service	NP	NP	NP	S	S	S	S
4.12C	Restaurant, Formula Fast Food	NP	NP	NP	NP	NP	NP	NP
4.12D	Restaurant, Snack & Non-Alcoholic Beverage	NP	NP	NP	S	S	S	S
4.12E	Retail Specialty Foods	NP	NP	NP	S	S	S	S
4.13	Guest House and Bed and Breakfast	S	S	S	S	S	S	S
4.14	Drive-in and drive-through eating establishment	NP	NP	NP	NP	NP	NP	NP
4.15	Funeral Establishment	NP	NP	NP	S	S	NP	S
4.16	Bank (full service)	NP	NP	NP	P	S	S	S
4.17	Exterior Automatic Teller Machines	NP	NP	NP	S	S	S	S
4.18	Interior Automatic Teller Machines	NP	NP	NP	P	P	S	P
4.19	Drive-in and drive-through establishment	NP	NP	NP	S	NP	NP	NP
4.20	Automotive repair or service	NP	NP	NP	NP	S	NP	NP
4.21	Professional, technical, scientific and business offices	NP	NP	NP	P	P	S	P
4.22	Other business repair services	NP	NP	NP	P	P	S	P
4.23	Art Gallery	NP	NP	NP	P	P	S	P
4.24	Fitness and recreational sports facilities	NP	NP	NP	S	S	S	S
4.25	Barber Shops	NP	NP	NP	P	S	S	S
4.26	Beauty Salons	NP	NP	NP	P	S	S	S
4.27	Skin and Nail Care Salons	NP	NP	NP	P	S	S	S
4.28	Medical and Dental Offices	NP	NP	NP	P	P	S	P
4.29	Chiropractors' Offices	NP	NP	NP	P	P	S	P
4.30	Amusement or recreation services	NP	NP	NP	NP	NP	NP	NP
4.31	Commercial parking lot	NP <sup>3</sup>	NP <sup>3</sup>	NP <sup>3</sup>	NP <sup>3</sup>	NP <sup>3</sup>	NP <sup>3</sup>	NP <sup>3</sup>
4.32	Wind energy conversion system – small scale	S <sup>4</sup>	S <sup>4</sup>	S <sup>4</sup>	S <sup>4</sup>	S <sup>4</sup>	S <sup>4</sup>	S <sup>4</sup>
4.33	Florist	NP	NP	NP	P	P	P	P
4.34	Catering	NP	NP	NP	S	S	S	S
4.35	Commercial kennels	NP	NP	NP	NP	S	S	NP
4.36	Veterinary Hospital	S	NP	NP	NP	P	P	S

	<b>Retail and Service (Continued)</b>	<b>ORA</b>	<b>IRA</b>	<b>CR</b>	<b>BV</b>	<b>BH</b>	<b>BP</b>	<b>BHN</b>
4.36 A	Ground-mounted Solar Installations 500 sq. ft. or less	P	P	P	P	P	P	P
4.37 B	Ground-mounted Solar Installations Over 500 sq. ft.	S	S	S	S	S	S	S

<b>5. Trades, Wholesale, Transportation and Industrial</b>		<b>ORA</b>	<b>IRA</b>	<b>CR</b>	<b>BV</b>	<b>BH</b>	<b>BP</b>	<b>BHN</b>
5.01	Manufacturing	NP	NP	NP	NP	S	S	NP
5.02	Construction industry and supplies	NP	NP	NP	NP	S	S	NP
5.03	Transportation services	NP	NP	NP	S	S	NP	NP
5.04	Commercial earth and stone removal	NP	NP	NP	NP	NP	NP	NP
5.05	Processing and/or storage of earth products	NP	NP	NP	NP	NP	NP	NP
5.06	Warehouses	NP	NP	NP	NP	NP	NP	NP
5.07	Distribution centers	NP	NP	NP	NP	NP	NP	NP
5.08	Storage Facilities	NP	NP	NP	NP	NP	NP	NP
5.09	Wholesale automobile sales	NP	NP	NP	NP	NP	NP	NP
5.10 A	Research and Development Facilities, General	NP	NP	NP	NP	S	S	S
5.10 B	Research and Development Facilities for Alternative Energy and Renewable Energy	NP	NP	NP	NP	S	P	S

<b>6. Accessory Uses</b>		<b>ORA</b>	<b>IRA</b>	<b>CR</b>	<b>BV</b>	<b>BH</b>	<b>BP</b>	<b>BHN</b>
6.01	Home Occupation	P	P	P	P	P	P	P
6.02	Accessory building or other structure subject to provisions of Article VI	P	P	P	P	P	P	NP
6.03	Accessory uses normally incidental to residential uses including keeping of domestic animals and agricultural and horticultural uses	P	P	P	P	P	P	P
6.04	Accessory private garage for not more than three commercial vehicles except on farm	S	S	S	S	S	P	NP
6.05	Storage of one unregistered motor vehicle, trailer, boat or motorized home in the open not within any required setback	P	P	P	P	P	P	NP

	<b>Accessory Uses continued</b>	<b>ORA</b>	<b>IRA</b>	<b>CR</b>	<b>BV</b>	<b>BH</b>	<b>BP</b>	<b>BHN</b>
6.06	Accessory outside storage necessary for operation of principal use	S	S	S	S	S	S	NP
6.07	Accessory Signs	P	P	P	P	P	P	P
6.08	Accessory parking and loading spaces	P	P	P	P	P	P	P
6.09	Swimming pools, tennis courts and similar uses accessory to a residence.	P	P	P	P	P	P	P

Footnotes

<sup>1</sup>In accordance with Article VII, 7.03 Temporary Accessory Apartment Special Permit By-Law

<sup>2</sup>Subject to definition and restrictions of MGL40A

<sup>3</sup>Except in accordance with Article III, 3.13 and 3.14

<sup>4</sup>See Article XV for permitting standards

<sup>5</sup>Limited to more than five acres

### 3.03 Uses Subject to Other Regulations.

Uses permitted by right or by special exception shall be subject, in addition to use regulations, to all other provisions of this By-Law. (Art. 45, 5/9/78; Art. 23, 5/5/81)

### 3.04 Table of Use Regulations.

See table on pages 25-28, which is declared to be a part of this By-Law.

### 3.05 Nonconforming Uses.

- A. Any lawful building or use of a building or premises or part thereof existing at the time this By-Law or any amendment thereto is adopted, may be continued although such building or use does not conform to the provisions thereof. No nonconforming use shall be changed, moved, or extended in space and no nonconforming building or structure shall be structurally or substantially altered, or enlarged or replaced by a new building unless, upon application to and a finding by the Permit Granting Authority, it can be shown that such change, if carried out, would not be more detrimental or objectionable to the neighborhood. Any such finding by the Permit Granting Authority pursuant to this section shall lapse one (1) year from the date of issuance (excluding the period of any appeal of such finding) if a substantial exercise of the rights permitted by the finding has not sooner commenced. Findings may be extended for successive periods of one year upon application to the Permit Granting Authority prior to the end of each one (1) year period and a showing of good cause. No nonconforming use can be changed, moved or re-established where such use has been discontinued for a period of two (2) years or more.
- B. In no event shall a nonconforming use of a building, structure, or use of land or premises be changed, altered, enlarged, extended, or be held to include racing with pari-mutuel betting except to the extent already in use for a period not to exceed six (6) days at the Essex Agricultural Fair, but to no greater extent.
- C. A nonconforming single family or two family residential structure located on a lot whose only nonconformity is insufficient lot area and/or insufficient frontage may be altered if the structure, as altered, complies with all current requirements for setbacks, yards, building coverage and building height, as determined by the Inspector of Buildings.

(Art. 3, 6/25/47; Art. 45, 5/9/78; Art. 23, 5/5/81; Art. 29, 5/6/86; Art. 48, 5/7/87; Art. 42, 5/6/2008; Art. 40, 5/5/2015)

### 3.06 Uses in Business Park District.

In addition to those uses permitted in the Business Park District in the Table of Use Regulations, all uses permitted in the outlying Residential and Agricultural District shall be permitted in the Business Park District either by right or by special permit as such uses are permitted in the Outlying Residential and Agricultural District, and all provisions of this By-Law governing ORA uses, including the dimensional and density requirements of Article IV hereof, shall apply to any such ORA uses in the Business Park District. (Art. 45, 5/9/78; Art. 23, 5/5/81)

### 3.07 Uses in Residential Districts.

In addition to those uses set forth in the Table of Use Regulations, the following uses shall be permitted in the Central Residential, Inner Residential and Agricultural, and Outlying Residential and Agricultural Districts:

- a. Professional offices in private residences maintained by the residents thereof which are an accessory use as defined by the By-Law.

b. Home occupations which (i) are carried on by a resident who lives on the premises and involve not more than two (2) additional employees and (ii) in no way injures or are offensive to the neighborhood by reason of the emission of odors, fumes, dust, smoke, vibration, noise, or other cause, and provided further that not more than twenty-five (25%) percent of the floor area of the premises is used for such Home Occupation. (Art. 23, 5/5/81; Art. 41, 5/2/90)

c. Rental of a museum which is located in an Historic Building, or the use of museum as a function facility including rental to unrelated entities, including but not limited to individuals and corporations, shall be subject to the following conditions:

1. Such use at any time by the same user shall not be for more than two (2) consecutive days; and
2. Such use shall not be permitted after 11:30 PM; and
3. Such use shall not create any undue disturbance caused by noise, smoke, vapors, fumes, dust or odors; and
4. Such use shall not unduly impair traffic.  
(Art. 43, 5/4/78; Art. 38, 5/7/97; Art. 30, 5/6/98)

### 3.08 Uses of Public Address Systems or Loudspeakers.

In the Business District Village, Business District Highway, or Business Park District, the following uses shall not be permitted except when authorized by the Permit Granting Authority:

- a. Public address systems operating between sunset and sunrise.  
(Art. 3, 6/25/47; Art. 24, 3/5/51; Art. 45, 5/9/78; Art. 23, 5/5/81)

### 3.09 Uses in the Business Village District.

- a. Principal Uses as permitted in the table of Use Regulations
- b. Mixed uses shall be allowed in structures in the Business Village District provided that each principal use is separately allowed in the Table of uses for the Business Village District.
- c. Buffer Strips shall be required for lots in the Business Village District. Such buffer strips shall conform to the following standards.
  1. The buffer strip shall be at least ten (10) feet wide and planted with grass, groundcover, or shrubbery.
  2. For lots with multi-family use, the buffer strip shall contain a screen of evergreens no less than six (6) feet in height and five (5) feet in width, or it shall contain a dense man-made screen, or a combination of the above two (2) screens.
  3. Where man-made screens are erected, these shall be designed to present an attractive façade which shall reflect the general architectural style of the premises.
  4. Whichever screen is proposed, it shall be so located on the buffer strip and be of such dimensions as to effectively protect the premises from exterior lights, noise, scattered refuse, dust, and smoke.
  5. Access across buffer strips shall be subject to review and approval of the Permit Granting Authority.

6. The ten (10) foot requirement of Section 3.09 C.1 may be reduced to five (5) feet with the approval of the Permit Granting Authority.

d. Parking requirements shall be calculated according to the separate uses within mixed use structures.

e. Severability. All the clauses of this bylaw are distinct and severable, and if any clause shall be deemed illegal, void, or unenforceable, it shall not affect the validity, legality, or enforceability of any other clause or portion of this by-law. (Art. 23, 5/5/81; Art. 40, 5/7/85; Art. 33, 5/4/2004)

### 3.10 Prohibited Uses.

No property shall be used for racing with pari-mutuel betting except to the extent already in use for a period not to exceed six (6) days at the Essex Agricultural Fair, but to no greater extent.  
(Art. 3, 6/25/47; Art. 45, 5/9/78; Art. 23, 5/5/81)

### 3.11 Uses in the Business District Highway North.

#### A. Purpose and intent

The Business District Highway North, located at the intersection of Route 1 and Ipswich Road, is a small scale, mixed-use, retail, commercial and residential zone. Development in this zone shall reflect the rural and historic nature of Topsfield and shall reflect the character of surrounding residential neighborhoods relative to uses, the scale of development, and traffic patterns. Further, the impact of development in this zone on surrounding residential areas shall be minimized relative to light, noise, fumes and congestion.

B. Principal Uses shall be as permitted in the Table of Use Regulations.

C. Mixed uses shall be allowed in structures in the Business District Highway North provided that each principal use is separately allowed, by right or by special permit, in the Table of Uses for the Business District Highway North.

D. Pedestrian walkways should be included to accommodate pedestrian access within a lot and to accommodate pedestrian access to adjacent lots within the district.

E. Buffer Strips shall be required for lots in the Business District Highway North. Such buffer strips shall be installed and maintained to conform to the following standards.

1. Between lots used for commercial purposes the buffer strip shall be at least ten (10) feet wide and planted with grass, groundcover, shrubbery or trees.

2. Between lots in the Business District Highway North and lots either zoned or used residentially, the buffer strips shall conform to the provisions of Article IV, Section 4.05.

3. For lots with residential use, the buffer strip shall contain a dense screen of evergreens no less than six (6) feet in height, or it shall contain a dense man-made screen, or a combination of these two (2) screens. Where man-made screens are erected, these shall be designed to present an attractive façade which shall reflect the general architectural style of the premises. Whichever screen or screens are proposed, they shall be so located on the buffer strip and be of such dimensions as to effectively protect the premises from exterior lights, auto headlights, noise, scattered refuse, dust, fumes, and smoke.

4. Vehicular access across buffer strips may be approved by the Special Permit Granting Authority to enable better vehicular movement, safety, and access between lots.

5. Pedestrian walkways may be included within buffer strips.

F. Parking requirements shall conform to the provisions of Article IV, Section 4.12, except for Section 4.12D, and shall be calculated according to the separate uses within mixed use structures.

G. Development in the Business District Highway North shall be subject to Site Plan Review under Article IX of the Topsfield Zoning By-Laws.

H. Development in the Business District Highway North shall conform to the density and dimensional standards of Article IV of the Topsfield Zoning By-Laws with the following additional requirement:

1. The footprint of any individual building shall not exceed 3500 sq. ft.

I. Uses may be in one building, or groupings of buildings. Uses may be in one building, or groupings of buildings. The Special Permit Granting Authority may approve a special permit that includes uses in buildings, groupings of buildings, or portions of buildings that are owned by different entities where such uses are consistent with the safety of the occupants and the public and which are consistent with the overall intent of this section.

J. Conditions in the Business District Highway North.

1. The building or buildings on any lot shall be served by common parking areas and by a common exit and entrance.

2. The building(s) on any lot shall have common design features through the use of building materials, architectural style, and color. The design of the buildings shall be consistent with Topsfield's architectural heritage.

3. All trash containers, dumpsters, and utility features must be screened from view by the building or by fencing and landscaping. All roof top mechanicals units shall be located so as not to be visible from street level or from public areas from ground level.

4. All non-residential uses shall provide off-street loading facilities. These facilities shall be located and designed to minimize traffic flow disruptions of entering and exiting vehicles and so that delivery vehicles can be parked completely out of the right-of-way.

5. Lighting of sites shall be designed to prevent off-site disturbance, nuisance or hazard. All outdoor light sources shall be designed, directed and/or shielded such that the nighttime lighting is primarily contained on the site, shielding to the extent necessary abutting properties and roads. No light source shall be permitted if that light causes glare or other safety problems on an adjacent street.

K. No trailers, temporary or portable structures, vehicles or containers used for storage or warehousing of goods or material shall be allowed, except for such temporary structures, vehicles or containers associated with construction on the lot. (Art. 35, 5/6/2008)

### 3.12 Uses in the Business District Highway.

A. Purpose and intent

The Business District Highway located on Route 1 is a mixed-use retail, commercial and residential zone. Connected to the Business District Village by three streets, the Business Highway Zone is designed to serve as an attractive gateway to Topsfield's central commercial area. Development in this zone shall reflect the rural and historic nature of Topsfield.

B. Principal Uses shall be as permitted in the Table of Use Regulations.

C. Mixed uses shall be allowed in structures in the Business District Highway provided that each principal use is separately allowed, by right or by special permit, in the Table of Uses for the Business District Highway.

D. Pedestrian walkways should be included to accommodate pedestrian access within a lot and to accommodate pedestrian access to adjacent lots within the district.

E. Buffer Strips shall be required for lots in the Business District Highway. Such buffer strips shall be installed and maintained to conform to the following standards.

1. Between lots used for commercial purposes the buffer strip shall be at least ten (10) feet wide and planted with grass, groundcover, shrubbery or trees.



2. Between lots in the Business District Highway and lots either zoned or used residentially, the buffer strips shall conform to the provisions of Article IV, Section 4.05.

3. For lots with residential use, the buffer strip shall contain a dense screen of evergreens no less than six (6) feet in height, or it shall contain a dense man-made screen, or a combination of these two (2) screens. Where man-made screens are erected, these shall be designed to present an attractive façade which shall reflect the general architectural style of the premises.

Whichever screen or screens are proposed, they shall be so located on the buffer strip and be of such dimensions as to effectively protect the premises from exterior lights, auto headlights, noise, scattered refuse, dust, fumes, and smoke.

4. Vehicular access across buffer strips may be approved by the Special Permit Granting Authority to enable better vehicular movement, safety, and access between lots.

5. Pedestrian walkways may be included within buffer strips.

F. Parking requirements shall conform to the provisions of Article IV, Section 4.12, except for Section 4.12D, and shall be calculated according to the separate uses within mixed use structures.

G. Development in the Business District Highway shall be subject to Site Plan Review under Article IX of the Topsfield Zoning By-laws.

H. Development in the Business District Highway shall conform to the density and dimensional standards of Article IV of the Topsfield Zoning By-Laws.

I. Uses may be in one building, or groupings of buildings. Uses may be in one building, or groupings of buildings. The Special Permit Granting Authority may approve a special permit that includes uses in buildings, groupings of buildings, or portions of buildings that are owned by different entities where such uses are consistent with the safety of the occupants and the public and which are consistent with the overall intent of this section.

J. Conditions in the Business District Highway

1. The building or buildings on any lot shall be served by common parking areas and by a common exit and entrance.

2. The building(s) on any lot shall have common design features through the use of building materials, architectural style, and color. The design of the buildings shall be consistent with Topsfield's architectural heritage.

3. All trash containers, dumpsters, and utility features must be screened from view by the building or by fencing and landscaping. All roof top mechanicals units shall be located so as not to be visible from street level or from public areas from ground level.

4. All non-residential uses shall provide off-street loading facilities. These facilities shall be located and designed to minimize traffic flow disruptions of entering and exiting vehicles and so that delivery vehicles can be parked completely out of the right-of-way.

5. Lighting of sites shall be designed to prevent off-site disturbance, nuisance or hazard. All outdoor light sources shall be designed, directed and/or shielded such that the nighttime lighting is primarily contained on the site, shielding to the extent necessary abutting properties and roads. No light source shall be permitted if that light causes glare or other safety problems on an adjacent street.

K. No trailers, temporary or portable structures, vehicles or containers used for storage or warehousing of goods or material shall be allowed, except for such temporary structures, vehicles or containers associated with construction on the lot. (Art. 40, 5/6/2008)

3.13 Parking of Automobiles.

The following shall not be permitted in the Central Residential, **the** Inner Residential and Agricultural and the Outlying Residential and Agricultural Districts either as an accessory use or by authority of the Board of Appeals, **except as provided below**:

a. The parking of automobiles where a direct or indirect charge therefore is made except for periods not to exceed ten (10) days **during** the Essex Agricultural Fair, but to no greater extent. **The parking of more than 20 automobiles on a single lot at any one time in such period, except to the extent already in use, shall require a Special Permit from the Zoning Board of Appeals.** (Art. 45, 5/9/78; Art. 23, 5/5/81; **Art. 42, 5/05/2015**)

### 3.14 Parking of Automobiles.

In the Business District Highway, Business District Highway North, Business District Village and Business Park District the following uses shall not be permitted:

a. The parking of automobiles on premises except as an accessory use or for a period not to exceed ten (10) days at the Essex Agricultural Fair, but to no greater extent.  
(Art. 45, 5/1/78; Art. 23, 5/5/81)

### 3.15 Additional Accessory Uses.

In addition to the uses permitted in Table of Use Regulations the following accessory uses shall be permitted in the Central Residential District, Business District Village, Business District Highway, Business District Highway North, and Inner Residential and Agricultural District:

a. Storage of one unregistered motor vehicle in the open.

b. Storage of trailer, boat or motorized home in the open.  
(Art. 23, 5/5/81; Art. 14, 5/7/85; Art. 39, 5/6/2008)

### 3.16 Elderly Housing District.

A. Permitted Uses and Special Permit Uses. In an Elderly Housing District no building or land shall be used and no buildings shall be erected or converted except for the following purposes:

1. To provide, upon the grant by the Planning Board of a Special Permit and the approval of Site Plan, Multifamily residences for the Elderly, such housing to be owned and controlled only by a non-profit organization or by the Town or jointly as permitted by law; or after said grant and an approved Site Plan, by a Cooperative Housing Corporation organized pursuant to Massachusetts General Laws, Chapter 157B, jointly with the Town or otherwise, or under a declaration for a condominium organized pursuant to Massachusetts General Laws, Chapter 183A.

a. For the purposes of Subsection 1, above, a "non-profit" organization shall mean a corporation, foundation or other organization no part of the net earnings of which inures to the benefit of any private shareholder or individual and which, if appropriate, has been organized pursuant to Massachusetts General Laws, Chapter 180, as amended.

2. Any of the uses permitted, as a matter of right in the underlying Residential District with the development regulations applicable to such District as set forth in the Zoning By-Law for such underlying Residential District. (Art. 29, 5/3/88)

B. Accessory uses permitted in an Elderly Housing District shall include:

1. Garages;

2. One separate building, not exceeding one story in height, to house snow removal and mowing machines, garden and other tools and equipment required to maintain and service housing for the elderly;

3. One building not exceeding thirty-five (35) feet in height and used as a common building by the residents of the District, which building may include central kitchen and dining facilities for residents thereof and their guests and may also provide lounge and meeting rooms for the common use of residents and their guests. (Art. 29, 5/3/88)

C. Special Permit and Site Plan Approval.

In an Elderly Housing District no building shall be constructed, enlarged or changed to accommodate multifamily residences for the elderly except in conformity to this By-Law and to a Special Permit granted by the Planning Board and a Site Plan bearing the approval of the Planning Board. The Planning Board shall not approve any such Special Permit or Site Plan unless the applicable standards in Massachusetts General Laws and the following standards and criteria are met:

1. Standards.

- a. The Planning Board shall find that the proposed plan of development is in harmony with the purposes and intent of this By-Law as set forth herein.
- b. Where land is to be developed for multifamily residences for the elderly, the site shall contain not less than ten (10) acres.
- c. All elderly housing shall be owned and controlled by a non-profit organization or by the Town or jointly so far as permitted by law; or by a Cooperative Housing Corporation organized pursuant to Massachusetts General Laws Chapter 157B, jointly with the Town or otherwise, or under a declaration for a condominium organized pursuant to Massachusetts General laws, Chapter 183A.
- d. All newly constructed housing developed in an Elderly Housing District shall have not more than five (5) dwelling units per acre of buildable area.
- e. All buildings, including accessory buildings, shall cover not more than thirty (30%) percent of the buildable area of the site.
- f. The site shall have frontage of not less than fifty (50) feet on a public way.
- g. Every structure in an Elderly Housing District shall be so located so as not to extend closer than thirty (30) feet from the street line.
- h. The proposed plan shall provide that there shall be on the site off-street parking of not less than six (6) nor more than eight (8) parking spaces for each three (3) elderly dwelling units contained in the development. Parking spaces within a garage shall be counted toward the required number of parking spaces.
- i. Roads and ways within the development shall be constructed in accordance with the Planning Board Subdivision regulations with such waivers, if any, as the Planning Board deems appropriate.
- j. The entire site shall be a size and shape as shall provide a housing site which will be in harmony with the natural terrain and other features of the site and will preserve natural vistas and the existing rural or other character of the neighborhood.

- k. The site shall be supplied with a water system approved by the Planning Board with the advice of the Water Department, adequate to meet the needs of the units constructed on the site.
- l. All dwelling units must be served by adequate sewage treatment facilities or an on-site sewage disposal system approved by the Board of Health or other appropriate approval agency.
- m. No site on a plan for which an approval is granted under this section may be subdivided so as to create additional buildable lots and a notation to that effect shall be shown on the Site Plan.
- n. Elderly dwellings constructed under this section shall not be eligible for subsequent conversion to conventional apartments.
- o. Buildings shall be designed to be consistent with the appearance of the Town and shall be complementary in exterior design with each other and, where applicable, with the existing neighborhood in which the development is located.
- p. Sufficient security must be provided to insure completion of the development and continuing compliance upon its completion with the provisions of the approval.
- q. A Buffer Zone shall be required between the Elderly Housing Development and adjoining properties to provide visual and privacy for such adjoining properties. The Planning Board may require appropriate landscaping, fencing and other site improvements to accomplish such purposes and the Site Plan shall be accompanied by a Landscape Plan drawn by a Landscape Architect, which Plan shall indicate the species, height and density of landscaping to provide the necessary Buffer Zone. In no case shall said Buffer Zone be less than twenty-five (25) feet in depth for all side and rear boundaries of the site.
- r. No building in an Elderly Housing District shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height.
- s. A plan shall be prepared by the petitioner which shall, to the extent allowable by law, give a preference for elderly dwelling units within a development first to Topsfield residents, then to immediate family members of Topsfield residents, and then to former residents of Topsfield. The petitioner shall furnish the Planning Board with an eligibility plan for the Elderly Housing Development, which plan shall be subject to the approval of the Planning Board.
- t. Site Plan Review under this section shall be conducted in conformance with the requirements, rules, and regulations set forth in Article IX, and the regulations adopted thereunder, except that any requirements set forth herein above which are more particular or stringent shall govern.

2. Site Plan and Special Permit Approval Application.

- a. Eligibility:  
An applicant may submit to the Planning Board for a Special Permit and Site Plan Approval a plan of land.
- b. Contents of the Application.  
Each application shall include:

- (i) All information required for submission of a Definitive Plan for Standard Subdivisions as provided for in Planning Board's Rules and Regulations governing the subdivision of land.
- (ii) Provisions for privacy and security.
- (iii) Provisions for parking.
- (iv) Proposed landscaping, exterior lighting, architectural exterior design and elevations, typical floor plans.
- (v) Projected phasing, timing of construction, type of ownership, and proposed covenants and/or agreements binding on occupants.
- (vi) Projected advantages to the Town of the proposed development compared to alternative permitted uses at the same site.
- (vii) Projected revenues to the Town in taxes or payments in lieu of taxes.
- (viii) An Eligibility Plan for the Development as required under Section 1(s).  
(Art. 29, 5/3/88; Art. 16, 5/4/93)

#### D. Procedure.

Copies of the application shall be filed with the Town Clerk in accordance with the submittal requirements for a Definitive Plan and the Rules and Regulations Governing the Subdivision of Land in the Town of Topsfield. The Planning Board, acting as the Site Plan Approval Authority and Special Permit Granting Authority under this section, shall give notice, conduct public hearing and render a decision in conformity with Massachusetts General Laws, Chapter 40A, Section 9, and Section 5.04 of the Zoning By-Law.  
(Art. 29, 5/5/2009)

#### E. Grant of Approval.

The Planning Board shall grant an approval if it determines that the plan as proposed meets the standards for granting Special Permits and:

1. The plan promotes the more efficient use of land in harmony with its natural features, watercourses, scenic areas, natural vistas, existing rural character, and similar community assets within the general intent of the Zoning By-Law and the long-range plan of the Town.
2. The plan protects adjoining premises against serious detrimental effects by providing inter alia, surface water drainage, sound and sight barriers and preservation of views, light and air.
3. The plan provides for convenience and safety of vehicular and pedestrian movement within the site, and for appropriate location of driveway openings in relation to traffic or to adjacent streets.
4. The plan provides for adequate methods of disposal of refuse and other wastes.
5. The plan provides for suitable architectural design and a favorable relationship of structures and open space to the natural landscape, barriers and preservation of views, light and air.

#### F. Additional Provisions.

1. Construction must commence within one year of the granting of the approval. Construction must be completed within two (2) years of its commencement unless otherwise provided for in the approval.
2. No zoning map amendment shall create an Elderly Housing District except upon the petition by the owner of, or one holding a valid purchase and sale agreement on, the land to be so designated. (Art. 29, 5/3/88)

3. An application for a special permit and site plan review for any elderly housing development within an Elderly Housing District must be filed within two years of the date that the Town Meeting votes to place the land where the development is proposed to be located within the Elderly Housing District. (Art. 30, 5/6/2008)

## **ARTICLE II**

### **ESTABLISHMENT AND DESCRIPTION OF DISTRICTS**

#### **2.01 Classes of Districts.**

The Town of Topsfield is hereby divided into seven (7) Districts and four (4) overlay districts:

- A. Business District Highway (BH)
- B. Business District Village (BV)
- C. Central Residential District (CR)
- D. Inner Residential and Agricultural District (IRA)
- E. Outlying Residential and Agricultural District (ORA)
- F. Business Park District (BP)
- G. Elderly Housing District (EHD)
- H. Business District Highway North (BHN)
- I. Scenic Overlay Zone
- J. Groundwater Protection Overlay District
- K. Floodplain District

(Art. 3, 6/25/47; Art. 48, 3/5/56; Art. 29, 5/3/89; Art. 38, 5/6/08; Art. 33, 5/1/12)

#### **2.02 Lots in Two (2) Districts.**

Where a district boundary line divides any lot existing at the time such boundary line is established, the regulation for the less restricted portion of such lot shall extend not more than fifty (50) feet into the more restricted portion, provided the lot has frontage in the less restricted district.

If a lot existing in two (2) districts is subdivided into two (2) or more lots, any new lot which is created to exist in two (2) districts shall be regulated according to the regulations of the more restricted district.

(Art. 3, 6/25/47; Art. 44, 5/9/78; Art. 23, 5/5/81; Art. 38, 5/7/85; Art. 24, 5/6/86; Art. 47, 5/6/87; Art. 29, 5/3/88)

#### **2.03 Business District Highway.**

The Business District Highway shall comprise the area bounded by a line beginning at the junction of Boston Street and South Main Street, thence northerly on South Main Street to Maple Street, thence easterly on Maple Street to a point 300 feet from Boston Street, thence northerly parallel to Boston Street to a point within 150 feet south of the center line of the railroad, thence northwesterly parallel to the center line of the railroad to Summer Street, thence northerly on Summer Street to a point 200 feet north of the center line of the railroad, thence easterly parallel to the center line of the railroad to a point on a perpendicular to Central Street and on the junction of Central Street and the brook passing under Central Street, thence northeasterly on the perpendicular across Central Street to a point 200 feet north of Central Street, thence easterly parallel to Central Street to a point 300 feet west of Boston Street, thence northerly parallel to Boston Street and 300 feet west of Boston Street, thence northerly parallel to Boston

Street and 300 feet west of Boston Street to a boundary of the land now or formerly owned by Lape and thence easterly to Boston Street and northerly along western boundary of Boston Street to High Street, thence following High Street to a point 300 feet east of Boston Street, thence southerly parallel to Boston Street and 300 feet east thereof to Maple Street, thence westerly to Boston Street, thence southerly to the junction of Boston Street and South Main Street, the point of beginning.  
(Art. 44, 5/9/78; Art. 23, 5/5/81)

#### 2.04 Business District Village.

The Business District Village shall comprise an area bounded by a line beginning at the intersection of Main Street and the center line of the railroad or railroad bed right of way where track has been removed, and following said line westerly to the Proctor School Playground; thence following the southern boundary of the Proctor School playground to Main Street, and crossing Main Street; and following the southern boundary of the Town Library grounds to the brook; following the brook southwesterly until it intersects a parallel to Main Street 250 feet to the southeast thereof, following this parallel across Central Street and Park Street to South Main Street; then following South Main Street north to the center line of the railroad, the point of beginning.  
(Art. 51, 5/9/78; Art. 23, 5/5/81)

#### 2.05 Central Residential District.

The Central Residential District shall comprise, except for the business districts included therein, the area bounded by a line beginning at the junction of South Main Street and Maple Street, thence to a point on Prospect Street, 1,000 feet southwesterly from South Main Street; thence to a point on Washington Street, at the westerly boundary of land at 71 Washington Street and shown as Block 13 on Map 32 of the Assessor's plats dated 2011, northeasterly to the end of Colrain Road as presently accepted, thence to the southwest corner of Pine Grove Cemetery; along the southern border of said cemetery to Haverhill Road, thence northerly on Haverhill Road to a point 200 feet north of Pine Street; thence easterly parallel to Pine Street to a point on Ipswich Road, thence to a point on Boston Street 400 feet north of High Street; thence parallel to High Street across Perkins Row to a point where it meets a perpendicular to High Street and its junction with the center line; of the railroad, thence following said perpendicular to said center line; thence up the center line of the railroad northwesterly to a point 200 feet southeasterly of Maple Street; thence westerly parallel to Maple Street to Boston Street, thence southerly on Boston Street to South Main Street, thence northwesterly parallel to South Main Street to the junction of South Main Street and Maple Street, the point of beginning.  
(Art. 51, 5/9/78; Art. 23, 5/5/81; Art. 42, 5/7/96; Art. 33, 5/1/12)

#### 2.06 Outlying Residential and Agricultural District.

The Outlying Residential and Agricultural District shall comprise:

- a. All area south and east of the Ipswich River;
- b. An area east and north of line starting at the junction of the Ipswich River and Howlett Brook following Howlett Brook to a point 300 feet south of Ipswich Road on a perpendicular to said road, thence westerly on a line south of a parallel to Ipswich Road and then Campmeeting Road to a point 250 feet east of the center line of Boston Street; thence northerly along a line parallel to and 250 feet east of the centerline of Boston Street to the northerly line of land now or formerly of Arthur Gaklis (for description, see deed from Margaret N. Lewis to Arthur Gaklis, dated December 30, 1974 and recorded in the Essex South District Registry of Deeds at Book 5287, page 222, also being shown as Block 7, Map 7, on the Topsfield Assessor's plat dated 2011) then turning northwest along referenced north boundary and continuing in the same direction to the centerline of Boston Street then turning north and following the centerline of Boston Street to the Town boundary with the Town of Ipswich;



- c. An area that is west of North Street and north of Howlett and Pye Brooks;
- d. An area comprising the land located on Assessor's Map 5, Block 2 and located west of Pye Brook and east of the New England Power Company right-of-way;
- e. An area located on Assessor's Map 51, Block 21 and Map 35, Block 6;
- f. An area consisting of land bounded by a line beginning at the intersection of the centerline of Boston Street and the centerline of Howlett Street; thence westerly along the centerline of Howlett Street to a point where boundary of Central Residential District crosses Howlett Street; thence northwesterly along said boundary to the southern edge of the Ipswich Road layout, thence easterly along the southern edge of the Ipswich Road layout to westerly property line of lot at 79 Ipswich Road and shown as Block 47 on Map 25 of the Assessor's plats dated 2011, thence southerly along said property line to southern boundary of line of said lot, then easterly along southern boundary lines of lots with addresses of 79, 83, 85L, 87, 91, 101 and 107 Ipswich Road to center line of Boston Street; thence southerly on Boston Street to point of beginning.

(Art. 3, 6/25/47; Art. 48, 3/5/56; Art. 51, 5/9/78; Art. 23, 5/5/81; Art. 33, 5/1/12)

#### 2.07 Inner Residential and Agricultural District.

The Inner Residential and Agricultural District shall comprise all the land remaining outside the Business District Highway, Business District Village, Business District Highway North, Business Park District, and Central Residential and Outlying Residential and Agricultural Districts.

(Art. 51, 5/9/78; Art. 23, 5/5/81; Art. 33, 5/1/12)

#### 2.08 Zoning Map.

The location and boundaries of the Zoning Districts are hereby established as shown on a map titled "Zoning Map of the Town of Topsfield, Essex County Massachusetts" and drawn to a scale of 1 inch to 1200 feet which accompanies and is hereby declared to be a part of this By-Law. The authenticity of the Zoning Map shall be identified by the signature of the Town Clerk and the imprinted seal of the Town under the following words: "This is to certify that this is the Zoning Map referred to in Article II of the Zoning By-Law of the Town of Topsfield, Massachusetts, which was approved by the Town Meeting on May 1, 2012.

(Art. 44, 5/9/78; Art. 23, 5/5/81; Art. 42, 5/7/96; Art. 33, 5/1/12)

#### 2.09 Business Park District.

The Business Park District shall comprise an area bounded by a line perpendicular to Boston Street beginning at the center line of Boston Street and 200 feet southerly of intersection of Boston Street and Campmeeting Road; thence westerly along said perpendicular to North Street; thence northwesterly along North Street to Town boundary (with Town of Ipswich); thence northeasterly along Town boundary to intersection of center line of Boston Street; thence southerly along center line of Boston Street to a point opposite the northwesterly corner of land now or formerly of Arthur Gaklis (which is located on the easterly side of said Boston Street) (for description, see deed from Margaret N. Lewis to Arthur Gaklis, dated December 30, 1974 and recorded in the Essex South District Registry of Deeds at Book 5287, page 222, also being shown as Block 7, Map 7, on the Topsfield Assessors' plat dated 2011) thence southeasterly along the northerly line of property of said Gaklis to a point 250 feet easterly of Boston Street; thence along a line parallel to Boston Street and 250 feet east of Boston Street to a line perpendicular to Boston Street and 200 feet south of the intersection of Boston Street and Campmeeting Road then turning west to the point of the beginning.

(Art. 44, 5/9/78; Art. 23, 5/5/81; Art. 47, 5/3/86; Art. 33, 5/1/12)

## 2.10 Elderly Housing District.

### A. Great Hill

It being determined to be consistent with the purposes of the Zoning By-Law, as amended, and the Master Plan for the Town, the property as described hereafter (being approximately one hundred fifty (150) acres known as Great Hill bounded generally by Newburyport Turnpike, Ipswich Road and Howlett Street) is rezoned as an Elderly Housing District, and the Zoning Map of the Town of Topsfield, Massachusetts, is so amended.

The legal description of the property referred to above is comprised of that area of land situated in the Town of Topsfield, bounded and described as follows:

Southeasterly by Newburyport Turnpike (also known as Boston Street) two thousand five hundred twenty and 87/100 (2,520.87) feet;

Southeasterly by Howlett Street ninety-two and 54/100 (92.54) feet;  
Southerly by said Howlett Street two thousand eight hundred thirty-one and 88/100 (2,831.88) feet;

Southwesterly by land of William and Ellen McLaughlin and land of David R. and Carol H. Drake six hundred forty-three and 95/100 (643.95) feet;

Southwesterly by land of Hilda Rouff fifty and 00/100 (50.00) feet;

Northwesterly by land of the Estate of Alexander Houston and land of Frederick V. and Deborah D. Moulton three hundred seven and 06/100 (307.06) feet;

Southwesterly of said land of Frederick V. and Deborah D. Moulton one hundred fifty-six and 32/100 (156.32) feet;

Northwesterly by Ipswich Road seven hundred sixty-two and 22/100 (762.22) feet;

Northeasterly by land of William W. and Janet P. Kimball one hundred five and 99/100 (105.99) feet;

Southwesterly by said land of William W. and Janet P. Kimball one hundred three and 16/100 (103.16) feet,

Northerly by Ipswich Road one thousand eight hundred seventy-nine and 33/100 (1,879.33) feet;

Easterly by land of David L. and Daryl A. Townsley two hundred sixty-eight and 54/100 (268.54) feet;

Northerly by said land of David L. and Daryl A. Townsley and land of William P. Travers and Carol Stuart-Travers two hundred eighty-nine and 29/100 (289.29) feet;  
Westerly by said land of William P. Travers and Carol Stuart-Travers two hundred seventy-one and 15/100 (271.15) feet;

Northeasterly by Ipswich Road one hundred fifty and 29/100 (150.29) feet;

Easterly by land of Robert T. and Elizabeth L. Smales three hundred sixteen and 60/100 (316.60) feet;

Northerly by said land of Robert T. and Elizabeth L. Smales and land of Robert T. and Donna L. Wilson two hundred ninety and 91/100 (290.91) feet;

Northwesterly of said land to Robert T. and Donna L. Wilson two hundred seventy-seven and 83/100 (277.83) feet;

Northeasterly by Ipswich Road sixty-seven and 50/100 (67.50) feet;

Southeasterly by land of Alice Moseley Granlund two hundred eighty-two and 41/100 (282.41) feet;

Northerly by said land of Alice Moseley Granlund one hundred thirty-seven and 92/100 (137.92) feet;

Northwesterly by said land of Alice Moseley Granlund two hundred seventy-one and 44/100 (271.44) feet;

Northeasterly by Ipswich Road one hundred fifty-nine and 91/100 (159.91) feet;

Southeasterly by land of Erwin W. Haynes four hundred eleven and 33/100 (411.33) feet;

Northeasterly by said land of Erwin W. Haynes two hundred nineteen and 79/100 (219.79) feet,

Northwesterly by said land of Erwin W. Haynes four hundred fifty six and 35/100 (456.35) feet;

Northeasterly by Averill Street three hundred five and 43/100 (305.43) feet;

The above described parcel of land contains an area of 150.7963 acres and is more particularly shown on a plan entitled: "Plan of Land in Topsfield, MA Property of Roberta L. Cargill, Scale 1" = 200', Aug. 7, 1992, Donohoe and Parkhurst, Inc., 305 Willow St., S. Hamilton, MA". Said plan consists of three sheets and was recorded with the Essex South District Registry of Deeds on February 4, 1993 immediately following Instrument No. 311.

(Art. 15, 5/5/1993)

#### B. English Commons of Topsfield Elderly Housing District

It being determined to be consistent with the purposes of the Zoning Bylaw, as amended, and the Master Plan for the Town, the property as described hereafter, being approximately sixty-eight and 83/100 (68.83) acres (less 14,979 square feet, as is described below), known as "English Commons at Topsfield", formerly called "Page Estate", and being shown as parcel 1 on Topsfield Assessors' Map 81 (revised to January 1, 1998) and being bounded on the East by Boston Street (Newburyport Turnpike, U.S. Route 1) and on the West by Rowley Bridge Road, is rezoned as an Elderly Housing District, and the Zoning Map of the Town of Topsfield, Massachusetts, is so amended.

The legal description of the property referred to above is comprised of that area of land situated in the Town of Topsfield, bounded and described as follows:

That certain parcel of land situated on the easterly side of Rowley Bridge Road in Topsfield, Massachusetts, bounded and described as follows:

Beginning at a point on a stone wall on the easterly sideline of Rowley Bridge Road, said point being located N 09° 44' 13" W a distance of One Hundred Seventy One and 57/100 (171.57) feet from a MASS Highway Bound, and also being located S 09° 44' 13" E a distance of Two Hundred Thirteen and 83/100 (213.83) feet from a second MASS Highway Bound;

Thence running N 85° 02' 49" E for a distance of Five Hundred Eighty Six and 68/100 (586.68) feet to a point;

Thence turning and running S 32° 42' 18" E for a distance of Three Hundred Ninety Seven and 53/100 (397.53) feet to a point on the Topsfield / Danvers Town Line;

Thence turning and running along said Town Line N 65° 13' 14" E for a distance of Seven Hundred Sixty One and 44/100 (761.44) feet to a point on the sideline of US Route 1, Newbury Port Turnpike;

Thence turning and running along said Newbury Port Turnpike N 33° 09' 20" E for a distance of Five Hundred Fifty Two and 07/100 (552.07) feet to a MASS Highway Bound;

Thence running along said Newbury Port Turnpike N 33° 09' 20" E for a distance of Four Hundred Ninety Eight and 47/100 (498.47) feet to a point;

Thence turning and running N 16° 09' 10" W for a distance of Ten and 48/100 (10.48) feet to an iron pipe;

Thence running N 16° 09' 10" W for a distance of Three Hundred Eighty One and 52/100 (381.52) feet to a drill hole at a stonewall corner;

Thence running along said stonewall N 11° 19' 50" W for a distance of One Hundred Seventy Seven and 63/100 (177.63) feet to a drill hole in said stonewall;

Thence running along said stonewall N 11° 19' 50" W for a distance of Seventy Nine and 45/100 (79.45) feet to a point at the end of said stonewall;

Thence turning and running N 45° 28' 14" W for a distance of Thirty One and 44/100 (31.44) feet to a stone bound with drill hole;

Thence running N 37° 04' 27" W for a distance of Two Hundred Eighty Six and 61/100 (286.61) feet to a stone bound with drill hole;

Thence running N 21° 44' 01" W for a distance of Five Hundred Ninety and 89/100 (590.89) feet to a stone bound with drill hole;

Thence running N 40° 44' 32" W for a distance of Four Hundred Eleven and 49/100 (411.49) feet to a stone bound with drill hole;

Thence turning and running S 48° 59' 35" W along a stonewall for a distance of One Hundred Fifty One and 01/100 (151.01) feet to a drill hole in said stonewall;

Thence running S 51° 19' 04" W along said stonewall for a distance of Three Hundred Sixty Seven and 56/100 (367.56) feet to a drill hole in said stonewall;

Thence running S 52° 26' 04" W along said stonewall for a distance of One Hundred and 95/100 (100.95) feet to a drill hole in said stonewall;

Thence running S 64° 40' 36" W along said stonewall for a distance of One Hundred Ninety Five and 58/100 (195.58) feet to a drill hole in said stonewall;

Thence running S 61° 06' 10" W along said stonewall for a distance of One Hundred Forty Eight and 31/100 (148.31) feet to a drill hole a stonewall corner;

Thence turning and running S 05° 24' 43" W for a distance of Two Hundred Sixty Six and 47/100 (266.47) feet to a point;

Thence turning and running S 84° 35' 17" E for a distance of Two Hundred Ninety Six and 35/100 (296.35) feet to a point;

Thence running S 81° 40' 32" E for a distance of One Hundred Twenty Eight and 12/100 (128.12) feet to a point;

Thence turning and running S 12° 03' 54" E for a distance of Six Hundred Ninety Four and 80/100 (694.80) feet to a point;

Thence turning and running S 71° 43' 07" W for a distance of One Hundred Seventeen and 95/100 (117.95) feet to a point;

Thence turning and running S 02° 19' 17" E for a distance of Three Hundred Seventy and 30/100 (370.30) feet to a point;

Thence turning and running S 64° 26' 24" W for a distance of One Hundred Twenty Seven and 48/100 (127.48) feet to a point;

Thence running S 72° 03' 06" W for a distance of Six Hundred Thirty Two and 80/100 (632.80) feet to a point;

Thence running S 52° 07' 20" W for a distance of Two Hundred Eighty Four and 91/100 (284.91) feet to a point at the sideline of said Rowley Bridge Road;

Thence turning and running along said Rowley Bridge Road S 18° 34' 40" E for a distance of Seventy Nine and 31/100 (79.31) feet to a before referenced MASS Highway bound;

Thence running along said Rowley Bridge Road S 09° 44' 13" E for a distance of Two Hundred Thirteen and 83/100 (213.83) feet to the point of beginning.

Meaning and intending to describe land with the buildings thereon as described in Deed Book 15761, Page 128, consisting of 68.83 acres (minus 14,979 square feet) to the Trustees of Boston College dated 22 June 1999.

Shown on a plan entitled "Plan of Land in Topsfield, MASS, owned by B.J.P Realty Trust, George W. Page, Trustees, Scale 1" equals 100' dated November 3, 1981, made by Hayes Engineering, Inc., Civil Engineers and Land Surveyors" and recorded with Essex South District Registry of Deeds in Plan Book 171, Plan 38, containing 68.83 acres of land all as set forth on said plan to which the plan reference is made. Excepting from the aforementioned plan Lot 21B as shown on a plan of land entitled "Plan of Land in Topsfield, Mass., Scale 1" equals 100', August 21, 1984, Hayes Engineering Inc." and recorded with said Registry of Deeds in Plan Book 190, Plan 75, containing 14,979 square feet of land all as set forth on said plan. Said exception shown as an undefined triangle in the northwest corner of the first referenced plan. (Art. 32, 5/6/2008)

#### C. New Meadows Golf Course Elderly Housing District

It being determined to be consistent with the purposes of the Zoning By-Law, as amended, and the Master Plan for the Town, the property as described hereafter, being approximately fifty-two acres known as " the New Meadows Golf Course" and being shown as lots as Block 4 and Block 5 on Assessors Map 8 and further described in the Deed recorded with the Essex South District Registry of Deeds in Book 25001 Page 351 and being bounded generally by the Newburyport Turnpike (Route 1) and Wildes Road is rezoned as an Elderly Housing District, and the Zoning Map of the Town of Topsfield, Massachusetts, is so amended.

The legal description of the property referred to above is comprised of that area of land situated in the Town of Topsfield, bounded and described as follows:

Parcel I Beginning on the Easterly side of the Newburyport Turnpike at land now or formerly of Tilton Brothers; thence turning and running in an Easterly direction as the wall now stands by said Tilton Brothers land to land now or formerly of Price; thence turning and running by said Price land Easterly to a brook; thence turning and running Southerly as the brook now runs by land now or formerly of Bell and by land now or formerly of Palmer to Wildes Street; thence turning and running Westerly by Wildes Street to land now or formerly of Donaldson; thence turning and running Northerly by said Donaldson land as the wall stands to the center of the driveway; thence turning and running in a Southerly direction by said driveway as the wall now stands to a stone wall at land now or formerly of Palumbo to the Newburyport

Turnpike; thence turning and running Northerly by the Newburyport Turnpike to said Tilton Brothers land and the point of beginning.

Parcel II A parcel of land containing four acres, more or less, on the Easterly side of the Newburyport Turnpike, sometimes called "Wildes Field" and bounded and described as follows:

SOUTHERLY By Parcel I above;  
WESTERLY By the Newburyport Turnpike;  
NORTHERLY and  
EASTERLY By land formerly of Bell.

Parcel III A parcel of Land bounded and described as follows:

Containing approximately 6.4 acres of woodland and swamp, and being shown as the lot containing 6.4 acres on the plan entitled, "Plan of Land in Topsfield, Mass., for Clarence E Savolainen, et ux, Route 1, 1922 Layout, Meridian Scale 1" = 40", drawn by Walter W. Martin, Registered Land Surveyor, 196 Laurel Street, Melrose, Mass., dated December, 1961" and recorded with the Essex South District Registry of Deeds in Plan Book 98 as Plan 42.

Parcel IV A parcel of land, containing one acre, more or less, bounded and described as follows:

SOUTHERLY by way leading from the Newburyport Turnpike to the house now or formerly of Foster;  
NORTHWESTERLY by the way leading from said Turnpike to the house now or formerly of Perkins; and  
EASTERLY by other land now or formerly of Perkins",

Shown on a plan entitled "Plan of Land located in Topsfield, Mass., Prepared by Eastern Land Survey Associates, Inc., Christopher R. Mello, PLS, 104 Lowell St., Peabody, MA. 01986, Scale: 1" = 100', March 1, 2007 Prepared For New Meadows Enterprises LLC. (Art. 33, 5/6/2008)

#### D. Rolling Green Elderly Housing District

It being determined to be consistent with the purposes of the Zoning Bylaw, as amended, and the Master Plan for the Town, the property as described hereinafter, being approximately Fourteen and 3/10 (14.3) acres, known as "Rolling Green," and being shown as Parcel 3 on Topsfield Assessors' Map 7 and being bounded generally on the East by Boston Street (Newburyport Turnpike, U.S. Route 1) and on the North by the Town Line between Topsfield and Ipswich, is rezoned as an Elderly Housing District, and the Zoning Map of the Town of Topsfield, Massachusetts, is so amended. The legal description of the property referred to above is comprised of that area of land situated in the Town of Topsfield, bounded and described as follows:

Beginning at a point on westerly sideline of Boston Street (Newburyport Turnpike, U.S. Rt. 1), said point being located N 36° 39' 55" E a distance of Five Hundred Seventy and 42/100 (570.42) feet from a MASS Highway Bound;

Thence running along a stone wall N 66° 26' 07" W for a distance of Fifty Nine and 51/100 (59.51) feet to a drill hole in said stonewall;

Thence turning and running along said stone wall N 64° 53' 01" W for a distance of Ninety One and 11/100 (91.11) feet to a drill hole in said stonewall;

Thence turning and running along said stone wall S 77° 42' 54" W for a distance of Two Hundred Two and 58/100 (202.58) feet;

Thence turning and running along said stone wall S 73° 36' 58" W for a distance of One Hundred Thirty One and 47/100 (131.47) feet;

Thence turning and running along said stone wall S 73° 30' 56" W for a distance of One Hundred Fifty Nine and 30/100 (159.30) feet to a drill hole at a stone wall corner;

Thence turning and running along a stone wall N 36° 57' 12" W for a distance of Two Hundred Sixty Four and 56/100 (264.56) feet to a drill hole in said stone wall;

Thence running N 36° 57' 12" W for a distance of Nineteen and 46/100 (19.46) feet to a point;

Thence turning and running N° 17 16' 49" W for a distance of Twelve and 27/100 (12.27) feet to a drill hole set in a stone wall;

Thence running along said stone wall N 17° 16' 49" W for a distance of Seventy Six and 80/100 (76.80) feet to a point;

Thence turning and running along said stone wall N 15° 17' 25" W for a distance of One Hundred Twenty Three and 02/100 (123.02) feet to a point;

Thence turning and running along said stone wall N 11° 39' 33" W for a distance of Forty Nine and 99/100 (49.99) feet to a point;

Thence turning and running along said stone wall N 27° 36' 34" W for a distance of Twenty Seven and 82/100 (27.82) feet to a point;

Thence turning and running along said stone wall N 60° 55' 45" W for a distance of Forty Six and 26/100 (46.26) feet to a point;

Thence turning and running along said stone wall N 42° 22' 09" W for a distance of Twenty One and 87/100 (21.87) feet to a drill hole set at the end of said stone wall;

Thence turning and running N 39° 18' 14" W to the Town Line between Ipswich and Topsfield;

Thence turning and running N 74° 52' 49" E by the Town Line between Ipswich and Topsfield to a point;

Thence turning and running S 19° 03' 04" E to a tree with wire;

Thence turning and running S 13° 10' 00" E for a distance of Twenty Three and 11/100 (23.11) feet to a tree with wire;

Thence turning and running S 15° 48' 44" E by the remnants of an old wire fence for a distance of Fifty One and 67/100 (51.67) feet to a point;

Thence turning and running S 36° 44' 57" E by said remnants of an old wire fence for a distance of Ninety Four and 41/100 (94.41) feet to a point;

Thence turning and running S 38° 15' 24" E by said remnants of an old wire fence for a distance of One Hundred Forty Three and 84/100 (143.84) feet to a post;

Thence turning and running S 45° 50' 51" E by said remnants of an old wire fence for a distance of One Hundred Twenty Five and 22/100 (125.22) feet to a point;

Thence turning and running S 40° 01' 55" E by said remnants of an old wire fence for a distance of One Hundred Sixty and 55/100 (160.55) feet to a post;

Thence turning and running S 42° 10' 33" E by said remnants of an old wire fence for a distance of Ninety Three and 32/100 (93.32) feet to a point on westerly sideline of Boston Street (Newburyport Turnpike, U.S. Rt. 1);

Thence turning and running S 36° 39' 55" W by the westerly sideline of Boston Street (Newburyport Turnpike U.S. Rt. 1) for a distance of Two Hundred Thirty Nine and 08/100 (239.08) feet to the point of beginning.

Said property is shown on a plan entitled "PLAN of LAND in TOPSFIELD AND IPSWICH, MA, 470 BOSTON STREET – ASSESSORS MAP 2 LOT 5, PROPERTY OF BOSTON STREET REALTY TRUST, scale 1"-50', dated DEC. 23, 1986, prepared by Hancock Survey Associates, Inc. and contains approximately fourteen and three tenths (14.3+/-) acres according to said plan." (Art.33, 05.03.16)

#### 2.11 Business District Highway North

The Business District Highway North shall be comprised of the following lots or portions thereof, and shall be referred to by the lot number and the Assessor's map number. Starting in the District's southeast corner and proceeding north: lot #60, map 26, lot #15, map 26, lot #14, map 26 except that the easterly bound of the Business District Highway North shall lie 230 feet east of the center line of Boston Street, and ending with lot #13, map 26. On the westerly side of Boston Street: lot #1, map 19, lot #12, map 26, lot #11, map 26, and south of Ipswich Road and west of Boston Street: Lot #1, map 26.  
(Art. 34, 5/6/2008)

#### 2.12 Scenic Overlay Zone

The Scenic Overlay Zone description is as referenced in the Article XIV Scenic Overlay Zone.  
(Art. 33, 5/1/12)

#### 2.13 Groundwater Protection Overlay

The Ground Water Protection District description is as referenced in Article XI Groundwater Protection District.  
(Art. 33, 5/1/12)

#### 2.14 Floodplain District

The Floodplain District description is as referenced in Article VI District.  
(Art. 33, 5/1/12)





## **TOWN OF TOPSFIELD**

### **ZONING BY-LAW**

#### **PREAMBLE**

##### **Short Title.**

This By-Law shall be known and may be cited as the "Zoning By-Law of the Town of Topsfield, Massachusetts", hereinafter referred to as "this By-Law".

##### **Authority.**

This By-Law is adopted pursuant to the Authority granted by Chapter 40A of the General Laws of the Commonwealth of Massachusetts and amendments thereto, herein called "Zoning Act".

##### **Purpose.**

This By-Law is enacted for the following purposes: To lessen congestion in the street; to conserve health; to secure safety from fires, flood, panic, and other dangers; to provide adequate light and air; to prevent the overcrowding of land to avoid undue concentration of population; to encourage housing for persons of all income levels; to facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space, and other public requirements; to conserve the value of land and buildings including the conservation of natural resources; the promotion of land for agricultural purposes, and the prevention of blight and the pollution of the environment; to encourage the most appropriate use of land throughout the Town; and to preserve and increase its amenities. It is made with reasonable consideration to the character and of the district and to its peculiar uses, with a view to giving direction to land development policies of the Town of Topsfield, including the making of Topsfield a viable and pleasing place to live, work, and play.

(Art. 44, 5/9/78; Art. 23, 5/5/81)

## **ARTICLE I**

### **DEFINITIONS**

For the purpose of this By-Law, certain terms and words shall have the following meanings. Words used in the present tense include the future; the singular number includes the plural, the singular; the words, "used" or "occupied" include the words "designed", "arranged", "intended", or "offered", to be used or occupied; the words "building", "structure", "lot", "land", or "premises" shall be construed as though followed by the words "or any portion thereof" and the words "shall" and "will" are always mandatory and not merely directory. Terms and words not defined herein but defined in the Building Code\* or Subdivision Regulations shall have the meaning given therein unless a contrary intention clearly appears. Words not defined in either place shall have the meaning given in Webster's Unabridged Dictionary, Third Edition. Uses listed in the Table of Use Regulations under the classes Retail and Service, Trades and Wholesale, Transportation and Industrial shall be further defined by the *North American Industry Classification System--United States*.

\*Massachusetts State Building Code

1.01 Abandonment.

The act of an owner to discontinue a nonconforming use of a building or premises; or the removal of the characteristic equipment or furnishing used in the performance of the nonconforming use, without its replacement by similar equipment or furnishings; or the use or the replacement of the nonconforming use or building by a conforming use or building.

1.02 Affordable Housing.

Dwelling units for families who qualify with income at or below 80% of the median income as determined by the U.S. Department of Housing and Urban Development and the cost of the Affordable Housing Dwelling Unit shall not exceed thirty percent (30%) of their annual income.

1.03 Alteration.

Any external construction, reconstruction or other action resulting in a change in the structural parts or height, number of stories or exits, size, use or location of a building or other structure. \*\*\*\*\*

1.04 Alternative Energy.

See definition under Energy.

1.05 Automatic Teller Machine (ATM).

A free-standing, enclosed or wall-mounted facility for conducting banking business such as withdrawals, deposits and transfers outside of a traditional banking structure.

1.06 Bank.

An establishment providing financial services such as accepting deposits, making loans, and investing funds for clients.

1.07 Basement.

A portion of a building, partly below grade, which has more than one-half (1/2) its height, measured from finished floor to finished ceiling, above the average finished grade of the ground adjoining the building. A basement is not considered a story unless its ceiling is six (6) feet or more above the average finished grade.

1.08 Bed and Breakfast.

An establishment providing short-term lodging in a private home or small building converted for this purpose. A bed and breakfast establishment typically includes a full breakfast in the room rate.

- 1.09 Board.  
The Zoning Board of Appeals of the Town of Topsfield, Massachusetts.
- 1.10 Boarding House.  
A house in which no more than two (2) furnished lodging units are rented for not less than fourteen (14) days and for which meals are provided but said lodging units do not contain a separate kitchen facilities or kitchen rights to individual borders.
- 1.11 Buildable Area.  
That portion of a lot which is composed of ground dry and permeable enough to permit construction of a dwelling and appurtenances thereto including the installation and use of facilities for disposal of sewage. Buildable Area shall not include any area within a Flood Plain District as defined in Article VI.
- 1.12 Building Area.  
The footprint of all buildings including covered portions of porches and decks.
- 1.13 Building - Attached.  
A building having any portion of one (1) or more walls in common with adjoining buildings.
- 1.14 Building Line.  
A line equidistant to the street line which passes through a specified point of the principal building.
- 1.15 Building Line, Front.  
A building line which passes through the point within the principal building nearest to the street line.
- 1.16 Building Line, Rear.  
A building line which passes through the point within the principal building farthest from the street line.
- 1.17 Catering.  
An establishment, which may include food preparation facilities, primarily engaged in providing event-based food services that prepares and/or supplies food in large quantities for commercial purposes to be delivered and consumed off premises.
- 1.18 Certificate of Use and Occupancy.  
A written form signed by the Inspector of Buildings certifying that the stated and described use, structure and/or lot conforms with this By-Law, or, in the case of a Special Permit or variance with the written instructions of the Board.
- 1.19 Civic and Social Organization.  
A civic, social, sports or fraternal organization which is engaged in promoting the civic and social interests of its members and which is used exclusively by members and their guests and is not conducted as a gainful business.
- 1.20 Commercial Forestry.  
Business enterprises in which timber and trees are cut and taken off for sale.
- 1.21 Condominium.  
The land, the building or buildings, all other improvements and structures thereon, and all easements, rights and appurtenances belonging thereto, which have been submitted to the provisions of Chapter 183A of the Massachusetts General Laws.

- 1.22 Conference & Event Facility.  
A facility used by individuals and service, social or professional organizations and businesses for seminars, meetings and professional conferences and social events. The facility may include associated accommodations for food preparation and service, sleeping areas, recreation and athletic facilities, all of which are provided exclusively for the use of patrons of the conference facility.
- 1.23 Convenience Goods.  
Goods including but not limited to food and proprietary goods, and other goods required to meet the daily shopping needs of households.
- 1.24 Cosmetics, Beauty Supplies, and Perfume Store  
An establishment primarily engaged in retailing cosmetics, perfumes, toiletries, and personal grooming products.
- 1.25 Day Camp For Children.  
An establishment operating during day-time school vacation periods and offering primarily outdoor recreational activities or athletic or educational instruction.
- 1.26 Distribution Center.  
An establishment providing services, often referred to as logistics services, related to the distribution of goods. These services can include labeling, breaking bulk, inventory control and management, light assembly, order entry and fulfillment, packaging, pick and pack, price marking and ticketing, and transportation arrangement.
- 1.27 District.  
A zoning district as established by Article II of this By-Law.
- 1.28 Drive-in/Drive-through Eating Establishment.  
Any place or premises used for sale, dispensing, or serving of food, refreshments, or beverages to customers in vehicles.
- 1.29 Drive-in/Drive-through Establishment.  
A business establishment such as banks, cleaners, and the like, wherein customers may be served while in vehicles.
- 1.30 Driveway.  
An open space, located on a lot, used for access to a garage, off-street parking, or loading space.
- 1.31 Dwelling.  
A privately or publicly owned, permanently fixed structure containing a dwelling unit or dwelling units. The term "one family", "two family", or "multifamily" shall not include hotel, bed and breakfast, lodging house, hospital, trailer, dormitory, rooming house, guest or tourist house, or boarding house.
- 1.32 Dwelling Unit.  
A single housekeeping unit, with cooking, living, sanitary and sleeping facilities
- 1.33 Earth Removal.  
Extraction of soil, loam, sand, gravel, stone or other earth materials for commercial purposes other than site preparation incidental to and necessary for approved developments.
- 1.34 Energy.  
Alternative Energy: Includes but is not limited to combined heat and power, and electric and fuel cell powered vehicles and associated technologies including advanced batteries and

recharging stations.

**Renewable Energy:** Includes but is not limited to solar (photovoltaic and thermal), wind, biomass power conversion or thermal technologies (including the use of wood pellets), ultra-low emissions high efficiency wood pellet boilers and furnaces, low impact hydro-electric and kinetic energy, ocean thermal, wave or tidal energy, geothermal energy, landfill gas energy, fuel cells that use renewable energy and advanced biofuels.

**1.35 Essential Services.**

Services provided by public utility or governmental agencies through erection, construction, alteration or maintenance of underground or overhead gas, electrical, stream or water transmission and distribution systems; and collection, communication, supply or disposal systems. Facilities necessary for the provision of essential services include poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith. Specifically excluded from this definition are buildings necessary for the furnishing of adequate service by such public utility or governmental agencies for the public health, safety or general welfare.

**1.36 Exception.**

The use of a structure or lot or any action upon a premises which may be permitted under this By-Law only upon application to and approval of the Permit Granting Authority in accordance with the provisions of Article V.

**1.37 Farm Stand.**

An establishment selling farm products produced by the owner of the land on which the stand is located. See MGL 40A for further definition and regulation.

**1.38 Farmers Market**

An establishment providing the location for individual private growers of fruit, vegetables and horticultural items to sell their products to the general public during the growing months for their crops.

**1.39 Filling.**

Any deposit, placement, storage or redistribution of, but not limited to, soil, earth, sand, gravel, rock, loam, or other similar material on any land, wetland, or in water courses and including the conditions resulting therefrom.

**1.40 Fitness and Recreational Sports Facility.**

An indoor establishment providing fitness and recreational sports instruction featuring exercise and other active physical fitness conditioning or recreational sports activities.

**1.41 Floodline.**

The limits of flooding from a particular body of water caused by a flood or other natural phenomena whose general frequency or occurrence is once in one hundred (100) years as determined and certified by a registered professional engineer qualified in drainage, or as otherwise defined by this By-Law.

**1.42 Floor Area, Gross.**

The sum of the areas of the several floors of a building, measured from the exterior faces of the walls. It does not include cellars, unenclosed porches or attics not used for human occupancy or any floor space in accessory buildings or in the main building intended and designed for the parking of motor vehicles in order to meet the requirements of this By-Law, or any such floor space intended and designed for accessory heating and ventilating equipment.

**1.43 Floor Area Ratio.**

The ratio of the gross floor area to the total area.

- 1.44 General Merchandise  
A collection of durable and non-durable goods.
- 1.45 Grade.  
The incremental change in elevation between two (2) points divided by their horizontal separation. Grades may be expressed either as a fraction or a percentage.
- 1.46 Guest House.  
A house in which not more than seven (7) furnished lodging units are rented for less than fourteen (14) consecutive days and for which no kitchen rights or individual cooking facilities are available but for which meals are provided.
- 1.47 Gutter Line.  
The lowest line within a roof structure.
- 1.48 Hardware store  
An establishment selling goods associated with home improvement and repair such as tools, paint and painting supplies, fasteners, small plumbing and electrical goods, but not building supplies such as lumber, roofing materials, windows and other structural materials.
- 1.49 Height.  
The vertical distance from the average finished grade of the ground adjacent to the structure to a line representative of the average of the height at the structure's roof line and its height at the gutter line of the main roof.
- 1.50 Historic Building.  
A building which is listed in the National Register of Historic Places and/or the Inventory of Historic Assets of the Commonwealth of Massachusetts, or a building identified by the Topsfield Historical Commission as being of historical significance and filed with the Massachusetts State Historical Commission.
- 1.51 Home Farm Product Stand.  
Home Farm Product Stand is an establishment located on a residential property and dedicated to the selling of farm products grown or raised on the premises by the owner or the owner's family.
- 1.52 Home Occupation.  
An occupation customarily carried on at home, the use of a room in a dwelling as an office, studio, or work room by a person residing on the premises and in connection with which there is kept no stock in trade nor commodity sold on the premises. See Article III, 3.07.
- 1.53 Hospital.  
An institution certified by the Joint Commission on Accreditation of Hospitals as an accredited hospital providing health services for in-patient and/or out-patient medical or surgical care of the sick or injured and including related facilities such as, but not limited to, laboratories, out-patient departments, central staff facilities, and staff offices which are an integral part of the institution.
- 1.54 Hospital, Veterinary.  
A building providing for the diagnosis and treatment of ailments of animals other than human and which includes facilities for overnight care.
- 1.55 Junk.  
Any worn out, cast-off or discarded articles or materials which are ready for destruction or disposal or have been collected or stored for salvage or conversion to some use. Any article or

material which, unaltered or unchanged or without further reconditioning, can be used for its original purpose as readily as when new, shall not be considered junk.

1.56 Junk Motor Vehicle.

Any motor vehicle not capable of being used as such in its existing condition by reason of being damaged or dismantled or failing to contain parts necessary for operation and otherwise qualifying as junk.

1.57 Loading Space.

An off-street space used for loading or unloading.

1.58 Lodging Unit.

One or more rooms for the use by one or more individuals not living as a single house keeping unit and not having cooking facilities. A "lodging unit" shall include rooms in boarding houses, tourist houses, or rooming houses.

1.59 Lodging House.

A house in which no more than two (2) furnished lodging units are rented for not less than fourteen (14) days and not having separate cooking facilities for each lodging unit but having use of common cooking facilities for all lodging units.

1.60 Lot.

An area of land in one ownership with definite boundaries, used, or available for use, as a site for one or more buildings.

1.61 Lot, Corner.

A lot at the point of intersection of and abutting on two (2) or more intersecting streets.

1.62 Lot Depth.

The mean horizontal distance between the front lot line and the rear lot line measured at right angles to the front lot line.

1.63 Lot Line, Front.

The property line dividing a lot from a street measured at the edge of the (right-of-way). On a corner lot the owner shall designate one street line as the front lot line.

1.64 Lot Line, Rear.

The lot line opposite from the front lot line.

1.65 Lot Line, Side.

Any lot line not a front or rear lot line.

1.66 Lot, Nonconforming.

A lot lawfully existing at the effective date of this By-Law or any subsequent amendment thereto, which is not in accordance with all provisions of this By-Law.

1.67 Lot, Through.

An interior lot, the front and rear lot lines of which abut streets, or a corner lot, two (2) opposite lines of which abut streets.

1.68 Lot Width.

The horizontal distance between the side lot lines as measured parallel to the street line at the minimum front yard depth required by this By-Law.

1.69 Medical Clinic.

Building providing out-patient services used for the diagnosis, treatment or other care of



human ailments.

1.70 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.

1.71 Mobile Home.

A dwelling unit built on a chassis and containing complete electrical, plumbing and sanitary facilities and designed to be installed on a temporary or permanent foundation for permanent living quarters.

1.72 Single Family Dwelling

A building containing a single dwelling unit.

1.73 Two Family Dwelling

A building containing two (2) dwelling units.

1.74 Multi-Family Dwelling

A building containing at least three (3) and no more than four (4) dwelling units including condominiums.

1.75 Multiple-Family Residences for the Elderly.

The term "Multifamily Residences for the Elderly" shall mean multifamily dwellings, each building of which shall contain not less than two (2) nor more than six (6) independent dwelling units consisting of a suite of rooms, its own bath and toilet facilities and its own kitchen facility. Each such multifamily dwelling building may also include central kitchen and dining facilities for providing meals to the residents thereof and their guests but not to the public and may also provide lounge rooms for the common use of residents and their guests. At the time of occupancy, in each such dwelling unit, one of the residents must be a person who is fifty-five (55) years of age or over. No Housing for the Elderly Development shall contain more than seventy-five (75) independent dwelling units.

In one of such buildings, a unit may be included for occupancy by a manager of the development and his or her immediate family, one room of which may be used for an office. The manager's unit need not be occupied by a person fifty-five (55) years of age or over.

Except for the unit so used and occupied by the manager, no dwelling unit in a Multifamily Residence for the Elderly shall be resided in by more than three (3) persons.

1.76 Museum.

A building or place that is open to the public on a regular basis and used primarily for the collecting, preservation, study, exhibition and educational use of works of art, scientific specimens, historical artifacts and the like.

1.77 Office.

A place in which functions such as directing, consulting, record keeping, clerical work, and sales (without the presence of merchandise) of a firm are carried on; also a place in which a professional person conducts his professional business.

1.78 Open Space.

The space on a lot unoccupied by buildings, swimming pools, and terraced areas, not devoted to streets, driveways, or off-street parking or loading space.

1.79 Optical Goods Store.

An establishment engaged in (1) retailing and fitting prescription eyeglasses and contact lenses;

(2) retailing prescription eyeglasses in combination with the grinding of lenses to order on the premises;  
and (3) selling nonprescription eyeglasses.

1.80 Owner.

The duly authorized agent, attorney, purchaser, devisee, trustee, lessee or any person having vested or equitable interest in the use, structure, or lot in question.

1.81 Permit Granting Authority.

The Board of Appeals, Town of Topsfield, Massachusetts.

1.82 Pharmacy (Drug Store)

An establishment engaged in retailing prescription and nonprescription drugs and medicines.

1.83 Planned Development.

A development involving the construction of two (2) or more principal buildings on the same lot or group of lots for any permitted use which is planned, designed and developed as a unit so as to provide a functional and attractive development.

1.84 Professional, Technical, Scientific and Business Offices.

Establishments housing office and work space for individuals providing professional, technical, scientific, or business expertise and services for others (without the presence of merchandise).

1.85 Recreational Facilities.

Outdoor facilities providing space for the pursuit of recreational sports, fitness and athletic activities including playgrounds, athletic playing fields, walking, jogging, horse-back riding and bicycling paths, tennis courts, golf courses, hunting and fishing activities. Publicly owned recreational facilities are owned by a public entity and are open to the general public. Privately owned recreational facilities are owned by a non-profit or by a for-profit entity and are open to the general public either free of charge or for a fee or are open only to members and their guests.

1.86 Renewable Energy.

See definition under Energy.

1.87 Research and Development Facilities.

A facility including offices used primarily for research, development and/or testing of innovative information, concepts, methods, processes, materials, or products. Such a facility may include but is not limited to 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.

1.88 Restaurant.

A. Restaurant, Full Service: An establishment at which the principal activity is the preparation, service, and sale of food and beverages for consumption on the premises, where food is ordered and served at tables rather than at a counter, and where customers generally pay after eating.

B. Restaurant, Limited Service: An establishment at which the principle activity is the preparation and sale of food and beverages to be consumed on or off the premises, where food is primarily ordered at a counter, and where the food is: (a) primarily intended for immediate consumption; (b) available upon a short waiting time; and (c) generally paid for

before customers eat it.

C. Restaurant, Formula Fast Food: An establishment meeting the criteria of "Restaurant, Limited Service," which relies on the sale of large volumes of food, and which is required by contractual or other arrangements to offer two or more of the following standardized elements: menus, ingredients, food preparation, internal décor, external facade, or uniforms.

D. Restaurant, Snack and Non-Alcoholic Beverage: An establishment specializing in the preparation and sale of a limited menu with a specific type or class of foods or combination thereof, such as, but not limited to, baked goods, coffee, tea, cheese, delicatessen meats, candies or ice cream. Preparation and sale of food and beverages may be intended for consumption on or off the premises and the food is: (a) primarily intended for immediate consumption; (b) available upon a short waiting time; and (c) generally paid for before customers eat it.

E. Retail Specialty Foods: An establishment where the preparation and sale of a limited menu of food items is secondary to a primary business, permitted in the district, such as a grocery store, gourmet shop or farmer's market. Preparation and sale of food and beverages may be intended for consumption on or off the premises, where food is ordered at a counter and the food is: (a) primarily intended for immediate consumption; (b) available upon a short waiting time; and (c) generally paid for before customers eat it. Such establishment may include indoor seating for no more than 8 persons.

1.89 Roof Line.

The highest line within a roof structure.

1.90 School (For Profit and Non-Profit)

An establishment that provides instruction or training in a particular subject or set of subjects other than fitness and recreational sports instruction. Included are institutions such as elementary and secondary schools that offer diplomas, institutions that offer training preparatory for licenses and certification, tutoring and instruction in languages, fine arts, business skills, computers, and management. A non-profit school is operated by a 5013C corporation (Non-Profit Corporation). A for-profit school is operated by an individual, group or corporation for financial gain.

1.91 Screening.

Any combination of materials designed and intended to provide protection from visibility, noise, dust and wind, including walls, fences, earthen berms or mounds, hedges, trees and shrubbery.

1.92 Service Station.

A building or part whose chief activity is the selling of gasoline, oil and related products for motor vehicles or the provision of lubricating service or limited auto repair.

1.93 Slope.

The vertical rise divided by the horizontal distance and expressed as a fraction or percentage, e.g. one-fifth (1/5) or twenty (20) percent.

1.94 Special Permit Granting Authority.

The Planning Board, Town of Topsfield, Massachusetts.

1.95 Storage Facilities.

Establishments primarily engaged in providing facilities to store goods. These establishments include those renting or leasing space for self-storage which provide secure space (i.e., rooms, compartments, lockers, containers, or outdoor space) where clients can store and retrieve their goods.

- 1.96 Story.  
That part of a building comprised between a floor and the floor or roof next above. If a mezzanine floor exceeds one-third (1/3) of the area of the floor immediately below, it shall be deemed to be a story. A basement shall be classified as a story when its ceiling is six (6) or more feet above the average finished grade.
- 1.97 Story, Half.  
A story under a gable, hipped, or gambrel roof, the floor area of which does not exceed fifty (50) percent of the floor immediately below. Such area is measured where the vertical distance between floor and ceiling is six (6) feet or more.
- 1.98 Street.  
Shall mean all the land within the right-of-way including the traveled way, curbing, grass strips, sidewalks, drainage and utilities, and has been accepted by Town Meeting vote and with a transfer of deed.
- 1.99 Street Line.  
Street line shall have the same meaning as front lot line.
- 1.100 Structure.  
A combination of materials assembled at a fixed location to give support or shelter, such as, but not limited to, a building, bridge, trestle, tower, framework, retaining wall, swimming pool, tank, tunnel, tent, stadium, tennis court, reviewing stand, platform, bin, fence, sign, or the like.
- 1.101 Structure - Nonconforming.  
A structure lawfully existing at the effective date of this By-Law or any subsequent amendment thereto, which does not conform to one or more provisions of this By-Law.
- 1.102 Temporary Accessory Apartment.  
A separate dwelling unit within a single family detached dwelling that upon Special Permit is occupied by a family member of an owner of the single detached dwelling or by a caregiver to such family member or owner.
- 1.103 Town House.  
A row of attached dwelling units, each separated from other dwelling units by a fire wall or walls and each with direct access to the outside.
- 1.104 Transportation Services.  
Services which include taxis, limousines, busses and other passenger vehicles for hire.
- 1.105 Use.  
The purpose for which a structure or lot is arranged, designed, or intended to be used, occupied or maintained.
- 1.106 Use, Accessory.  
A use subordinate to and in connection with the principal use and customarily incidental to the principal use.
- 1.107 Use, Nonconforming.  
A use lawfully existing at the time of adoption of this By-Law or any subsequent amendment(s) thereto which does not conform to one (1) or more provisions of this By-Law.
- 1.108 Use, Principal.  
The main or primary purpose for which a structure or lot is designed, arranged, or intended or for which it may be used, occupied or maintained under this By-Law. Any other use within the main structure or the use of any other structure or land on the same lot and incidental or

supplementary to the principal use and permitted under this By-Law shall be considered an accessory use.

1.109 Use, Substantially Different.

A use which by reason of its normal operation would cause significant differences in patronage, service, appearance, noise, employment or similar characteristics from the use to which it is being compared.

1.110 Variance.

Such departure from the terms of this By-Law as the Board, upon appeal in specific cases, is empowered to authorize under the terms of Article V, and Chapters 40A and 40B of the General Laws.

1.111 Warehouse.

An establishment exclusively engaged in operating warehousing and storage facilities for general merchandise, refrigerated goods, and other warehouse products but not selling the goods handled to the general public.

1.112 Wind Energy Conversions System (WECS).

Any mechanical system that converts the kinetic energy of wind into mechanical, electrical, or electro-mechanical energy.

1.113 Yard.

A portion of a lot, upon which the principal building is situated, unobstructed artificially from the ground to the sky and not dedicated to any other use, except as otherwise provided herein, and having at least two (2) sides open to lot lines.

1.114 Yard, Front.

A yard extending for the full width of the lot line between the front line of the nearest building wall and the front lot line.

1.115 Yard, Rear.

A yard, unoccupied, except by an accessory structure or accessory use as herein permitted, extending for the full width of the lot between the rear line of the building wall and the rear lot line.

1.116 Yard, Side.

Yard extending for the full length of a building between the nearest building and the side lot line.

1.117 Zoning Administrator.

The person designated by the Board of Appeals and confirmed by Board of Selectmen, to carry out such duties as may be designated by the Board of Appeals in accordance with the Zoning Act.

(Art 3, 6/25/47; Art. 50, 5/9/78; Art. 23, 5/5/81; Art. 25, 5/4/82; Art. 29, 5/7/85; Art. 37, 5/7/85; Art. 38, 5/7/85; Art. 29, 5/3/88; Art. 39, 5/2/90; Art. 40, 5/2/90; Art. 17, 5/4/93; Art. 33, 5/1/2001; Art. 32, 5/4/2004; Art. 42, 5/4/2005; Art. 24, 5/5/2009; Art. 27, 5/3/2011; Art. 43, 5/7/2013)

## **CHAPTER LXIII**

### **STRETCH ENERGY CODE BYLAW**

#### 63-1. Purpose

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

#### 63-2. Applicability

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

63-3. The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 120 AA, including any amendments and modifications, is herein incorporated by reference.

(Art. 26, 5/3/2011)

## **CHAPTER LXII**

### **GENERAL WETLANDS BYLAW<sup>i</sup>**

#### **62-1 PURPOSE.**

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

- a. Public or private water supply;
- b. Groundwater or surface water;
- c. Flood control;
- d. Erosion or sedimentation control;
- e. Storm damage prevention;
- f. Water quality;
- g. Water pollution prevention;
- h. Fisheries;
- i. Wildlife habitat;
- j. Recreation.

Collectively, the “interests protected by this Bylaw”. (Art. 58, 5/2/89 ~1)

#### **62-2 JURISDICTION.**

Except as permitted by the Conservation Commission or as provided in this Bylaw, no person shall remove soil or vegetation from, fill, dredge, build upon, discharge into, or alter the following Resource Areas:

- a. Freshwater wetlands;
- b. Bodies of water;
- c. Land under water;
- d. Banks;
- e. Vernal Pools;
- f. Land within one hundred (100) feet of Freshwater Wetlands, Bodies of Water, Land Under Water, Banks, or Vernal Pools;
- g. Riverfront Area;
- h. Land Subject to Flooding;

- i. Isolated Wetlands 5,000 square feet or less in size that are within the 100-foot Resource Area of a wetland, stream, or within Riverfront Area.

Any activity proposed or undertaken outside the above areas is not subject to regulation under this Bylaw and does not require the filing of a permit application unless and until that activity actually affects or alters any of the Resource Areas.

In the event that the Commission determines that such activity has, in fact, affected or altered a Resource Area as identified in this Bylaw, it shall impose such conditions on the activity or any position thereof as it deems necessary to contribute to the protection of the interests identified in this Bylaw.

(Art. 58, 5/2/89 ~2; Art. 42, 5/2/2000 ~2; Art. 33, 5/3/2005 ~2)

### **62-3 DEFINITIONS.**

Except as otherwise provided in this Bylaw or regulations of the Commission, the definitions of terms in this Bylaw shall be as set forth in the Wetlands Protection Act, GLc.131 §40, and in 310 CMR 10, as amended from time to time.

The following definitions shall apply in the interpretation and implementation of this By-Law:

*Freshwater Wetland* shall mean and include any marsh, bog, swamp or wet meadow, whether or not it borders on water. The wetland may be defined by its vegetational community, soil composition or hydrologic regime. A wetland not bordering on a body of water and not exceeding five thousand (5,000) square feet shall not be subject to protection under this By-Law.

*Body of Water* shall mean any lake, pond, river or stream, whether intermittent or not, man-made or natural.

*Stream* shall mean a body of running water, including rivers, brooks, creeks and seasonal watercourses, that moves in a channel or swale, with or without banks, over the ground due to a hydraulic gradient. A portion of a stream may flow through a culvert or subsurface drain or under a bridge. A stream may be natural or man-made, continuous or intermittent. (Art. 33, 5/3/2005)

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

Ipswich River – Boxford town line to the Ipswich town line

School Brook – Howlett Street to the Ipswich River

Cleveland Brook – Gail Street to School Brook

Pye Brook – Boxford town line and Hood's Pond to Howlett Brook



Howlett Brook – Pye Brook to the Ipswich River

Mile Brook – Pye Brook to the Ipswich River

Fish Brook – Boxford town line to the Ipswich River

Nichols Brook – Danvers town line to the Ipswich River

Cow Pen Brook – Wetland behind Perkins Row to Mile Brook

Slough Brook – Washington Street to the Ipswich River

Hobbs Brook – Ipswich Town Line near East Street to Howlett Brook

Unnamed Stream – behind 10 Surrey Lane to Fish Brook

Wheel Brook – Salem Beverly Water Supply Board pond at Route 1 to the Danvers town line (Art. 33, 5/3/2005 ~3)

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

*Land Subject to Flooding* shall mean and include all land subject to inundation by ground or surface water, including land within the one hundred (100) year floodplain, isolated land subject to flooding, and bordering land subject to flooding.

*Flood Plain* shall mean bordering land subject to flooding as defined by 310 CMR 10.57 (2)(a) as may be amended from time to time.

*Alter* shall mean to change the condition of any area subject to protection under this Bylaw. Examples of alterations include, but are not limited to the following:

- a. Removal, excavation or dredging of soil, sand, gravel, or aggregate materials of any kind;
- b. Changing of preexisting drainage characteristics, flushing characteristics,
- c. sedimentation patterns, flow patterns, or flood retention characteristics;
- c. Drainage or other disturbances of water level or water table;
- d. Dumping, discharging or filling with any material which may degrade water quality;
- e. Placing of fill, or removal of material, which would alter elevation;
- f. Driving of piles, erection or repair of buildings, or structures of any kind;
- g. Placing of obstructions or objects in water;

- h. Destruction of plant life including cutting of trees;
- i. Changing water temperature, biochemical oxygen demand, or other physical or chemical characteristics of water;
- j. Any activities, changes or work that may cause or tend to contribute to pollution of any body of water or groundwater;
- k. Application of pesticides or herbicides.

(Art. 58, 5/2/89 ~3; Art. 42, 5/2/2000 ~3)

#### **62-4 FILING PROCEDURE.**

Permit applications, which may be identical in form to State notices of intention as required pursuant to GLc.131 §40, shall, at a minimum, have the same content as that required by those notices of intention. The applications must include such plans as may be necessary to describe the proposed activity and its effect upon the interest protected by this Bylaw. No work shall begin until the permit, which may be the same as the Order of Conditions issued under GLc.131 §40, has been issued, all appeal periods have expired, and said permit has been recorded with the Registry of Deed or Land Court in accordance with Section 62-18 of this Bylaw.

The application shall be sent by certified mail, return receipt, or hand-delivered to the Administrator of the Topsfield Conservation Commission at the Town Hall or, in his/her absence, to the Town Clerk. No such applications shall be sent before all permits, variances, and approvals required by local Bylaw with respect to the proposed activity have been obtained. Except that, at the option of the applicant, such notice may be sent after the filing of an application or applications for said permits, variances, and approvals provided that such notice shall include any information submitted in connection with such permits, variances, and approvals that is necessary to describe the effect of the proposed activity on the interests protected by this Bylaw.

The applicant shall pay fees as specified in the regulations adopted under this Bylaw. The Commission may waive the fees, costs and expenses for an application or request filed by a government agency.

(Art. 58, 5/2/89 ~4; Art. 42, 5/2/2000 ~4)

#### **62-5 ENTRY UPON PRIVATE PROPERTY.**

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

(Art. 58, 5/2/89 ~5)

## **62-6 REQUEST TO DETERMINE IF BYLAW APPLIES.**

An applicant may submit a written request to the Commission for a determination of the applicability of this Bylaw to any land or work thereon. Upon receipt of said request, the Commission shall, within twenty-one (21) calendar days, make a written determination as to whether this Bylaw is applicable to the land or work as described by plans submitted with the request, unless an extension is authorized in writing by the applicant. (Art. 58, 5/2/89 ~6)

## **62-7 HEARING.**

When an application for a determination of applicability or for a permit as provided in Sections 62-4 and 62-6 has been submitted to the Commission, a public hearing on said application shall be scheduled by the Commission within twenty-one (21) calendar days of the date of submission as determined by the date of receipt, unless an extension is authorized in writing by the applicant.

Notice of the time and place of such hearing and of the subject matter, sufficient for identification, shall be given by the Commission (at the expense of the applicant) by advertisement in a newspaper of general circulation in Topsfield at least five (5) business days prior to the date of such hearing and by mailing a copy of such advertisement to the applicant. For applications filed only under this Bylaw, and not concurrently under the Wetlands Protection Act, the Commission may allow publication of such notice on the Town's web page, in lieu of publication in a local newspaper.

The applicant shall notify all owners of land within 100 feet of the land included in such plan of the Commission hearing and the subject matter. The applicant shall present evidence of having complied with this requirement prior to the advertised hearing. (Art. 58, 5/2/89 ~7; Art. 42, 5/2/2000 ~7; Art. 26, 5/4/2010)

## **62-7A ADMINISTRATIVE PERMITS.**

The provisions of Section 62-7 notwithstanding, the Commission may, by regulation, provide for the issuance of administrative permits for the maintenance or improvement of Land within one hundred (100) feet of Freshwater Wetlands, Bodies of Water, Land Under Water, or Banks, but excluding Riverfront Area, in connection with existing residential uses. Such Administrative permits may be issued by the Commission or the Conservation Administrator without a hearing. (Art. 26, 5/4/2010)

## **62-8 BURDEN OF PROOF.**

The applicant shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the application will not adversely affect the interests protected by this Bylaw. The Commission may, if a majority of its members deem it necessary in order to make a decision before issuing a permit, require that the applicant provide an engineering, hydrogeological or other study.

No engineering, hydrogeological, or other study, shall commence until such time as the applicant has agreed in writing, to the specified study. The costs of such studies are to be borne by the applicant. Selection of a consultant to perform a required study shall be subject to the approval of the Commission which approval shall be based on the experience, qualifications and credentials of the consultant.

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

(Art. 58, 5/2/89 ~8)

## **62-9 PERMIT AND CONDITIONS.**

The Commission shall issue a permit to the applicant or, if in the opinion of the Commission the proposed work described in the application may adversely affect the interests protected by this Bylaw, deny such permit within twenty-one (21) calendar days after the conclusion of the public hearing or such further time as may be agreed upon at the written request of the applicant. In the permit or denial, the Commission shall set forth in what manner the interests of this Bylaw are affected. The Commission may impose such conditions as it determines are necessary to protect those interests. All work shall conform to the conditions set forth in the permit.

In the event of a denial of an application, the Commission shall set forth in detail the reasons for the denial. The Commission shall send notice of such action to the applicant by certified mail at the address stated on the application.

Permits shall expire three (3) years from the date of issuance. An applicant may apply for an extension at least thirty (30) calendar days prior to the expiration of the permit or extension and the Commission may grant extensions for one (1) or more periods of up to three (3) years each.

(Art. 58, 5/2/89 ~9; Art. 42, 5/2/2000 ~9)

## **62-10 AMENDMENTS TO PERMITS.**

The conditions contained in the permit issued under the provisions of Section 62-9 may be amended by the Commission with the consent of the applicant. Amendments that may be approved by the Commission shall be limited to the following:

- a. Amendments by deletion provided that such deletions do not derogate the intent and purpose of the permit conditions.
- b. Perfecting amendments, inclusive of, but not limited to, the correction of typographical errors, and errors of reference.
- c. Amendments that alter the scope but not the intent of the particular condition being amended.

The Commission shall not approve any amendments to conditions contained in permits for work that has been completed in accordance with the provisions contained in the original permit.

For good cause the Commission may revoke or modify a permit issued under this Bylaw, after notice to the holder of the permit, notice to the public, abutters and a public hearing. (Art. 58, 5/2/89 ~10)

#### **62-11 APPEALS.**

Any aggrieved party may appeal the action or inaction of the Commission. Appeals may be taken as provided by GLc.249 §4 as amended. (Art. 58, 5/2/89 ~11)

#### **62-12 EMERGENCY PROJECTS.**

The notice provisions of this Bylaw shall not apply to emergency projects initiated by the Town of Topsfield or other governmental Boards, Agencies, or Commissions necessary for the immediate protection of public health, safety and welfare within Topsfield.

However, the Commission shall be notified within twenty-four (24) hours of the commencement of such projects. In the absence of members of the Commission, notification may be made to the Board of Selectmen or Board of Health. A certificate of emergency condition shall be filed with the Commission by the Board, Agency, or Commission, which authorized the project, within fourteen (14) days after the initiation of work.

(Art. 58, 5/2/89 ~12; Art. 42, 5/2/2000 ~12)

#### **62-13 PRE-ACQUISITION VIOLATION.**

Any person who purposes, inherits, or otherwise acquires real estate upon which work has been done in violation of the provisions of this Bylaw or in violation of any order issued pursuant to this Bylaw, shall forthwith comply with an order to restore such real estate to its condition prior to any such violations or to comply with conditions determined by the Commission if restoration is impractical. No action by the Town of Topsfield, civil or criminal, shall be brought against such person unless commenced within three (3) years of the acquisition of the real estate. (Art. 58, 5/2/89 ~13)

#### **62-14 RULES AND REGULATIONS.**

After due notice and public hearing, the Commission shall promulgate regulations and procedures for compliance with this Bylaw, a copy of which shall be filed with the Town Clerk. Failure by the Commission to promulgate such procedures or a legal declaration of their invalidity by a Court of Law shall not act to suspend or invalidate the effects of this Bylaw. (Art. 58, 5/2/89 ~14)

## **62-15 SEVERABILITY.**

The invalidity of any section or provision of this Bylaw shall not invalidate any other section, nor shall it invalidate any permit or determination, which previously had been issued. (Art. 58, 5/2/89 ~15)

## **62-16 SECURITY.**

As part of a permit issued under this Bylaw, in addition to any security required by any other Municipal or State Board, Agency or Official, the Commission may require that the performance and observance of the conditions imposed hereunder be secured wholly or in part by one or more of the methods described below and which have been approved by Town Counsel:

- a. By a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Commission;
- b. By a conservation restriction, easement or other covenant enforceable in a Court of Law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed. (Art. 58, 5/2/89 ~16)

## **62-17 ENFORCEMENT.**

The Commission shall have authority to enforce this Bylaw, its regulations, and permits issued thereunder by violation notices, enforcement orders, and civil and criminal Court actions.

Upon request of the Commission, the Board of Selectmen and the Town Counsel shall take legal action for enforcement under civil law. Upon request of the Commission, the Chief of Police shall take legal action for enforcement under criminal law.

In addition to the duties previously set forth in this Bylaw, the Commission, its agents, officers and employees, and any Officer with Police powers may issue enforcement orders directing compliance with this Bylaw and may undertake any other enforcement action authorized by law. Any person who violates the provisions of this Bylaw may be ordered to restore property to its original condition and take other actions deemed necessary to remedy such violations.

No person shall remove, fill, dredge or alter any area subject to protection under this Bylaw without the required authorization, or cause, suffer, or allow such activity or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with an enforcement order issued pursuant to this Bylaw. Each day such violation continues shall constitute a separate offense except that any person who fails to remove unauthorized fill or otherwise fails to restore illegally altered land to its original condition after giving written notification of said violation to the Conservation Commission and the Department shall not be subject to additional penalties unless said person thereafter fails to comply with an enforcement order or order of conditions.

a. *Criminal Complaint.* Whoever violates any provision of the General Wetlands Bylaw, regulations thereunder or permits issued thereunder may be penalized by indictment or on complaint brought in District Court. Except as may otherwise be provided by law, and as the District Court may see fit to impose, the maximum penalty for any violation of these provisions shall be three hundred (\$300.00) dollars for each offense. Each day on which any violation exists shall be deemed to be a separate offense.

b. *Non-Criminal Disposition.* In addition to the procedure set forth in paragraph a., the provisions of the General Wetlands Bylaw may also be enforced by the Conservation Administrator or a Police Officer of the Town, by a non-criminal complaint pursuant to the provisions of GLc.40 §21D. Each day on which any violation continues to exist shall be deemed to be a separate offense.

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

	<b>Buffer Zone</b>	<b>Bylaw Resource Area (other than Buffer Zone)</b>	<b>Non-Compliance with an Order of Conditions or Enforcement Order</b>
1 <sup>st</sup> Offense	\$ 50.00	\$100.00	\$ 200.00
2 <sup>nd</sup> Offense	200.00	200.00	300.00
3 <sup>rd</sup> Offense	300.00	300.00	300.00
and any subsequent			

(Art. 58, 5/2/89 ~17; Art. 42,5/2/2000 ~17)

## **62-18 RECORDING OF PERMITS AND ADJUSTMENTS THERETO.**

Prior to the commencement of work subject to any permit issued under the provisions of Section 62-9 and any amendment thereof approved under the provisions of Section 62-10, the permits and amendments thereto shall be recorded with the Essex County Registry of Deeds; or, in the event that the permit has been issued for work on registered land, with the Land Court of the Commonwealth. A copy of the recorded permit shall be submitted to the Commission.

(Art. 58, 5/2/89 ~18)

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<sup>i</sup> Article 58 of the Annual Town Meeting held on 5/2/89, which has an Effective Date of July 20, 1989, was approved by the Attorney General on July 5, 1989. This amended the Bylaw adopted by the Annual Town Meeting 5/3/83.

Article 42 of the Annual Town Meeting held on 5/2/2000, which has an Effective Date of August 14, 2000, was approved by the Attorney General on August 9, 2000.

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Article 33 of the Annual Town Meeting held on 5/3/2005, which has an Effective Date of August 30, 2005, was approved by the Attorney General on August 19, 2005.

Article 26 of the Annual Town Meeting held on 5/4/2010, which has an Effective Date of August 26, 2010, was approved by the Attorney General on August 16, 2010.

See also Chapter R:10, Regulations for Topsfield General Wetlands Bylaw, which have been adopted by the Conservation Commission.



## **CHAPTER LX**

### **WEIGHT LIMIT FOR COMMERCIAL VEHICLES BY-LAW**

#### **60-1 WEIGHT LIMIT FOR COMMERCIAL VEHICLES BY-LAW.**

No person shall operate or use, or permit to be operated or used, a commercial vehicle having a weight when loaded which is in excess of three (3) tons upon all public ways in the Town of Topsfield, other than State and County ways.

Nothing contained in this By-Law shall be construed to prohibit the use of such Town ways by commercial vehicles having a weight when loaded which is in excess of three (3) tons which are public service or public utility vehicles or which are engaged in the delivery or collection of merchandise, construction supplies or equipment, or engaged in the collection of garbage or rubbish within the Town. (Art. 41, 3/7/60 ~ 4)

## **CHAPTER LIX**

### **BYLAW GOVERNING ILLICIT DISCHARGES TO THE MUNICIPAL STORM DRAIN SYSTEM**

#### **SECTION 1. PURPOSE**

Increased and contaminated stormwater runoff is a major cause of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater; contamination of drinking water supplies; alteration or destruction of aquatic and wildlife habitat; and flooding.

Regulation of illicit connections and discharges to the municipal storm drain system is necessary to protect the Town of Topsfield's water bodies and groundwater, and to safeguard the environment and public health, safety, and welfare.

The objectives of this bylaw are:

1. to prevent pollutants from entering Topsfield's municipal separate storm sewer system (MS4);
2. to prohibit illicit connections and unauthorized discharges to the MS4;
3. to require the removal of all such illicit connections;
4. to comply with state and federal statutes and regulations relating to stormwater discharges; and
5. to establish the legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.

#### **SECTION 2. DEFINITIONS**

For the purposes of this bylaw, the following shall mean:

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

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

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

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

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

**ILLICIT DISCHARGE:** Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Section 8. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or a Surface Water Discharge Permit.

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

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

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT:** A permit issued by United States Environmental Protection Agency or jointly with the State that authorizes the discharge of pollutants to waters of the United States.

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

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

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

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

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

**STORMWATER:** Precipitation runoff, snow melt runoff, and surface water runoff and drainage.

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

**TOXIC OR HAZARDOUS MATERIAL OR WASTE:** Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to the environment or to human health, safety, or welfare. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under G.L. Ch.21C and Ch.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 limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.

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

### SECTION 3. APPLICABILITY

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

### SECTION 4. AUTHORITY

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

### SECTION 5. RESPONSIBILITY FOR ADMINISTRATION

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

### SECTION 6. REGULATIONS

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

### SECTION 7. PROHIBITED ACTIVITIES

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).

Illicit Connections. No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.

Obstruction of Municipal Storm Drain System. No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written approval from the Stormwater Officer.

### SECTION 8. EXEMPTIONS

A. Discharge or flow of water or other fire fighting materials resulting from fire fighting activities.

B. The following non-stormwater discharges or flows are exempt from the prohibition of non-stormwaters provided that the source is not a significant contributor of a pollutant to the municipal storm drain system:

- (1) Waterline flushing;
- (2) Flow from potable water sources;
- (3) Springs;
- (4) Natural flow from riparian habitats and wetlands;
- (5) Diverted stream flow;
- (6) Groundwater;

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

## SECTION 9. EMERGENCY SUSPENSION OF STORM DRAINAGE SYSTEM ACCESS

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

## SECTION 10. NOTIFICATION OF SPILLS

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the Commonwealth, the person shall take all necessary steps to ensure containment, and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the municipal fire, police and highway departments. In the event of a release of other than oil or non-hazardous material, the reporting person shall notify the Stormwater Officer no later than the next business day. The reporting person shall provide to the Stormwater Officer written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

## SECTION 11. ENFORCEMENT

The Stormwater Officer or an authorized agent of the Stormwater Officer shall enforce this bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

**Civil Relief.** If a person violates the provisions of this bylaw, regulations, permit, notice, or order issued hereunder, the Stormwater Officer may seek injunctive relief in a court of competent jurisdiction to restrain the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

**Orders.** The Stormwater Officer or an authorized agent of the Stormwater Officer may issue a written order to enforce the provisions of this bylaw or the regulations hereunder, which may include: (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.

If the enforcing person determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town may, at its option, seek a court order requiring the property owner to perform the work or allowing the Town to perform the work and recover its costs.

**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 \$ 300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

**Non-Criminal Disposition.** As an alternative to criminal prosecution or civil action, the Town of Topsfield may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, §21D in which case the Stormwater Officer shall be the enforcing person. The penalty for the first violation shall be \$ 25.00. The penalty for the second violation shall be \$50.00. The penalty for the third and subsequent violations shall be \$100.00. Each day that such violation occurs or continues shall constitute a separate offense.

**Entry to Perform Duties Under this Bylaw.** To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Stormwater Officer, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this bylaw and regulations and may make or cause to be made such examinations, surveys or sampling as the Stormwater Officer deems reasonably necessary.

**Appeals.** The decisions or orders of the Stormwater Officer shall be final. Further except that relief may be sought in a court of competent jurisdiction.

**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.

## SECTION 12. COMPATIBILITY WITH OTHER REGULATIONS.

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

## SECTION 13. SEVERABILITY

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

(Art. 38, 5/4/2010)